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

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House File 541

H-1080

1 Amend House File 541 as follows:
2 1. Page 1, after line 14 by inserting:
3 <Sec. ___. FISHWAY REQUIREMENT EXEMPTION. The
4 department of natural resources shall not grant an
5 exemption from the fishway requirements in section
6 481A.14, based in whole or in part on an exemption
7 granted in calendar year 2013 for a dam reconstruction
8 project that includes a reconstructed spillway with an
9 elevation of more than thirty feet>
10 2. By renumbering as necessary.

_____
LUNDBY of Linn

House File 556

H-1081

1 Amend House File 556 as follows:
2 1. Page 27, line 27, by striking <serious> and
3 inserting <simple>

COMMITTEE ON JUDICIARY
BALTIMORE of Boone, Chairperson

House File 307

H-1082

1 Amend the amendment, H-1060, to House File 307 as
2 follows:
3 1. Page 1, after line 3 by inserting:
4 <___. Page 9, after line 15 by inserting:
5 <*i.* Provide that no less than fifty percent of
6 moneys received by the department through the federal
7 emergency management performance grant program be
8 distributed to local emergency management agencies and
9 that the total allocation of funds to an applicant
10 under the program shall not be limited by the
11 department.>>
12 2. By renumbering as necessary.

_____
HALL of Woodbury

House File 454

H-1083

Amend House File 454 as follows:

1. Page 3, after line 15 by inserting:

<Sec. ___. Section 256B.7, Code 2013, is amended to read as follows:

256B.7 Examinations of children.

In order to render proper instruction to each child requiring special education, the school districts shall certify children requiring special education for special instruction in accordance with the requirements set up by the division of special education and shall provide examinations for children preliminary to making certification. The examinations necessary for the certification of children requiring special education shall be prescribed by the state division of special education. ~~Final decision in case of disagreement or appeal is the responsibility of the director of the department of education, who may secure the advice of competent medical and educational authorities including the Iowa department of public health, the university hospitals, the department of human services, the superintendent of the state school for the deaf, and the superintendent of the Iowa braille and sight saving school~~ Disputes concerning a child's eligibility for special education shall be addressed under rules and procedures adopted by the state board of education pursuant to section 256B.6.>

2. Page 14, by striking lines 29 through 35.

3. Page 16, by striking lines 22 through 26.

4. Title page, line 4, before <eliminating> by inserting <and>

5. Title page, lines 5 and 6, by striking <, and including applicability provisions>

6. By renumbering as necessary.

GARRETT of Warren

House File 532

H-1084

1 Amend House File 532 as follows:
2 1. Page 1, line 26, after <subsection 11,> by
3 inserting <paragraph "a", "b", or "c",>
4 2. Page 1, line 28, after <subsection 11,> by
5 inserting <paragraph "a", "b", or "c",>

R. TAYLOR of Dallas

House File 550

H-1085

Amend House File 550 as follows:

1. Page 1, line 10, by striking <for not more than sixty calendar days>

2. Page 2, line 29, by striking <for not more than sixty calendar days>

3. Page 3, line 12, by striking <for not more than sixty days>

_____

HUNTER of Polk

House File 559 - Introduced

HOUSE FILE 559
BY SHEETS

A BILL FOR

1 An Act relating to school district funding by modifying school
2 budget review committee authority to recommend fiscal
3 reviews and to provide transportation assistance aid,
4 specifying uses of the district management levy, authorizing
5 school districts to levy for transportation costs, and
6 including applicability provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2078YH (8) 85
md/sc

H.F. 559

Section 1. Section 257.31, subsection 17, paragraph a, Code 2013, is amended to read as follows:

a. If a district's average transportation costs per pupil exceed the state average transportation costs per pupil determined under paragraph *"c"* ~~by one hundred fifty percent~~, the committee may grant transportation assistance aid to the district. Such aid shall be miscellaneous income and shall not be included in district cost.

Sec. 2. Section 257.31, subsection 18, Code 2013, is amended by striking the subsection and inserting in lieu thereof the following:

18. The committee is authorized to recommend that the department implement a phase II on-site visit to conduct a fiscal review pursuant to section 256.11, subsection 10, paragraph *"b"*, subparagraph (1), subparagraph division (e), as follows:

a. If a school district exceeds its authorized budget or carries a negative unspent balance for the most recently completed budget year and for each of the two budget years preceding that budget year and the school district is not eligible for a phase II on-site visit recommendation to conduct a fiscal review under paragraph *"b"*, the committee may, but is not required to, recommend that the department conduct such a phase II on-site visit unless the school district's unspent balance for the most recently completed budget year is greater than the difference of four-thirds of the unspent balance for the budget year preceding the most recently completed budget year minus one-half of the unspent balance for the budget year two years preceding the most recently completed budget year.

b. If a school district exceeds its authorized budget or carries a negative unspent balance for the most recently completed budget year and for each of the four budget years preceding that budget year and the school district was not recommended for a phase II on-site visit to conduct a fiscal review under this subsection for the budget year preceding the

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most recently completed budget year, the committee may, but is not required to, recommend that the department conduct such a phase II on-site visit.

Sec. 3. Section 298.4, subsection 1, Code 2013, is amended by adding the following new paragraph:

NEW PARAGRAPH. *f.* To pay the costs of mediation and arbitration including but not limited to legal fees associated with such mediation or arbitration.

Sec. 4. NEW SECTION. **298.17 Transportation cost supplemental levy.**

1. The board of directors of a school district 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, paragraph *"c"*, may certify for levy by April 15 of the school year preceding the budget year, a tax on all taxable property in the school district for a transportation cost supplemental levy. The revenue from the tax levied in this section shall be placed in the general fund of the school district and expended for the purposes authorized under subsection 3.

2. The amount certified by a school district for levy under this section for a school budget year shall not exceed an amount equal to the district's actual enrollment used to calculate the district's average transportation costs per pupil under section 257.31, subsection 17, paragraph "c", multiplied by the remainder of the district's average transportation costs per pupil minus the state average transportation costs per pupil, as those amounts are determined under section 257.31, subsection 17, paragraph *"c"*. However, such resulting amount shall be reduced by the amount of transportation assistance aid received by the district under section 257.31, subsection 17, for the same budget year, if applicable.

3. Revenues received by a school district from a levy imposed under this section shall be expended only for the cost of repairing, maintaining, and fueling school district

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1 transportation equipment and school buses, as defined in
2 section 321.1, subsection 69.
3 4. Except for an adjustment in the amount certified for
4 levy under subsection 2, imposition of a transportation cost
5 supplemental levy under this section shall not affect a school
6 district's eligibility for transportation assistance under
7 section 257.31, subsection 17.
8 5. Revenues received by a school district under this section
9 shall not be included in district cost and such amounts shall
10 be miscellaneous income.
11 Sec. 5. APPLICABILITY. The section of this Act amending
12 section 257.31, subsection 17, applies to school budget years
13 beginning on or after July 1, 2014.
14 Sec. 6. APPLICABILITY. The section of this Act amending
15 section 298.4 applies to school budget years beginning on or
16 after July 1, 2014.
17 Sec. 7. APPLICABILITY. The section of this Act enacting
18 section 298.17 applies to school budget years beginning on or
19 after July 1, 2014.
20 EXPLANATION
21 Current Code section 257.31(17) provides that if a school
22 district's average transportation costs per pupil exceed the
23 state average transportation costs per pupil by 150 percent,
24 the school budget review committee may grant transportation
25 assistance aid to the district. This bill allows such
26 transportation assistance aid to be granted by the committee
27 if a school district's average transportation costs per pupil
28 exceed the state average transportation costs per pupil.
29 Current Code section 257.31(18) provides that if a school
30 district exceeds its authorized budget or carries a negative
31 unspent balance for two or more consecutive years, the school
32 budget review committee may recommend that the department
33 of education implement a phase II on-site visit to conduct
34 a fiscal review pursuant to Code section 256.11(10). The
35 bill strikes current Code section 257.31(18), and enacts a

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1 methodology for the school budget review committee to utilize
2 when determining whether the committee may make recommendations
3 for the department of education to implement a phase II on-site
4 visit to conduct a fiscal review pursuant to Code section
5 256.11(10).
6 The bill authorizes a school district to use revenue from the
7 district management levy under Code section 298.4 to pay the
8 costs of mediation and arbitration including but not limited to
9 legal fees associated with such mediation or arbitration.
10 The bill authorizes the board of directors of a school
11 district with district transportation costs per pupil in excess
12 of the state average transportation costs per pupil, as those
13 amounts are determined under Code section 257.31(17)(c), to
14 certify for levy a tax on all taxable property in the school
15 district for a transportation cost supplemental levy. The
16 amount certified by a school district for levy for a school
17 budget year shall not exceed an amount equal to the district's
18 actual enrollment used to calculate the district's average
19 transportation costs per pupil multiplied by the remainder of
20 the district's average transportation costs per pupil minus
21 the state average transportation costs per pupil. The bill
22 provides, however, that such resulting amount shall be reduced
23 by the amount of transportation assistance aid received by the
24 district under Code section 257.31(17) for the same budget
25 year, if applicable.
26 The bill specifies that revenues received by a school
27 district from a levy imposed under the bill shall be expended
28 only for the cost of repairing, maintaining, and fueling school
29 district transportation equipment and school buses. The bill
30 provides that except for an adjustment in the amount that
31 may be certified for levy, imposition of a transportation
32 supplemental levy does not affect a school district's
33 eligibility for transportation assistance under Code section
34 257.31(17).
35 The bill specifies that revenues received by a school

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1 district from a transportation cost supplemental levy shall
2 not be included in district cost and such amounts shall be
3 miscellaneous income.
4 The section of the bill amending Code section 257.31(17)
5 applies to school budget years beginning on or after July 1,
6 2014. The section of the bill amending Code section 298.4
7 applies to school budget years beginning on or after July 1,
8 2014. The section of the bill enacting Code section 298.17
9 applies to school budget years beginning on or after July 1,
10 2014.

House File 560 - Introduced

HOUSE FILE 560
BY KELLEY

A BILL FOR

1 An Act relating to a sales tax holiday for instructional
2 materials sold to college students.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2444YH (2) 85
mm/sc

H.F. 560

1 Section 1. Section 423.3, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 68A. *a.* The sales price of new or used
4 instructional materials sold to students for classroom use
5 at a postsecondary educational institution, or for use in
6 an extracurricular activity sponsored by the postsecondary
7 educational institution, if all of the following apply:
8 (1) The sale is made to a person who is a student at a
9 postsecondary educational institution in this state and who has
10 verified that status to the retailer.
11 (2) The instructional materials have been uniquely
12 identified and certified to a retailer by a postsecondary
13 educational institution as required for classroom use or for
14 use in a sponsored extracurricular activity.
15 (3) The sale takes place during one of the following:
16 (a) The period beginning at 12:01 a.m. on the third Monday
17 in August and ending at midnight on the following Tuesday.
18 (b) The period beginning at 12:01 a.m. on the third Monday
19 in January and ending at midnight on the following Tuesday.
20 *b.* For purposes of this subsection:
21 (1) *"Extracurricular activity"* includes a sporting event,
22 musical or dramatic event, speech activity, or programs of a
23 similar nature.
24 (2) *"Instructional materials"* means books, textbooks,
25 printed materials, and equipment required for classroom use
26 in attending a postsecondary educational institution in this
27 state, or required for use in an extracurricular activity
28 sponsored by a postsecondary educational institution in this
29 state. *"Instructional materials"* does not include books,
30 textbooks, printed materials, or equipment used in the teaching
31 of religious tenets, doctrines, or worship, the purpose of
32 which is to inculcate those tenets, doctrines, or worship.
33 (3) *"Postsecondary educational institution"* means an
34 accredited higher education institution, as defined in
35 section 261.92, an Iowa community college, or a postsecondary

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1 educational institution under the control of the state board
2 of regents.
3 *c.* The department shall adopt rules pursuant to chapter 17A
4 to administer this section, including but not limited to rules
5 to establish the manner by which a person shall verify to a
6 retailer the person's status as a student, and the manner by
7 which a postsecondary educational institution shall identify
8 and certify required instructional materials to a retailer.
9 EXPLANATION
10 This bill provides a sales tax exemption for a limited
11 time period for the sales price of instructional materials to
12 students at postsecondary educational institutions in this
13 state if the instructional materials are required for classroom
14 use or for use in an extracurricular activity sponsored by
15 the postsecondary educational institution. The exemption is
16 available to sales in which the student verifies his or her
17 status as a student to the retailer, the items being sold
18 have been uniquely identified and certified to the retailer
19 as required for classroom use or for use in a sponsored
20 extracurricular activity, and the sale takes place during the
21 calendar day on the third Monday in January or August.
22 "Extracurricular activity", "instructional materials", and
23 "postsecondary educational institution" are all defined in the
24 bill.
25 By operation of Code section 423.6, an item exempt from the
26 imposition of the sales tax is also exempt from the use tax
27 imposed in Code section 423.5.

House File 561 - Introduced

HOUSE FILE 561
BY KELLEY

A BILL FOR

1 An Act establishing a property tax exemption for property used
2 for certain gardening activities within a city and including
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2368HH (4) 85
md/sc

H.F. 561

1 Section 1. Section 427.1, subsection 2, Code 2013, is
2 amended to read as follows:
3 2. *Municipal and military property.* The property of a
4 county, township, city, school corporation, levee district,
5 drainage district, or the Iowa national guard, when devoted to
6 public use and not held for pecuniary profit, except property
7 of a municipally owned electric utility held under joint
8 ownership and property of an electric power facility financed
9 under chapter 28F or 476A that shall be subject to taxation
10 under chapter 437A and facilities of a municipal utility that
11 are used for the provision of local exchange services pursuant
12 to chapter 476, but only to the extent such facilities are used
13 to provide such services, which shall be subject to taxation
14 under chapter 433, except that section 433.11 shall not apply.
15 The exemption for property owned by a city or county also
16 applies to property which is operated by a city or county as a
17 library, art gallery or museum, conservatory, botanical garden
18 or display, observatory or science museum, or as a location
19 for holding athletic contests, sports or entertainment events,
20 expositions, meetings or conventions, or leased from the city
21 or county for any such purposes, or leased from the city or
22 county by the Iowa national guard or by a federal agency
23 for the benefit of the Iowa national guard when devoted for
24 public use and not for pecuniary profit. Food and beverages
25 may be served at the events or locations without affecting
26 the exemptions, provided the city has approved the serving of
27 food and beverages on the property if the property is owned
28 by the city or the county has approved the serving of food
29 and beverages on the property if the property is owned by the
30 county. The exemption for property owned by a city or county
31 also applies to property which is located at an airport and
32 leased to a fixed base operator providing aeronautical services
33 to the public. <u>The exemption for property owned by a city also</u>
34 <u>applies to land operated by the city as a fruit or vegetable</u>
35 <u>garden or leased from the city by a nonprofit corporation for</u>

H.F. 561

1 use as a fruit or vegetable garden, and the sale of fruits or
2 vegetables grown on the land by the city or the lessee shall
3 not affect the exemption.
4 Sec. 2. Section 427.1, Code 2013, is amended by adding the
5 following new subsection:
6 NEW SUBSECTION. 39. *Nonprofit fruit and vegetable*
7 *gardens.* Land owned by a nonprofit corporation and located
8 within the corporate boundaries of a city, not exceeding five
9 acres, if devoted to public use by the nonprofit corporation as
10 a fruit or vegetable garden. The sale of fruits or vegetables
11 grown on the land shall not affect the exemption. To be
12 allowed the exemption under this subsection, the nonprofit
13 corporation that owns the land shall have as one of its
14 objectives or purposes the cultivation and sale of fresh fruits
15 and vegetables to residents of the community and shall not be a
16 political organization as defined in section 13C.1.
17 Sec. 3. IMPLEMENTATION. Section 25B.7 does not apply to the
18 property tax exemption enacted in this Act.
19 Sec. 4. APPLICABILITY. This Act applies to assessment years
20 beginning on or after January 1, 2014.
21 EXPLANATION
22 This bill provides a property tax exemption for certain
23 property located in a city used as a fruit or vegetable garden.
24 The bill modifies the current municipal property tax
25 exemption under Code section 427.1(2) to include land operated
26 by the city as a fruit or vegetable garden or leased from
27 the city by a nonprofit corporation for use as a fruit or
28 vegetable garden. The bill provides that the sale of fruits
29 or vegetables grown on such land by the city or the nonprofit
30 corporation lessee shall not affect the exemption.
31 The bill also establishes a property tax exemption for
32 land owned by a nonprofit corporation and located within the
33 corporate boundaries of a city, not exceeding five acres,
34 if the property is devoted to public use by the nonprofit
35 corporation as a fruit or vegetable garden. The bill provides

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that the sale of fruits or vegetables grown on the land shall not affect the exemption. To be allowed the exemption under the bill, the nonprofit corporation that owns the land must have as one of its objectives or purposes the cultivation and sale of fresh fruits and vegetables to residents of the community and shall not be a political organization as defined in the bill.

Code section 25B.7 provides that for a property tax credit or exemption enacted on or after January 1, 1997, if a state appropriation made to fund the credit or exemption is not sufficient to fully fund the credit or exemption, the political subdivision shall be required to extend to the taxpayer only that portion of the credit or exemption estimated by the department of revenue to be funded by the state appropriation. The bill provides that Code section 25B.7 does not apply to the exemption in the bill.

The bill applies to assessment years beginning on or after January 1, 2014.

House File 562 - Introduced

HOUSE FILE 562
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 104)

A BILL FOR

1 An Act concerning prescription drug or controlled substance
2 medication defenses in operating-while-intoxicated cases.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1413HV (2) 85
rh/nh

H.F. 562

Section 1. Section 321J.2, subsection 11, Code 2013, is amended to read as follows:

11. *a.* ~~This section does not apply to a person operating a motor vehicle while under the influence of a drug if the substance~~ When charged with a violation of subsection 1, paragraph *"a"*, a person who has consented to testing in accordance with section 321J.6 may assert, as an affirmative defense, that the drug involved was prescribed for the person and was taken under the prescription and in accordance with the directions of a medical practitioner as defined in chapter 155A or if the ~~substance~~ drug was dispensed by a pharmacist without a prescription pursuant to the rules of the board of pharmacy, if there is no evidence of the consumption of alcohol and there is evidence the medical practitioner or pharmacist ~~had not directed~~ affirmatively permitted the person to ~~refrain from operating~~ operate a motor vehicle.

b. When charged with a violation of subsection 1, paragraph *"c"*, a person may assert, as an affirmative defense, that the controlled substance present in the person's blood or urine was prescribed or dispensed for the person and was taken in accordance with the directions of a practitioner and the labeling directions of the pharmacy, as that person and place of business are defined in section 155A.3.

c. (1) A person asserting an affirmative defense pursuant to this subsection shall provide notice to the state not later than forty days after arraignment. At the time notice is provided, the person shall provide a list of witnesses and shall allow the state to inspect and copy any records or statements upon which the witnesses will rely in testifying.

(2) Failure to comply with the requirements of this lettered paragraph *"c"* bars introduction of any evidence of impairment caused by a prescription drug or any evidence of the presence of a controlled substance in a prescribed drug, except the testimony of the person, without leave of the court for good cause shown.

H.F. 562

1 *d.* A person asserting an affirmative defense pursuant to
2 this subsection waives the following privileges to all records
3 which are directly related to the person's prescription or
4 prescriptions:
5 (1) The confidentiality privilege pursuant to section
6 622.10.
7 (2) Any privilege or nondisclosure requirement under state
8 or federal privacy laws.
9 EXPLANATION
10 This bill relates to prescription drug or controlled
11 substance medication defenses in operating-while-intoxicated
12 cases.
13 Under current law, a person's use of a valid drug
14 prescription taken in accordance with the directions of
15 a medical practitioner or pharmacist is a defense to an
16 operating-while-intoxicated (OWI) charge if there is no
17 evidence of alcohol consumption and the medical practitioner or
18 pharmacist did not direct the person to refrain from operating
19 a motor vehicle. The bill amends this law to provide that
20 a person who is charged with an OWI violation while under
21 the influence of an alcoholic beverage or other drug or a
22 combination of both who has consented to testing in accordance
23 with Code section 321J.6 may assert, as an affirmative defense,
24 that the drug involved was prescribed or dispensed for the
25 person and was taken in accordance with the directions of a
26 practitioner and the labeling directions of the pharmacy, if
27 there is no evidence of the consumption of alcohol and there is
28 evidence the prescriber affirmatively permitted the person to
29 operate a motor vehicle.
30 Current law also provides that a person charged with an
31 OWI offense based upon the presence of a controlled substance
32 in the person's blood or urine may assert, as an affirmative
33 defense, that the controlled substance was prescribed or
34 dispensed for the person and was taken in accordance with the
35 directions of a practitioner and the labeling directions of the

H.F. 562

1 pharmacy.
2 The bill provides that a person asserting an affirmative
3 prescription drug defense is required to provide notice to
4 the state not later than 40 days after arraignment. At the
5 time notice is provided, the person is required to provide a
6 list of witnesses and shall allow the state to inspect and
7 copy any records or statements upon which the witnesses will
8 rely in testifying. Failure to comply with these requirements
9 bars introduction of any evidence of impairment caused by
10 a prescription drug or any evidence of the presence of a
11 controlled substance in a prescribed drug, except the testimony
12 of the person, without leave of the court for good cause shown.
13 The bill provides that a person asserting an affirmative
14 defense under the bill waives certain privileges to all
15 records which are directly related to the person's prescription
16 or prescriptions including the confidentiality privilege
17 pursuant to Code section 622.10 (confidential professional
18 communications) and any privilege or nondisclosure requirement
19 under state or federal privacy laws.

House File 563 - Introduced

HOUSE FILE 563
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 172)

A BILL FOR

1 An Act relating to the penalties for the criminal offense of
2 sexual exploitation of a minor by the purchase or possession
3 of child pornography.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2462HV (1) 85
jm/rj

H.F. 563

Section 1. Section 728.12, subsection 3, Code 2013, is amended to read as follows:

3. *a.* It shall be unlawful to knowingly purchase or possess a visual depiction of a minor engaging in a prohibited sexual act or the simulation of a prohibited sexual act. A visual depiction containing pictorial representations of different minors shall be prosecuted and punished as separate offenses for each pictorial representation of a different minor in the visual depiction. However, violations of this subsection involving multiple visual depictions of the same minor shall be prosecuted and punished as one offense. ~~A~~ Except as provided in paragraph *"b"*, a person who commits a violation of this subsection commits ~~an aggravated misdemeanor~~ a class "D" felony for a first offense and a class ~~"D"~~ "C" felony for a second or subsequent offense. For purposes of this subsection, an offense is considered a second or subsequent offense if, prior to the person's having been convicted under this subsection, any of the following apply:

~~*a.*~~ (1) The person has a prior conviction or deferred judgment under this subsection.

~~*b.*~~ (2) The person has a prior conviction, deferred judgment, or the equivalent of a deferred judgment in another jurisdiction for an offense substantially similar to the offense defined in this subsection. The court shall judicially notice the statutes of other states that define offenses substantially similar to the offense defined in this subsection and that therefore can be considered corresponding statutes.

b. For a first offense violation of paragraph *"a"*, a person twenty-one years of age or younger commits an aggravated misdemeanor if the minor shown in the visual depiction gave or sent the visual depiction to the person without being solicited to do so by the person who received it, the person is not more than four years older than the minor, and the person maintains possession of the visual depiction but does not give, send, or disseminate the visual depiction to another.

H.F. 563

EXPLANATION

This bill relates to the penalties for the criminal offense of sexual exploitation of a minor by the purchase or possession of child pornography.

The bill increases the criminal penalty in most instances for knowingly purchasing or possessing a visual depiction of a minor engaged in a prohibited sexual or simulated sexual act. For a first offense violation, the bill increases the criminal penalty from an aggravated misdemeanor to a class "D" felony. However, for a first offense violation, a person 21 years of age or younger commits an aggravated misdemeanor if the minor shown in the visual depiction gave or sent the visual depiction, unsolicited, the person is not more than four years older than the minor, and the person maintains the visual depiction but does not give, send, or disseminate the visual depiction to another. For any second or subsequent violation, the bill increases the criminal penalty from a class "D" felony to a class "C" felony.

Under the bill, by increasing the criminal penalty from a class "D" felony to a class "C" felony, a person convicted of a second or subsequent offense of sexual exploitation of a minor in violation of Code section 728.12(3) is also required to serve a special sentence for the rest of the person's life under Code section 903B.1. Current law requires a person convicted of a first or subsequent offense of sexual exploitation of a minor in violation of Code section 728.12(3) to serve a 10-year special sentence under Code section 903B.2.

A person serving a special sentence is required to register as a sex offender for a period equal to the term of the special sentence, but in no case shall the person register as a sex offender for less than 10 years pursuant to Code section 692A.106(2).

An aggravated misdemeanor is punishable by confinement for no more than two years and a fine of at least $625 but not more than $6,250. A class "D" felony is punishable by confinement

H.F. 563

1 for no more than five years and a fine of at least $750 but
2 not more than $7,500. A class "C" felony is punishable by
3 confinement for no more than 10 years and a fine of at least
4 $1,000 but not more than $10,000.

House File 564 - Introduced

HOUSE FILE 564
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 215)

A BILL FOR

1 An Act concerning mechanic's liens and the mechanics' notice
2 and lien registry.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2505HV (1) 85
rh/nh

H.F. 564

Section 1. Section 572.8, subsection 1, paragraph e, Code 2013, is amended to read as follows:

e. The ~~tax~~ parcel identification number required by law to be assigned to the property for real estate tax administration purposes.

Sec. 2. Section 572.13A, subsection 1, unnumbered paragraph 1, Code 2013, is amended to read as follows:

A general contractor, or owner-builder who has contracted or will contract with a subcontractor to provide labor or furnish material for the property, shall post a notice of commencement of work to the mechanics' notice and lien registry internet website ~~within~~ no later than ten days ~~of~~ after commencement of work on the property. A notice of commencement of work is effective only as to any labor, service, equipment, or material furnished to the property subsequent to the posting of the notice of commencement of work. A notice of commencement of work shall include all of the following information:

Sec. 3. Section 572.13A, subsection 1, paragraph f, Code 2013, is amended to read as follows:

f. The ~~tax~~ parcel identification number required by law to be assigned to the property for real estate tax administration purposes.

Sec. 4. Section 572.13B, subsection 1, paragraph i, Code 2013, is amended to read as follows:

i. The ~~tax~~ parcel identification number required by law to be assigned to the property for real estate tax administration purposes.

Sec. 5. Section 572.22, subsection 6, Code 2013, is amended to read as follows:

6. The ~~tax~~ parcel identification number ~~of the property to be charged~~ required by law to be assigned to the property for real estate tax administration purposes.

Sec. 6. Section 572.23, Code 2013, is amended to read as follows:

572.23 Acknowledgment of satisfaction of claim.

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1. When a mechanic's lien is satisfied by payment of the claim, the claimant shall ~~acknowledge~~ post to the mechanics' notice and lien registry an acknowledgment of satisfaction ~~thereof~~ of claim and, if the claimant neglects to do so for thirty days after demand in writing is personally served upon the claimant, the claimant shall forfeit and pay twenty-five dollars to the owner, general contractor, or owner-builder and be liable to any person injured to the extent of the injury.

2. If ~~satisfaction is not acknowledged~~ an acknowledgment of satisfaction of claim is not posted to the mechanics' notice and lien registry within thirty days after service of the demand in writing, the party serving the demand or causing the demand to be served may ~~file for record with the administrator~~ post to the mechanics' notice and lien registry a copy of the demand with proofs of service attached and endorsed and, in case of service by publication, a personal affidavit that personal service could not be made within this state. Upon completion of the requirements of this subsection, the ~~record~~ posting shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the ~~filing~~ posting of the demand with the required attachments, the administrator shall mail a date-stamped copy of the demand to both parties.

Sec. 7. NEW SECTION. **572.23A Partial satisfaction of money debt after posting notice.**

1. A general contractor or subcontractor shall post an acknowledgment of partial satisfaction of a money debt to the mechanics' notice and lien registry for material, labor, and equipment furnished by the general contractor or subcontractor.

2. If an acknowledgment of partial satisfaction pursuant to subsection 1 is not posted to the mechanic's notice and lien registry within thirty days after receipt of written demand from the owner, general contractor, or owner-builder, the owner, general contractor, or owner-builder may post an acknowledgment of partial satisfaction of the money debt and a

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copy of the written demand to the mechanics' notice and lien registry.

3. This section applies in situations where the required notices pursuant to sections 572.13A and 572.13B have been posted to the mechanics' notice and lien registry but a mechanic's lien has not been posted.

Sec. 8. Section 572.34, subsections 3, 7, 8, and 9, Code 2013, are amended to read as follows:

3. *a.* The administrator shall index the legal descriptions of the properties for which notices and liens are posted to the registry. For the purpose of performing a search of the registry the legal description shall be the controlling index category.

b. The registry shall be indexed by owner name, general contractor name, mechanics' notice and lien registry number, property address, legal description, ~~tax~~ parcel identification number required by law to be assigned to the property for real estate tax administration purposes, and any other identifier considered appropriate as determined by the administrator pursuant to rule.

7. Notices ~~may~~ shall be posted to the mechanics' notice and lien registry electronically on the administrator's internet website~~, or may be sent to the administrator for posting by United States mail or facsimile transmission, or other alternate method as provided by the administrator pursuant to rule. Notices received by United States mail or facsimile transmission shall be posted by the administrator to the mechanics' notice and lien registry within three business days of receipt~~.

8. Mechanics' liens ~~may~~ shall be posted to the mechanics' notice and lien registry electronically on the administrator's internet website ~~or may be sent to the administrator for posting by United States mail. Liens received by United States mail shall be posted by the administrator to the mechanics' notice and lien registry within three business days of receipt~~.

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9. ~~The administrator shall send a receipt acknowledging a notice or lien submitted by United States mail or facsimile transmission, as provided by the administrator by rule.~~ The posting of a notice or a lien to the mechanics' notice and lien registry internet website pursuant to this chapter, along with the tender of the requisite filing fees and the sending of an acknowledgment receipt by the administrator, is equivalent to a filing and recording of the appropriate notice or lien in the county in which the real estate is located.

EXPLANATION

This bill concerns mechanic's liens and the mechanics' notice and lien registry.

The bill amends provisions relating to certain property information required for precommencement and preliminary notices.

The bill provides that when a mechanic's lien is satisfied by payment of the claim, the claimant must acknowledge satisfaction by posting an acknowledgment of the satisfaction to the registry. If such an acknowledgment is not posted to the registry within 30 days after service of the demand in writing, the party serving the demand may post a copy of the demand to the registry.

The bill provides that a general contractor or subcontractor shall post an acknowledgment of partial satisfaction of a money debt to the mechanics' notice and lien registry for material, labor, and equipment furnished by the general contractor or subcontractor. If an acknowledgment of partial satisfaction is not posted to the registry within 30 days after receipt of written demand from the owner, general contractor, or owner-builder, the owner, general contractor, or owner-builder may post an acknowledgment of partial satisfaction of the money debt and a copy of the written demand to the mechanics' notice and lien registry. This provision applies in situations where the required notices pursuant to Code sections 572.13A and 572.13B have been posted to the mechanics' notice and lien

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registry but a mechanic´s lien has not been posted.

The bill requires the administrator to index the legal descriptions of the properties for which notices and liens are posted to the registry.

The bill provides that precommencement and preliminary notices and mechanic´s liens shall be posted to the mechanics´ notice and lien registry electronically on the administrator´s internet website.

The bill provides that the posting of a notice or a lien to the mechanics´ notice and lien registry internet website along with the requisite filing fees and the sending of an acknowledgment receipt by the administrator is equivalent to a filing and recording of the appropriate notice or lien in the county in which the real estate is located.

House File 565 - Introduced

HOUSE FILE 565
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 258)

A BILL FOR

1 An Act relating to mechanic's liens and the mechanics' notice
2 and lien registry.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2311HV (2) 85
rh/nh

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Section 1. Section 572.8, subsection 1, paragraph b, Code 2013, is amended to read as follows:

b. The legal description ~~of~~ that adequately describes the property to be charged with the lien.

Sec. 2. Section 572.11, Code 2013, is amended to read as follows:

572.11 Extent of lien posted after ninety days.

Liens perfected under section 572.10 shall be enforced against the property or upon the bond, if given, by the owner or by the owner-builder's buyer, only to the extent of the balance due from the owner to the general contractor or from the owner-builder's buyer to the owner-builder at the time of the service of such notice; but if the bond was given by the general contractor or owner-builder, or person contracting with the subcontractor ~~filing~~ posting the claim for a lien, such bond shall be enforced to the full extent of the amount found due the subcontractor.

Sec. 3. Section 572.13A, subsections 1 and 2, Code 2013, are amended to read as follows:

1. A general contractor or owner-builder who has contracted or will contract with a subcontractor to provide labor or furnish material for the property shall post a notice of commencement of work to the mechanics' notice and lien registry internet website ~~within~~ no later than ten days ~~of~~ after the commencement of work on the property. A notice of commencement of work is effective only as to any labor, service, equipment, or material furnished to the property subsequent to the posting of the notice of commencement of work. A notice of commencement of work shall include all of the following information:

a. The name and address of the owner.

b. The name, address, and telephone number of the general contractor or owner-builder.

c. The address of the property or a description of the location of the property if the property cannot be reasonably

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identified by an address.

d. The legal description ~~of~~ that adequately describes the property to be charged with the lien.

e. The date work commenced.

f. The tax parcel identification number.

g. Any other information prescribed by the administrator pursuant to rule.

2. If a general contractor or owner-builder fails to post the required notice of commencement of work to the mechanics' notice and lien registry internet website pursuant to subsection 1, ~~within~~ no later than ten days ~~of~~ after the commencement of the work on the property, a subcontractor may post the notice in conjunction with the ~~filing~~ posting of the required preliminary notice pursuant to section 572.13B. A notice of commencement of work must be posted to the mechanics' notice and lien registry internet website before preliminary notices pursuant to section 572.13B may be posted.

Sec. 4. Section 572.13A, subsection 3, paragraph c, Code 2013, is amended to read as follows:

c. The notice described in subsection 1 shall be sent to the owner's address as posted to the mechanics' notice and lien registry by the general contractor, owner-builder, or subcontractor. If the owner's address is different than the property address, a copy of the notice shall also be sent to the property address, addressed to the owner if a mailing address has been assigned to the property by the United States postal service.

Sec. 5. Section 572.13A, subsection 3, Code 2013, is amended by adding the following new paragraph:

NEW PARAGRAPH. *d.* Notices under this section shall not be sent to owner-builders.

Sec. 6. Section 572.13B, subsection 1, paragraph g, Code 2013, is amended to read as follows:

g. The legal description ~~of~~ that adequately describes the property to be charged with the lien.

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Sec. 7. Section 572.13B, subsection 2, Code 2013, is amended to read as follows:

2. At the time a preliminary notice is posted to the mechanics' notice and lien registry, the administrator shall send notification to the owner, including the owner notice described in section 572.13, subsection 1, and shall ~~docket~~ post the mailing of the notice on the mechanics' notice and lien registry as prescribed by the administrator pursuant to rule. Notices under this section shall not be sent to owner-builders. Upon request, the administrator shall provide ~~an affidavit of mailing~~ proof of service at no cost for the notice required under this section.

Sec. 8. Section 572.15, Code 2013, is amended to read as follows:

572.15 Discharge of mechanic's lien — bond.

A mechanic's lien may be discharged at any time by submitting a bond to the administrator in twice the amount of the sum for which the claim for the lien is ~~filed~~ posted, with surety or sureties, to be approved by the administrator, conditioned for the payment of any sum for which the claimant may obtain judgment upon the claim.

Sec. 9. Section 572.19, Code 2013, is amended to read as follows:

572.19 Priority over garnishments of the owner.

Mechanics' liens shall take priority ~~of~~ over all garnishments of the owner for the contract debts, whether made prior or subsequent to the commencement of the furnishing of the material or performance of the labor, without regard to the date of ~~filing~~ posting the claim for such lien.

Sec. 10. Section 572.22, unnumbered paragraph 1, Code 2013, is amended to read as follows:

~~The administrator shall endorse upon every claim for a mechanic's lien posted to the mechanics' notice and lien registry internet website the date and hour of posting.~~ Each claim posted to the mechanics' notice and lien registry

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1 internet website shall be properly indexed and shall contain
2 the following items:
3 Sec. 11. Section 572.22, subsection 5, Code 2013, is amended
4 to read as follows:
5 5. The legal description ~~of~~ that adequately describes the
6 property to be charged with the lien.
7 Sec. 12. Section 572.23, subsection 2, Code 2013, is amended
8 to read as follows:
9 2. If satisfaction is not acknowledged within thirty days
10 after service of the demand in writing, the party serving
11 the demand or causing the demand to be served may file for
12 record with the administrator a copy of the demand with proofs
13 of service attached and endorsed and, in case of service
14 by publication, a personal affidavit that personal service
15 could not be made within this state. Upon completion of the
16 requirements of this subsection, the ~~record~~ posting shall be
17 constructive notice to all parties of the due forfeiture and
18 cancellation of the lien. Upon the ~~filing~~ posting of the
19 demand with the required attachments, the administrator shall
20 mail a date-stamped copy of the demand to both parties.
21 Sec. 13. Section 572.28, subsection 1, Code 2013, is amended
22 to read as follows:
23 1. Upon the written demand of the owner served on the
24 ~~lienholder~~ claimant requiring the ~~lienholder~~ claimant to
25 commence action to enforce the lien, such action shall be
26 commenced within thirty days thereafter, or the lien and all
27 benefits derived therefrom shall be forfeited.
28 Sec. 14. Section 572.30, subsection 2, Code 2013, is amended
29 to read as follows:
30 2. Within fifteen days after receiving notice of nonpayment
31 the general contractor or owner-builder gives a bond ~~or makes~~
32 ~~a deposit with the administrator~~, in an amount not less than
33 the amount necessary to satisfy the nonpayment for which notice
34 has been given under this section, and in a form approved
35 by ~~a judge of the district court~~ the administrator, to hold

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1 harmless the owner or person having the improvement made from
2 any claim for payment of anyone furnishing labor or material
3 for the improvement, other than the general contractor or
4 owner-builder.
5 Sec. 15. Section 572.31, Code 2013, is amended to read as
6 follows:
7 **572.31 Cooperative and condominium housing.**
8 A lien arising under this chapter as a result of the
9 construction of an apartment house or apartment building which
10 is owned on a cooperative basis under chapter 499A, or which is
11 submitted to a horizontal property regime under chapter 499B,
12 is not enforceable, notwithstanding any contrary provision of
13 this chapter, as against the interests of an owner in a unit
14 contained in the apartment house or apartment building acquired
15 in good faith and for valuable consideration, unless a lien
16 statement specifically describing the unit is ~~filed~~ posted
17 under section 572.8 within the applicable time period specified
18 in section 572.9, but determined from the date on which the
19 last of the material was supplied or the last of the labor was
20 performed in the construction of that unit.
21 Sec. 16. Section 572.33A, Code 2013, is amended to read as
22 follows:
23 **572.33A Liability of owner to general contractor —**
24 **commercial construction.**
25 1. An owner of a building, land, or improvement upon which
26 a mechanic's lien of a subcontractor may be ~~filed~~ posted, is
27 not required to pay the general contractor for compensation
28 for work done or material furnished for the building, land,
29 or improvement until the expiration of ninety days after the
30 completion of the building or improvement unless the general
31 contractor furnishes to the owner one of the following:
32 ~~1.~~ *a.* Receipts and waivers of claims for mechanics' liens,
33 signed by all persons who furnished material or performed labor
34 for the building, land, or improvement.
35 ~~2.~~ *b.* A good and sufficient bond to be approved by the

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owner, conditioned that the owner shall be held harmless from any loss which the owner may sustain by reason of the ~~filing~~ posting of mechanics' liens by subcontractors.

2. This section applies only to commercial construction properties.

Sec. 17. Section 572.34, Code 2013, is amended to read as follows:

572.34 Mechanics' notice and lien registry ~~— residential construction~~.

1. A mechanics' notice and lien registry is created and shall be administered by the administrator. The administrator shall adopt rules pursuant to chapter 17A for the creation and administration of the registry.

2. The mechanics' notice and lien registry shall be accessible to the general public through the administrator's internet website.

3. The registry shall be indexed by owner name, general contractor name, mechanics' notice and lien registry number, property address, legal description, tax parcel identification number, and any other identifier considered appropriate as determined by the administrator pursuant to rule.

4. ~~A general contractor, owner-builder, or subcontractor~~ Any person who posts fictitious, forged, or false information to the mechanics' notice and lien registry shall be subject to a penalty as determined by the administrator by rule in addition to all other penalties and remedies available under applicable law.

5. A person may post a correction statement with respect to a record indexed ~~in~~ on the mechanics' notice and lien registry internet website if the person believes the record is inaccurate or wrongfully posted.

6. The administrator shall charge and collect fees as established by rule necessary for the administration and maintenance of the registry and the registry's internet website. The administrator shall not charge a ~~filing~~ posting

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1 fee for a preliminary notice required pursuant to this chapter
2 that exceeds the cost of sending such notice by certified mail
3 with restricted delivery and return receipt. The administrator
4 shall not charge a ~~filing~~ posting fee for a mechanic's lien
5 that exceeds forty dollars.
6 7. Notices may be posted to the mechanics' notice and
7 lien registry electronically on the administrator's internet
8 website, or may be sent to the administrator for posting
9 by United States mail or facsimile transmission, or other
10 alternate method as provided by the administrator pursuant to
11 rule. Notices received by United States mail or facsimile
12 transmission shall be posted by the administrator to the
13 mechanics' notice and lien registry within three business days
14 of receipt.
15 8. Mechanics' liens may be posted to the mechanics' notice
16 and lien registry electronically on the administrator's
17 internet website or may be sent to the administrator for
18 posting by United States mail. Liens received by United States
19 mail shall be posted by the administrator to the mechanics'
20 notice and lien registry within three business days of receipt.
21 9. The administrator shall send a receipt acknowledging a
22 notice or lien submitted by United States mail or facsimile
23 transmission, as provided by the administrator by rule.
24 10. Information collected by and furnished to the
25 administrator in conjunction with the submission and posting of
26 notices pursuant to sections 572.13A and 572.13B shall be used
27 by the administrator solely for the purposes of the mechanics'
28 notice and lien registry.
29 11. Registration under chapter 91C shall not be required in
30 order to post a notice or a lien under this chapter.
31 12. A preliminary notice that remains posted on the
32 mechanics' notice and lien registry internet website two
33 years after the date of posting shall be declared inactive by
34 the administrator, unless renewed. A notice of commencement
35 of work, if there are no related active postings, shall be

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1 declared inactive two years from the date of posting, unless
2 renewed. The administrator shall establish a process for the
3 removal of inactive notices and for the renewal of notices
4 pursuant to rule.
5 ~~12.~~ 13. The administrator shall make, or cause to be made,
6 preservation duplicates of mechanics' notice and lien registry
7 records, including records stored in a computer database. Any
8 preservation duplicate record shall be accurate, complete, and
9 clear, and shall be made, preserved, and made accessible to the
10 public by means designated by the administrator by rule.
11 EXPLANATION
12 This bill makes conforming language corrections relating
13 to the posting of precommencement and preliminary notices and
14 mechanic's liens on the mechanics' notice and lien registry
15 (registry) and related civil enforcement actions, to be
16 consistent with changes made in HF 675 (2012).
17 The bill also amends provisions relating to certain property
18 information required for precommencement and preliminary
19 notices.
20 The bill specifies that general contractors and
21 owner-builders do not have to send precommencement notices to
22 owner-builders.
23 The bill requires the administrator (secretary of state) to
24 provide proof of service for notices posted on the registry and
25 eliminates the requirement that the administrator endorse every
26 claim for a mechanic's lien posted on the registry.
27 The bill specifies that each claim posted to the
28 registry internet website shall be properly indexed by the
29 administrator.
30 The bill provides that in a civil action by a subcontractor
31 or owner against a general contractor or owner-builder, a
32 bond given by a general contractor or owner-builder shall be
33 approved by the administrator instead of the court.
34 The bill provides that the posting by any person of
35 fictitious, forged, or false information to the registry is

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1 subject to a penalty as determined by the administrator.
2 The bill provides that a preliminary notice that remains
3 posted on the mechanics' notice and lien registry internet
4 website two years after the date of posting shall be declared
5 inactive by the administrator, unless renewed. A notice of
6 commencement of work, if there are no related active postings,
7 shall be declared inactive two years from the date of posting,
8 unless renewed. The administrator is also required to
9 establish a process for the removal of inactive notices and for
10 the renewal of notices pursuant to rule.

House File 566 - Introduced

HOUSE FILE 566
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 208)

A BILL FOR

1 An Act to establish requirements relating to the transfer
2 of an interest in real estate by or on behalf of certain
3 entities formed or organized on a profit, cooperative,
4 or not-for-profit basis, and including warranties and a
5 limitation on actions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2473HV (1) 85
da/rj

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DIVISION I
STATEMENT OF AUTHORITY

Section 1. Section 486A.303, subsection 7, Code 2013, is amended to read as follows:

7. ~~Unless earlier canceled, a filed~~ A statement of partnership authority ~~is canceled by operation of law five years after the date on which the statement, or the most recent amendment, was~~ filed ~~with~~ by the secretary of state is effective until amended or canceled, unless an earlier cancellation date is specified in the statement.

Sec. 2. Section 489.302, subsection 10, Code 2013, is amended to read as follows:

10. ~~Unless earlier canceled, an effective~~ A statement of authority ~~is canceled by operation of law five years after the date on which the statement, or its most recent amendment, becomes effective~~ filed by the secretary of state under section 489.205, subsection 1, is effective until amended or canceled as provided in subsection 2, unless an earlier cancellation date is specified in the statement. ~~This cancellation operates without need for any recording under subsection 6 or 7.~~

Sec. 3. Section 501B.7, subsection 7, Code 2013, is amended to read as follows:

7. ~~Unless canceled earlier, a filed~~ A statement of authority ~~and its most recent amendment expire five years after the date of the most recent filing~~ filed by the county recorder as provided in subsection 2 is effective until amended or canceled, unless an earlier cancellation date is specified in the statement.

DIVISION II
LIMITED LIABILITY COMPANIES

Sec. 4. NEW SECTION. **489.407A Real estate interest transferred by limited liability company or foreign limited liability company.**

1. A transfer of an interest in real estate situated in this state held by a limited liability company or a foreign limited

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liability company authorized to transact business in this state is subject to the provisions of this section.

2. *a.* In a member-managed company, a transfer of an interest in real estate held by the company may be undertaken by any of the following:

(1) As provided in the operating agreement, or if the operating agreement does not so provide, only with the consent of all members.

(2) As provided in a statement of authority filed by the company with the secretary of state and the recorder of the county where the real estate is situated pursuant to section 489.302.

b. A requirement of paragraph *"a"* is applicable to every transfer of an interest in real estate situated in this state held by a member-managed company, whether or not the transfer is in the ordinary course of the company's business.

3. *a.* In a manager-managed company, a transfer of an interest in real estate held by the company may be undertaken by any of the following:

(1) As provided in the operating agreement, or if the operating agreement does not so provide, only with the consent of a majority of all managers.

(2) As provided in a statement of authority filed by the company with the secretary of state and the recorder of the county where the real estate is situated pursuant to section 489.302.

b. A requirement in paragraph *"a"* is applicable to every transfer of an interest in real estate situated in this state held by a manager-managed limited liability company, whether or not the transfer is in the ordinary course of the company's business.

DIVISION III

TRANSFERS BY ENTITIES — WARRANTY AND STATUTE OF LIMITATIONS

Sec. 5. NEW SECTION. **558.72 Real estate transfers by certain entities.**

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1 1. As used in this section, unless the context otherwise
2 requires:
3 *a. "Entity"* means any of the following:
4 (1) A partnership, limited liability partnership, or
5 foreign limited liability partnership as provided in chapter
6 486A.
7 (2) A limited partnership, foreign limited partnership,
8 limited liability limited partnership, or foreign limited
9 liability limited partnership as provided in chapter 488.
10 (3) A limited liability company or foreign limited
11 liability company as provided in chapter 489.
12 (4) A corporation or foreign corporation as provided in
13 chapter 490 or a nonprofit corporation or foreign nonprofit
14 corporation as provided in chapter 504.
15 (5) A cooperative association as provided in chapter 497
16 or 498; an association, corporation, or foreign corporation
17 as provided in chapter 499; a cooperative as provided in
18 chapter 499A; a cooperative as provided in chapter 501; or a
19 cooperative or foreign cooperative as provided in chapter 501A.
20 (6) An unincorporated nonprofit association as provided in
21 chapter 501B.
22 *b. "Instrument transferring an interest in real estate"* means
23 a deed, real estate contract, lease, easement, mortgage, deed
24 of trust, or any other instrument used to effect the transfer
25 of an interest in real estate situated in this state by any act
26 to sell, transfer, convey, assign, lease, mortgage, or encumber
27 the interest in the real estate.
28 2. An instrument transferring an interest in real estate
29 situated in this state by an entity, unless clearly and
30 conspicuously provided to the contrary in the instrument,
31 includes a warranty to the transferee by the person executing
32 the instrument of all of the following:
33 *a.* That the transferor entity is in existence at the time of
34 the transfer.
35 *b.* That the person executing the instrument has been duly

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1 authorized by the transferor entity to execute the instrument
2 on behalf of the entity.
3 *c.* That the person executing the instrument has the legal
4 capacity to execute the instrument.
5 *d.* That the person knows of no facts or legal claims that
6 might impair the validity of the transfer, including whether
7 the instrument was given in the ordinary course of business.
8 3. An action to invalidate a transfer of real estate by deed
9 or real estate contract by an entity shall be subject to the
10 time limitations set forth in section 614.14A.
11 Sec. 6. NEW SECTION. **614.14A Real estate interests**
12 **transferred by entities.**
13 1. As used in this section, unless the context otherwise
14 requires:
15 *a.* (1) *"Adverse claim"* means a claim that the transfer
16 of an interest in real estate to a transferee is invalid and
17 should be set aside based on an allegation that the execution
18 and delivery of a deed or real estate contract was not
19 authorized by the entity.
20 (2) *"Adverse claim"* does not include a claim that a deed or
21 real estate contract purports to transfer a greater interest
22 than the entity legally could transfer.
23 *b.* *"Entity"* means the same as defined in section 558.72.
24 2. A transfer of an interest in real estate situated in this
25 state by an entity by a deed or real estate contract is subject
26 to the provisions of this section.
27 3. *a.* With regard to any deed or real estate contract
28 executed by an entity and filed of record with the recorder
29 of the county in which the real estate is situated, which is
30 recorded prior to the effective date of this Act, the holder of
31 an adverse claim shall not file an action, at law or in equity,
32 to enforce the adverse claim or to invalidate such transfer two
33 years after the effective date of this Act.
34 *b.* With regard to any deed or real estate contract executed
35 by an entity and filed of record with the recorder of the

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1 county in which the real estate is situated, which is recorded
2 on or after the effective date of this Act, the holder of an
3 adverse claim shall not file an action, at law or in equity, to
4 enforce the adverse claim or to invalidate such transfer more
5 than two years after the date of recording of the instrument.
6 4. This section shall not be construed to limit any personal
7 action against a person who executed an instrument purportedly
8 transferring an interest in real estate on behalf of an entity
9 for damages based on a claim arising out of an allegation that
10 the execution and delivery of the instrument was not authorized
11 by the entity or that a warranty required in section 558.72 was
12 false.
13 EXPLANATION
14 GENERAL. This bill addresses issues involving the execution
15 of instruments conveying an interest in real estate by certain
16 entities, including by providing for filing statements of
17 authority, creating a general warranty, and creating a statute
18 of limitations.
19 BACKGROUND. The bill amends provisions which relate to
20 business entities (referred to as "entities") that are formed
21 under the laws of this state or organized under the laws of
22 a different state, and allowed to do business in this state,
23 by filing certain documents with the secretary of state and
24 conducting operations in a manner consistent with those laws.
25 In the case of a domestic entity, the secretary of state
26 recognizes its existence and in the case of a foreign entity,
27 the secretary of state authorizes its right to do business in
28 this state. Each of the various types of business entities
29 is governed by a separate Code chapter, often derived from
30 legislation proposed by national organizations such as uniform
31 acts by the national conference of commissioners on uniform
32 state laws including the revised uniform partnership Act herein
33 referred to as "UPA" (Code chapter 486A), the uniform limited
34 partnership Act referred to as "ULPA" (Code chapter 488),
35 the revised uniform limited liability company Act referred

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1 to as "RULLCA" (Code chapter 489), and the revised uniform
2 unincorporated nonprofit associations Act referred to as
3 "RUUNAA" (Code chapter 501B). Alternatively, several Code
4 chapters derive from model legislation proposed by the American
5 bar association including the Iowa business corporation Act
6 referred to as "IBCA" (Code chapter 490) and the revised
7 Iowa nonprofit corporation Act referred to as "RINCA" (Code
8 chapter 504). Iowa uniquely includes a number of Code chapters
9 governing cooperative associations, sometimes simply known
10 as cooperatives, including several types of cooperatives
11 originally chartered before July 1, 1935 (Code chapters 497
12 and 498), and those sometimes referred to as traditional
13 cooperatives (Code chapter 499) or closed cooperatives (Code
14 chapter 501). Iowa also recognizes a type of cooperative,
15 a cooperative-corporation, under the Iowa cooperative
16 associations Act referred to as "ICAA" which in some form has
17 been enacted in other states (Code chapter 501A). A special
18 chapter governs multiple housing organizations organized on
19 a cooperative basis (Code chapter 499A). Notwithstanding
20 that these chapters originate from different sources, their
21 provisions are often very similar.
22 TRANSFER OF REAL ESTATE — STATEMENT OF AUTHORITY. The
23 bill amends provisions in the UPA, RULLCA, and RUUNAA, that
24 allow an entity to file a statement of authority with the
25 secretary of state or in the case of RUUNAA a county recorder.
26 The statement serves to establish a person who has authority
27 to execute a deed or other instrument conveying an interest
28 in real estate on behalf of the entity. The bill changes
29 the effective time period of a filed statement of authority.
30 Currently, the statement is canceled by five years after the
31 date the statement became effective. The bill provides that
32 the statement is effective indefinitely until amended or
33 canceled, unless an earlier cancellation date is specified in
34 the statement.
35 TRANSFER OF REAL ESTATE BY LIMITED LIABILITY COMPANIES.

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1 The bill amends provisions in the RULLCA by providing that a
2 member-managed or manager-managed limited liability company
3 may provide for the transfer of an interest in real estate
4 as provided in the company's operating agreement, or with
5 the consent of all the company's members or majority of all
6 managers, or as provided in a statement of authority.
7 TRANSFER OF REAL ESTATE BY ENTITIES — WARRANTY. The bill
8 provides that unless clearly and conspicuously disclaimed in
9 an instrument transferring an interest in real estate situated
10 in this state by an entity, the instrument (e.g., deed, real
11 estate contract, lease, easement, mortgage, or deed of trust),
12 includes a warranty that the entity is in existence at the time
13 of the transfer, the person executing the transfer instrument
14 has been duly authorized by the entity to execute the transfer
15 instrument on behalf of the entity, the person executing the
16 transfer instrument has the legal capacity to execute the
17 transfer instrument, and the person knows of no facts or legal
18 claims that might impair the validity of the transfer.
19 TRANSFER OF REAL ESTATE BY ENTITIES — STATUTE OF
20 LIMITATIONS. A statute of limitations establishes a length
21 of time during which a person may pursue a legal remedy for a
22 wrong, often measured from the date that the wrong occurs. One
23 feature of a statute of limitations applied against real estate
24 claims is that it affects marketability of title.
25 The bill addresses a claim alleging that a transfer of real
26 estate by an entity was invalid and should be set aside. Under
27 current law, after 1992, certain claims involving real estate
28 must be brought within 10 years after the claims first arose
29 (Code section 614.17A), but the time period is not applicable
30 in some cases to minors or persons suffering from mental
31 illness (Code section 619.19) or to spousal dower rights (Code
32 section 614.20). The statute of limitations is one year for a
33 transfer involving a trustee (Code section 614.14).
34 The bill establishes a two-year statute of limitations by a
35 person for challenging the authority of a person who executes

H.F. 566

a deed or real estate contract on behalf of an entity. The holder of an adverse claim for a deed or real estate contract executed and recorded prior to the effective date of the bill, must file an action within two years after the effective date. Otherwise, the holder must file an action two years after the recording of the instrument. The bill affects the real estate's marketable title. The bill does not affect an entity's claim for damages against a person who did not have the authority to transfer an interest in the entity's real estate.

House File 567 - Introduced

HOUSE FILE 567
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 212)

A BILL FOR

1 An Act eliminating the requirement for the racing and gaming
2 commission to conduct a socioeconomic study on the impact of
3 gambling.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2498HV (1) 85
ec/rj

H.F. 567

1 Section 1. Section 99F.4, subsection 24, Code 2013, is
2 amended by striking the subsection.
3 EXPLANATION
4 This bill eliminates the requirement that the racing and
5 gaming commission conduct a socioeconomic study on the impact
6 of gambling on Iowans every eight years.

House File 568 - Introduced

HOUSE FILE 568
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 197)

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

A BILL FOR

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

TLSB 1151HV (3) 85
pf/nh

H.F. 568

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

514I.9 Program benefits.

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

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

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

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

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

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

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

EXPLANATION

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

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

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

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

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

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

House File 569 - Introduced

HOUSE FILE 569
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 185)

A BILL FOR

1 An Act relating to licensure of professionals practicing
2 addiction counseling or providing addiction prevention
3 services by the behavioral science board, making penalties
4 applicable, and including effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2144HV (1) 85
ad/nh

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

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1 psychology, chiropractic, physical therapy, physical
2 therapist assisting, nursing, dentistry, dental hygiene,
3 dental assisting, optometry, speech pathology, audiology,
4 occupational therapy, occupational therapy assisting,
5 orthotics, prosthetics, pedorthics, respiratory care,
6 pharmacy, cosmetology arts and sciences, barbering, social
7 work, dietetics, marital and family therapy or mental health
8 counseling, addiction counseling or addiction prevention
9 services, massage therapy, mortuary science, athletic
10 training, acupuncture, nursing home administration, hearing aid
11 dispensing, or sign language interpreting or transliterating,
12 or shall not practice as a physician assistant, unless the
13 person has obtained a license for that purpose from the board
14 for the profession.
15 Sec. 3. Section 147.13, subsection 16, Code 2013, is amended
16 to read as follows:
17 16. For marital and family therapy, ~~and~~ mental health
18 counseling, addiction counseling, and addiction prevention
19 services, the board of behavioral science.
20 Sec. 4. Section 147.14, subsection 1, paragraph m, Code
21 2013, is amended to read as follows:
22 *m.* For behavioral science, three members licensed to
23 practice marital and family therapy, all of whom shall be
24 practicing marital and family therapists; three members
25 licensed to practice mental health counseling, one of whom
26 shall be employed in graduate teaching, training, or research
27 in mental health counseling and two of whom shall be practicing
28 mental health counselors; one member licensed to practice
29 addiction counseling; one member licensed to practice advanced
30 addiction counseling; one member licensed to practice as an
31 addiction prevention professional; and three members who
32 are not licensed to practice marital and family therapy, ~~or~~
33 mental health counseling, addiction counseling, or addiction
34 prevention services and who shall represent the general public.
35 Sec. 5. Section 147.74, Code 2013, is amended by adding the

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following new subsection:

NEW SUBSECTION. 23A. An addiction counselor licensed under chapter 154D may use the words "licensed addiction counselor" after the person's name or signify the same by the use of the letters "L.A.C." after the person's name. An advanced addiction counselor licensed under chapter 154D may use the words "licensed advanced addiction counselor" after the person's name or signify the same by the use of the letters "L.A.A.C." after the person's name. An addiction prevention professional licensed under chapter 154D may use the words "licensed addiction prevention professional" after the person's name or signify the same by the use of the letters "L.A.P.P." after the person's name.

Sec. 6. Section 154D.1, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 01. *"Addiction counseling"* means counseling of persons with substance use disorders which consists of the application of general counseling theories and treatment methods adopted with the express purpose of treating alcohol and drug problems.

NEW SUBSECTION. 001. *"Addiction prevention services"* means services that implement strategies and activities that have been shown to increase protective factors, prevent high-risk behaviors, and effectively reduce rates of substance abuse and addiction.

NEW SUBSECTION. 1A. *"Endorsement"* means a person has demonstrated knowledge, skill, and competency in working in a subspecialty within the addiction counseling or addiction prevention services field. A person must pass an exam approved by the board as well as meet all other experiential and educational requirements required by the board to receive an endorsement.

NEW SUBSECTION. 1B. *"Licensed addiction counselor"* means a person licensed to practice addiction counseling under supervision pursuant to this chapter.

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1 NEW SUBSECTION. 1C. *"Licensed addiction prevention*
2 *professional"* means a person licensed to provide addiction
3 prevention services pursuant to this chapter.
4 NEW SUBSECTION. 1D. *"Licensed advanced addiction counselor"*
5 means a person licensed to practice addiction counseling
6 pursuant to this chapter.
7 Sec. 7. Section 154D.1, subsection 4, Code 2013, is amended
8 to read as follows:
9 4. *"Licensee"* includes a licensed addiction counselor,
10 licensed advanced addiction counselor, licensed addiction
11 prevention professional, licensed marital and family therapist,
12 and a licensed mental health counselor.
13 Sec. 8. NEW SECTION. **154D.2A Licensure — addiction**
14 **counseling and prevention services.**
15 1. An applicant for a license to practice addiction
16 counseling shall be granted a license by the board if the
17 applicant satisfies all of the following requirements:
18 *a.* Possesses a bachelor's degree in addictions or a
19 counseling-related area from an accredited educational
20 institution or from a program approved by the board.
21 *b.* Possesses the required years of supervised clinical
22 experience or its equivalent as approved by the board.
23 *c.* Passes an examination approved by the board.
24 2. An applicant for a license to practice advanced addiction
25 counseling shall be granted a license by the board if the
26 applicant satisfies all of the following requirements:
27 *a.* Possesses a master's degree in addictions or a
28 counseling-related area from an accredited educational
29 institution or from a program approved by the board.
30 *b.* Possesses the required years of supervised clinical
31 experience or its equivalent as approved by the board.
32 *c.* Passes an examination approved by the board.
33 3. An applicant for a license to provide addiction
34 prevention services shall be granted a license by the board if
35 the applicant satisfies all of the following requirements:

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1 *a.* Possesses a bachelor's degree in a prevention-related
2 field from an accredited educational institution or from a
3 program approved by the board.
4 *b.* Possesses the required years of supervised clinical
5 experience or its equivalent as approved by the board.
6 *c.* Passes an examination approved by the board.
7 Sec. 9. Section 154D.3, subsection 1, Code 2013, is amended
8 by adding the following new paragraph:
9 NEW PARAGRAPH. *f.* Standards for supervision of licensees
10 requiring direct or other supervision.
11 Sec. 10. Section 154D.4, subsection 1, Code 2013, is amended
12 to read as follows:
13 1. This chapter and chapter 147 do not prevent qualified
14 members of other professions, including but not limited to
15 nurses, psychologists, social workers, physicians, physician
16 assistants, attorneys at law, or members of the clergy, from
17 providing or advertising that they provide services of a
18 marital and family therapy or mental health counseling nature
19 or which involve addiction counseling or related addiction
20 prevention services consistent with the accepted standards of
21 their respective professions, but these persons shall not use a
22 title or description denoting that they are licensed marital
23 and family therapists, ~~or~~ licensed mental health counselors,
24 licensed addiction counselors, licensed advanced addiction
25 counselors, or licensed addiction prevention professionals.
26 Sec. 11. Section 154D.4, subsection 2, paragraphs a and b,
27 Code 2013, are amended to read as follows:
28 *a.* Students whose activities are conducted within a course
29 of professional education in marital and family therapy, ~~or~~
30 mental health counseling, addiction counseling, or addiction
31 prevention services.
32 *b.* A person who practices marital and family therapy, ~~or~~
33 mental health counseling, addiction counseling, or addiction
34 prevention services under the supervision of a person licensed
35 under this chapter as part of a clinical experience as

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1 described in section 154D.2, subsection 2, or section 154D.2A.
2 Sec. 12. Section 154D.5, Code 2013, is amended to read as
3 follows:
4 **154D.5 Sexual conduct with client.**
5 The license of a marital and family therapist, ~~or~~ a mental
6 health counselor, an addiction counselor, an advanced addiction
7 counselor, or an addiction prevention professional shall be
8 revoked if the board finds that the licensee engaged in sexual
9 activity with a client as determined by board rule. The
10 revocation shall be in addition to any other penalties provided
11 by law.
12 Sec. 13. NEW SECTION. **154D.8 Temporary license — addiction**
13 **counseling — addiction prevention services — fees.**
14 A person who has fulfilled all of the applicable
15 requirements for licensure under section 154D.2A, except for
16 completion of the postgraduate supervised clinical experience
17 requirement as determined by the board by rule, may apply
18 to the board for a temporary license. A temporary license
19 shall be designated "licensed addiction counselor – temporary"
20 or "licensed addiction prevention professional – temporary"
21 and shall authorize the licensee to practice addiction
22 counseling or to provide addiction prevention services under
23 the supervision of a qualified supervisor as determined by the
24 board by rule. The license shall be valid for three years and
25 may be renewed at the discretion of the board. The fee for
26 a temporary license shall be set by the board to cover the
27 administrative cost of issuing the license and, if renewed, a
28 renewal fee as set by the board shall be required.
29 Sec. 14. NEW SECTION. **154D.9 Endorsements.**
30 A person licensed as an addiction counselor, advanced
31 addiction counselor, or addiction prevention professional under
32 this chapter may be granted an endorsement by the board when
33 the licensee satisfies all of the following:
34 1. Possesses a current and valid license under this chapter.
35 2. Possesses all educational and experiential requirements

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1 adopted by the board.
2 3. Passes an examination approved by the board.
3 Sec. 15. TRANSITION PROVISIONS.
4 1. Notwithstanding sections 147.14 and 147.16, the governor
5 may appoint to the board of behavioral science pursuant to
6 section 147.14, subsection 1, paragraph "m", as amended by this
7 Act, subject to confirmation by the senate, in lieu of the one
8 member licensed to practice addiction counseling, one member
9 licensed to practice advanced addiction counseling, one member
10 licensed to practice as an addiction prevention professional,
11 members with experience and expertise that is substantially
12 equivalent to the professional requirements for addiction
13 counselors, advanced addiction counselors, and addiction
14 prevention professionals, as applicable.
15 2. An addiction counselor practicing addiction counseling
16 or an addiction prevention professional providing addiction
17 prevention services on or before January 1, 2015, may continue
18 practicing addiction counseling or providing addiction
19 prevention services, as applicable, while completing licensure
20 as required under this Act. The board of behavioral science
21 shall adopt rules to provide a transition process that
22 allows such addiction counselors and addiction prevention
23 professionals to complete the requirements for licensure no
24 later than June 30, 2016.
25 Sec. 16. IMPLEMENTATION. The sections of this Act relating
26 to requirements for licensure of addiction counselors, advanced
27 addiction counselors, and addiction prevention professionals,
28 including sections 154D.2A, 154D.8, and 154D.9, as enacted
29 in this Act; and sections 147.1, 154D.1, 154D.3, 154D.4, and
30 154D.5, as amended in this Act, shall be implemented so the
31 requirements are applicable beginning no later than January 1,
32 2015.
33 Sec. 17. EFFECTIVE UPON ENACTMENT. This Act, being deemed
34 of immediate importance, takes effect upon enactment.
35 EXPLANATION

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1 This bill provides for the licensing of professionals
2 practicing addiction counseling or providing addiction
3 prevention services. The bill provides definitions relating
4 to the different types of licensure and establishes certain
5 minimum requirements for obtaining a license. The bill also
6 allows a professional practicing addiction counseling or
7 providing addiction prevention services to receive a temporary
8 license.
9 The bill requires the board of behavioral science to
10 regulate professionals practicing in the area of addiction
11 counseling or providing addiction prevention services.
12 The bill also allows the board to grant an endorsement to
13 an addiction counselor, advanced addiction counselor, or
14 an addiction prevention professional when the person has
15 demonstrated knowledge, skill, and competency in working in a
16 subspecialty within the addictions field.
17 The bill makes conforming changes in Code chapter
18 147, regarding the general provisions for health-related
19 professions, and amends the membership of the board of
20 behavioral science to include an addiction counselor, advanced
21 addiction counselor, and an addiction prevention professional.
22 The bill provides transition provisions for the initial
23 appointment of the additional members to the board of
24 behavioral science. The bill also provides transition
25 provisions relating to a phased-in implementation of
26 requirements for licensure for addiction counselors, advanced
27 addiction counselors, and addiction prevention professionals
28 practicing addiction counseling or providing addiction
29 prevention services prior to January 1, 2015.
30 The bill takes effect upon enactment, but provides for
31 implementation by January 1, 2015.
32 The provisions of Code chapters 147 and 272C, including
33 licensing sanctions and a provision in Code section 147.86,
34 that a violation of Code chapter 147 or 154D is a serious
35 misdemeanor, are applicable to addiction counselors, advanced

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1 addiction counselors, and addiction prevention professionals
2 licensed under Code chapter 154D. A person who is guilty of a
3 serious misdemeanor is subject to a minimum fine of $315 and a
4 maximum fine of $1,875. The court may also order imprisonment
5 not to exceed one year.

House File 570 - Introduced

HOUSE FILE 570
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 96)

A BILL FOR

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

TLSB 1705HV (3) 85
ad/nh

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Section 1. Section 135C.41, subsection 2, Code 2013, is amended to read as follows:

2. Notify the director that the facility desires to contest the citation and request an informal conference with ~~a representative of the department~~ an independent reviewer pursuant to section 135C.42.

Sec. 2. Section 135C.42, Code 2013, is amended to read as follows:

135C.42 Informal conference on contested citation.

1. The director shall ~~assign a representative of the department, other than the inspector upon whose inspection the contested citation is based,~~ provide an independent reviewer to hold an informal conference with the facility within ten working days after receipt of a request made under section 135C.41, subsection 2. At the conclusion of the conference the ~~representative~~ independent reviewer may affirm or may modify or dismiss the citation. ~~In the latter case, the representative~~ The independent reviewer shall state in writing the specific reasons for the affirmation, modification, or dismissal and immediately transmit copies of the statement to the director, and to the facility. If the facility does not desire to further contest an affirmed or modified citation, it shall within five working days after the informal conference, or after receipt of the written explanation of the ~~representative~~ independent reviewer, as the case may be, comply with section 135C.41, subsection 1.

2. An independent reviewer shall be licensed as an attorney in the state of Iowa and shall not be employed or have been employed by the department in the past eight years or have appeared in front of the department on behalf of a health care facility in the past eight years. Preference shall be given to an attorney with background knowledge, experience, or training in long-term care. The department may issue a request for proposals to enter into a contract for the purpose of providing one or more independent reviewers for informal conferences.

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

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

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

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

231C.8 Exit interview — issuance of findings.

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

2. The department shall issue the final findings of a

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

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

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

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

House File 571 - Introduced

HOUSE FILE 571
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 210)

A BILL FOR

1 An Act relating to temporary restricted licenses and ignition
2 interlock devices for operating-while-intoxicated offenses
3 and providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2352HV (2) 85
rh/nh

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1 Section 1. Section 321J.2, subsection 3, paragraph c,
2 unnumbered paragraph 1, Code 2013, is amended to read as
3 follows:
4 Assessment of a fine of one thousand two hundred fifty
5 dollars. However, in the discretion of the court, if no
6 personal or property injury has resulted from the defendant's
7 actions, the court may waive up to six hundred twenty-five
8 dollars of the fine when the defendant presents to the court at
9 the end of ~~the~~ any minimum period of ineligibility a temporary
10 restricted license issued pursuant to section 321J.20.
11 Sec. 2. Section 321J.2, subsection 3, paragraph d, Code
12 2013, is amended by striking the paragraph and inserting in
13 lieu thereof the following:
14 *d.* Revocation of the person's driver's license for a minimum
15 period of one hundred eighty days up to a maximum revocation
16 period of one year, pursuant to section 321J.4, subsection 1,
17 section 321J.9, or section 321J.12, subsection 2.
18 (1) A defendant whose alcohol concentration is .08 or more
19 shall be eligible for a temporary restricted license upon
20 conviction if a test was obtained and no accident resulting in
21 personal injury or property damage occurred. If such accident
22 occurred, the defendant shall be eligible for a temporary
23 restricted license after any period of ineligibility as
24 determined by the court.
25 (2) A defendant whose revocation occurs because the
26 defendant refused to submit to chemical testing under section
27 321J.9 shall be eligible for a temporary restricted license
28 ninety days after conviction.
29 (3) The department shall require the defendant to install
30 an ignition interlock device of a type approved by the
31 commissioner of public safety on all vehicles owned or operated
32 by the defendant if the defendant seeks a temporary restricted
33 license.
34 Sec. 3. Section 321J.4, subsections 1 through 4, Code 2013,
35 are amended by striking the subsections and inserting in lieu

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1 thereof the following:
2 1. If a defendant is convicted of a violation of section
3 321J.2 and the defendant's driver's license or nonresident
4 operating privilege has not been revoked under section 321J.9
5 or 321J.12 for the occurrence from which the arrest arose, the
6 department shall revoke the defendant's driver's license or
7 nonresident operating privilege for one hundred eighty days
8 if the defendant submitted to chemical testing and has had
9 no previous conviction or revocation under this chapter and
10 shall revoke the defendant's driver's license or nonresident
11 operating privilege for one year if the defendant refused to
12 submit to chemical testing and has had no previous conviction
13 or revocation under this chapter.
14 *a.* A defendant whose alcohol concentration is .08 or more
15 shall be eligible for a temporary restricted license upon
16 conviction if a test was obtained and no accident resulting in
17 personal injury or property damage occurred. If such accident
18 occurred, the defendant shall be eligible for a temporary
19 restricted license after any period of ineligibility as
20 determined by the court.
21 *b.* A defendant whose revocation occurs because the person
22 refused to submit to chemical testing under section 321J.9
23 shall be eligible for a temporary restricted license ninety
24 days after conviction.
25 *c.* The department shall require the defendant to install
26 an ignition interlock device of a type approved by the
27 commissioner of public safety on all vehicles owned or operated
28 by the defendant if the defendant seeks a temporary restricted
29 license.
30 *d.* If the defendant is under the age of twenty-one, the
31 defendant shall be eligible for a temporary restricted license
32 after any period of ineligibility as determined by the court.
33 2. If a defendant is convicted of a violation of section
34 321J.2, and the defendant's driver's license or nonresident
35 operating privilege has not already been revoked under section

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1 321J.9 or 321J.12 for the occurrence from which the arrest
2 arose, the department shall revoke the defendant's driver's
3 license or nonresident operating privilege for one year if the
4 defendant submitted to chemical testing and has had a previous
5 conviction or revocation under this chapter and shall revoke
6 the defendant's driver's license or nonresident operating
7 privilege for two years if the defendant refused to submit to
8 chemical testing and has had a previous revocation under this
9 chapter.
10 *a.* The defendant shall be eligible for a temporary
11 restricted license on or after the effective date of revocation
12 if the defendant submitted to chemical testing and shall be
13 eligible for a temporary restricted license ninety days after
14 the effective date of revocation if the defendant refused to
15 submit to chemical testing.
16 *b.* The temporary restricted license shall be issued in
17 accordance with section 321J.20, subsection 2.
18 *c.* The department shall require the defendant to install
19 an ignition interlock device of a type approved by the
20 commissioner of public safety on all vehicles owned or operated
21 by the defendant for a minimum period of one year if the
22 defendant seeks a temporary restricted license. A temporary
23 restricted license shall not be granted by the department until
24 the defendant installs the ignition interlock device.
25 3. If the court defers judgment pursuant to section 907.3
26 for a violation of section 321J.2, and if the defendant's
27 driver's license or nonresident operating privilege has not
28 been revoked under section 321J.9 or 321J.12, or has not
29 otherwise been revoked for the occurrence from which the arrest
30 arose, the department shall revoke the defendant's driver's
31 license or nonresident operating privilege for a period of not
32 less than thirty days nor more than ninety days.
33 *a.* A defendant whose alcohol concentration is .08 or more
34 shall be eligible for a temporary restricted license upon
35 conviction if a test was obtained and no accident resulting in

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1 personal injury or property damage occurred. If such accident
2 occurred, the defendant shall be eligible for a temporary
3 restricted license after any period of ineligibility as
4 determined by the court.
5 *b.* A defendant whose revocation occurs because the person
6 refused to submit to chemical testing under section 321J.9
7 shall be eligible for a temporary restricted license ninety
8 days after conviction.
9 *c.* The department shall require the defendant to install
10 an ignition interlock device of a type approved by the
11 commissioner of public safety on all vehicles owned or operated
12 by the defendant if the defendant seeks a temporary restricted
13 license.
14 *d.* If the defendant is under the age of twenty-one, the
15 defendant shall be eligible for a temporary restricted license
16 after any period of ineligibility as determined by the court
17 upon conviction.
18 4. Upon a plea or verdict of guilty of a third or subsequent
19 violation of section 321J.2, the department shall revoke the
20 defendant's driver's license or nonresident operating privilege
21 for a period of six years.
22 *a.* The department shall credit any period that the
23 defendant's driver's license or nonresident operating privilege
24 was revoked under section 321J.9 or 321J.12 for the same
25 occurrence toward the six-year revocation period, limiting the
26 total revocation period for the same occurrence to six years.
27 *b.* The defendant shall be eligible for a temporary
28 restricted license for the remainder of the six-year period
29 after any period of ineligibility as determined by the court.
30 *c.* The department shall require the defendant to install
31 an ignition interlock device of a type approved by the
32 commissioner of public safety on all vehicles owned or operated
33 by the defendant if the defendant seeks a temporary restricted
34 license. A temporary restricted license shall not be granted
35 by the department until the defendant installs the ignition

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1 interlock device.
2 Sec. 4. Section 321J.4, subsections 5 and 6, Code 2013, are
3 amended to read as follows:
4 5. Upon a plea or verdict of guilty of a violation of
5 section 321J.2 which involved a personal injury, the court
6 shall determine in open court, from consideration of the
7 information in the file and any other evidence the parties may
8 submit, whether a serious injury was sustained by any person
9 other than the defendant and, if so, whether the defendant's
10 conduct in violation of section 321J.2 caused the serious
11 injury. If the court so determines, the court shall order
12 the department to revoke the defendant's driver's license or
13 nonresident operating privilege for a period of one year in
14 addition to any other period of suspension or revocation. The
15 defendant shall not be eligible for any temporary restricted
16 license until the ~~minimum~~ period of ineligibility as determined
17 by the court has expired ~~under this section or section 321J.9,~~
18 ~~321J.12, or 321J.20~~. The defendant shall surrender to the
19 court any Iowa license or permit and the court shall forward it
20 to the department with a copy of the order for revocation.
21 6. Upon a plea or verdict of guilty of a violation of
22 section 321J.2 which involved a death, the court shall
23 determine in open court, from consideration of the information
24 in the file and any other evidence the parties may submit,
25 whether a death occurred and, if so, whether the defendant's
26 conduct in violation of section 321J.2 caused the death. If
27 the court so determines, the court shall order the department
28 to revoke the defendant's driver's license or nonresident
29 operating privilege for a period of six years. The defendant
30 shall not be eligible for any temporary restricted license
31 ~~for at least two years after the revocation~~ until the period
32 of ineligibility as determined by the court has expired. The
33 defendant shall surrender to the court any Iowa license or
34 permit and the court shall forward it to the department with a
35 copy of the order for revocation.

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1 Sec. 5. Section 321J.4, subsection 8, paragraph f, Code
2 2013, is amended to read as follows:
3 *f.* (i) A person who tampers with or circumvents an ignition
4 interlock device ~~installed under a court order while an order~~
5 ~~is in effect~~ commits a serious misdemeanor.
6 (ii) A person who assists a person who tampers with or
7 circumvents an ignition interlock device commits a serious
8 misdemeanor.
9 Sec. 6. Section 321J.4, subsection 8, Code 2013, is amended
10 by adding the following new paragraph:
11 NEW PARAGRAPH. *g.* The department shall credit, on a
12 day-for-day basis, any period of time during which a defendant
13 has held a valid temporary restricted license against the
14 period of time during which the defendant is required to
15 install an ignition interlock device pursuant to this chapter.
16 Sec. 7. Section 321J.12, subsection 2, Code 2013, is amended
17 by striking the subsection and inserting in lieu thereof the
18 following:
19 2. *a.* A person whose driver's license or nonresident
20 operating privileges have been revoked under subsection 1,
21 paragraph "*a*", whose alcohol concentration is .08 or more shall
22 be eligible for a temporary restricted license on or after the
23 effective date of the revocation if a test was obtained and
24 no accident resulting in personal injury or property damage
25 occurred. If such an accident occurred, the defendant shall
26 be eligible for a temporary restricted license after any
27 period of ineligibility established by the court at the time
28 of arraignment. The department shall require the person to
29 install an ignition interlock device of a type approved by the
30 commissioner of public safety on all vehicles owned or operated
31 by the defendant if the defendant seeks a temporary restricted
32 license.
33 *b.* If the person is under the age of twenty-one, the person
34 shall be eligible for a temporary restricted license after any
35 period of ineligibility as determined by the court at the time

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of arraignment.

c. A person whose license or privileges have been revoked under subsection 1, paragraph *"b"*, for one year shall be eligible for a temporary restricted license on or after the effective date of the revocation. The temporary restricted license shall be issued in accordance with section 321J.20, subsection 2. A temporary restricted license shall not be granted by the department until the defendant installs the ignition interlock device of a type approved by the commissioner of public safety on all vehicles owned or operated by the defendant.

Sec. 8. Section 321J.17, subsections 1 and 3, Code 2013, are amended to read as follows:

1. If the department revokes a person's driver's license or nonresident operating privilege under this chapter, the department shall assess the person a civil penalty of two hundred dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit one-half of the money in the separate fund established in section 915.94 and one-half of the money in the general fund of the state. A temporary restricted license shall not be issued unless an ignition interlock device has been installed pursuant to section 321J.4. ~~A~~ Except as otherwise provided in section 321J.20, a driver's license or nonresident operating privilege shall not be reinstated unless proof ~~of deinstallation of~~ that an ignition interlock device installed pursuant to section 321J.4 remained installed and functioning until the end of such period of revocation has been submitted to the department in a format acceptable to the department. Except as provided in section 321.210B, a temporary restricted license shall not be issued or a driver's license or nonresident operating privilege reinstated until the civil penalty has been paid. A person assessed a penalty under this section may remit the civil penalty along with a processing fee of five dollars to a county treasurer authorized

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to issue driver's licenses under chapter 321M, or the civil penalty may be paid directly to the department.

3. The department shall also require certification of installation of an ignition interlock device of a type approved by the commissioner of public safety on all motor vehicles owned or operated by any person seeking reinstatement following a ~~second or subsequent~~ revocation under section 321J.4, 321J.9, or 321J.12, unless such a person has previously received a temporary restricted license during the term of the revocation as authorized by this chapter. ~~The requirement for the installation~~ Installation of an approved ignition interlock device ~~shall be~~ is required for a minimum period of six months for a person with no prior license revocations under this chapter, and a minimum period of one year for a person who has had a previous revocation, from the date of reinstatement unless a ~~different time~~ longer period of time is required by statute. The department shall credit, on a day-for-day basis, any period of time during which a person has held a valid temporary restricted license during any revocation for the occurrence from which the arrest arose against the period of time during which the defendant is required to install an ignition interlock device. The person shall not operate any motor vehicle that is not equipped with an approved functioning ignition interlock device during the period in which an ignition interlock device must be installed, and the department shall not grant reinstatement unless the person certifies installation of an ignition interlock device as required in this subsection.

Sec. 9. Section 321J.20, subsections 1 and 2, Code 2013, are amended by striking the subsections and inserting in lieu thereof the following:

1. The department may, on application, issue a temporary restricted license to a person whose noncommercial driver's license is revoked under section 321J.4, 321J.9, or 321J.12, allowing the person to drive a motor vehicle equipped with an

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

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1 restricted license is issued and for such additional period
2 of time following reinstatement required pursuant to section
3 321J.17, subsection 3. However, a person whose driver's
4 license or nonresident operating privilege has been revoked
5 under section 321J.21 may apply to the department for a
6 temporary restricted license without the requirement of
7 an ignition interlock device if at least twelve years have
8 elapsed since the end of the underlying revocation period for
9 a violation of section 321J.2.
10 Sec. 10. Section 321J.20, subsection 4, Code 2013, is
11 amended by striking the subsection.
12 Sec. 11. Section 321J.20, subsection 8, Code 2013, is
13 amended to read as follows:
14 8. *a.* A person who tampers with or circumvents an ignition
15 interlock device installed as required in this chapter and
16 while the requirement for the ignition interlock device is in
17 effect commits a serious misdemeanor.
18 *b.* A person who assists a person who tampers with or
19 circumvents an ignition interlock device installed as required
20 in this chapter and while the requirement for the ignition
21 interlock device is in effect commits a serious misdemeanor.
22 Sec. 12. Section 321J.20, Code 2013, is amended by adding
23 the following new subsections:
24 NEW SUBSECTION. 9. The department shall credit, on a
25 day-for-day basis, any period of time during which a person has
26 held a temporary restricted license against the period of time
27 during which the person is required to install the ignition
28 interlock device pursuant to this chapter.
29 NEW SUBSECTION. 10. A person's election to keep an ignition
30 interlock device installed in the person's vehicle after the
31 period of time the ignition interlock device is required to
32 be installed shall not affect reinstatement of the person's
33 driver's license or nonresident operating privilege if the
34 person has met all of the requirements of reinstatement under
35 section 321J.17.

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EXPLANATION

This bill relates to temporary restricted licenses for operating-while-intoxicated violators and provides penalties.

TEMPORARY RESTRICTED LICENSES. Current law provides different statutory periods of ineligibility for a temporary restricted license for persons whose licenses are revoked due to a criminal conviction or an administrative action under Code chapter 321J (Iowa's operating-while-intoxicated law) depending upon the circumstances of the offense or violation. The bill provides that a first-time offender who is convicted of or who has received a deferred judgment for an operating-while-intoxicated offense pursuant to Code section 321J.2 while having an alcohol concentration of .08 or more and a person who has not had an administrative license revocation due to a test failure pursuant to Code section 321J.12 may apply to the department of transportation (department) for a temporary restricted license immediately upon conviction or revocation unless an accident with property damage or personal injury occurred. In those cases, the court has the discretion to impose a period of ineligibility for a temporary restricted license on the offender. The bill also amends prior law to allow the court to impose a period of ineligibility for a temporary restricted license in all cases involving persons under the age of 21, for criminal convictions under Code section 321J.2 that involve serious injury or death, and for third and subsequent criminal convictions under Code section 321J.2. The bill retains current law relating to the 90-day ineligibility period for persons who refuse to submit to testing pursuant to Code section 321J.9.

The bill requires a person who has had a previous license revocation under Code chapter 321J who applies for a temporary restricted license to install an ignition interlock device on the defendant's vehicle for one year after any period of ineligibility to conform to federal law.

The bill requires the department to credit, on a day-for-day

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1 basis, any period of time during which a defendant holds a
2 valid temporary restricted license against the period of time
3 during which the defendant is otherwise required to install an
4 ignition interlock device under Code chapter 321J.
5 TEMPORARY RESTRICTED LICENSE RESTRICTIONS. Current law
6 provides that the department may issue a temporary restricted
7 license to allow a person to drive to and from the person's
8 home and specified places at specified times which are required
9 by the person's full-time or part-time employment, continuing
10 education while enrolled in an educational institution on a
11 part-time or full-time basis and while pursuing a course of
12 study leading to a diploma, degree, or other certification
13 of successful educational completion, or substance abuse
14 treatment. A person holding a temporary restricted license is
15 also restricted from operating a motor vehicle for pleasure.
16 The bill eliminates these driving restrictions for persons who
17 hold temporary restricted licenses.
18 NEW OFFENSE — TAMPERING OR CIRCUMVENTING IGNITION INTERLOCK
19 DEVICE — ASSISTANCE. Current law provides that a person
20 who tampers with or circumvents an ignition interlock device
21 installed pursuant to court order is guilty of a serious
22 misdemeanor. The bill provides that a person who assists a
23 person in the tampering with or circumvention of an ignition
24 interlock device is also guilty of a serious misdemeanor. A
25 serious misdemeanor is punishable by confinement for no more
26 than one year and a fine of at least $315 but not more than
27 $1,875.
28 CONDITIONS FOR LICENSE REINSTATEMENT. Under current law,
29 if the department revokes a person's driver's license or
30 nonresident operating privilege under Code chapter 321J, a
31 driver's license or nonresident operating privilege shall not
32 be reinstated by the department unless the person seeking
33 reinstatement completes certain requirements. The bill
34 provides that a driver's license or nonresident operating
35 privilege shall not be reinstated unless proof that an ignition

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1 interlock device remained installed and functioning until the
2 end of the revocation period is submitted to the department in
3 a format acceptable to the department. The bill also provides
4 that, unless a person has previously received a temporary
5 restricted license during any term of revocation under Code
6 chapter 321J, a functioning ignition interlock device shall
7 be installed for a minimum period of six months for a person
8 whose driver's license or nonresident operating privilege
9 has not been previously revoked under Code chapter 321J, and
10 a minimum of one year for a person who has had a previous
11 revocation from the date of reinstatement unless a longer time
12 period is required by statute. The department is required
13 to credit, on a day-for-day basis, any period of time during
14 which a person has held a valid temporary restricted license
15 during any revocation for the occurrence from which the arrest
16 arose against the period of time during which the defendant is
17 otherwise required to install an ignition interlock device.
18 The bill provides that a person's election to voluntarily
19 keep an ignition interlock device installed in the person's
20 vehicle after the period of time required shall not affect
21 reinstatement of the person's driver's license or nonresident
22 operating privilege if the person has met all the requirements
23 for reinstatement.

House File 573 - Introduced

HOUSE FILE 573
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 142)

A BILL FOR

1 An Act enhancing the criminal penalty for an assault on a
2 public transit bus operator, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2095HV (1) 85
jm/nh

H.F. 573

1 Section 1. Section 708.3A, subsections 1 through 4, Code
2 2013, are amended to read as follows:
3 1. A person who commits an assault, as defined in section
4 708.1, against a peace officer, jailer, correctional staff,
5 member or employee of the board of parole, health care
6 provider, employee of the department of human services,
7 employee of the department of revenue, public transit bus
8 operator, or fire fighter, whether paid or volunteer, with the
9 knowledge that the person against whom the assault is committed
10 is a peace officer, jailer, correctional staff, member or
11 employee of the board of parole, health care provider, employee
12 of the department of human services, employee of the department
13 of revenue, public transit bus operator, or fire fighter and
14 with the intent to inflict a serious injury upon the peace
15 officer, jailer, correctional staff, member or employee of
16 the board of parole, health care provider, employee of the
17 department of human services, employee of the department of
18 revenue, public transit bus operator, or fire fighter, is
19 guilty of a class "D" felony.
20 2. A person who commits an assault, as defined in section
21 708.1, against a peace officer, jailer, correctional staff,
22 member or employee of the board of parole, health care
23 provider, employee of the department of human services,
24 employee of the department of revenue, public transit bus
25 operator, or fire fighter, whether paid or volunteer, who knows
26 that the person against whom the assault is committed is a
27 peace officer, jailer, correctional staff, member or employee
28 of the board of parole, health care provider, employee of the
29 department of human services, employee of the department of
30 revenue, public transit bus operator, or fire fighter and who
31 uses or displays a dangerous weapon in connection with the
32 assault, is guilty of a class "D" felony.
33 3. A person who commits an assault, as defined in section
34 708.1, against a peace officer, jailer, correctional staff,
35 member or employee of the board of parole, health care

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provider, employee of the department of human services, employee of the department of revenue, public transit bus operator, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, public transit bus operator, or fire fighter, and who causes bodily injury or mental illness, is guilty of an aggravated misdemeanor.

4. Any other assault, as defined in section 708.1, committed against a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, public transit bus operator, or fire fighter, whether paid or volunteer, by a person who knows that the person against whom the assault is committed is a peace officer, jailer, correctional staff, member or employee of the board of parole, health care provider, employee of the department of human services, employee of the department of revenue, public transit bus operator, or fire fighter, is a serious misdemeanor.

Sec. 2. Section 708.3A, subsection 5, Code 2013, is amended by adding the following new paragraph:

NEW PARAGRAPH. *f. "Public transit bus operator"* means a person who is operating a bus or other vehicle as part of a public transit system as defined in section 324A.1 at the time of the assault.

EXPLANATION

This bill enhances the criminal penalty for an assault on a public transit bus operator. The bill adds a public transit bus operator to the list of occupations covered under Code section 708.3A.

Under the bill, if a person assaults a public transit bus operator with the intent to inflict serious injury or uses a

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1 dangerous weapon in connection with the assault, that person
2 commits a class "D" felony. If a person assaults a public
3 transit bus operator and causes bodily injury or mental
4 illness, that person commits an aggravated misdemeanor and
5 if the person commits any other type of assault, that person
6 commits a serious misdemeanor.
7 The bill defines "public transit bus operator" to mean a
8 person who is operating a bus or other vehicle as part of a
9 public transit system as defined in Code section 324A.1 at the
10 time of the assault.
11 Similar assaults without the enhanced penalties are
12 punishable as provided in Code section 708.2.
13 A serious misdemeanor is punishable by confinement for no
14 more than one year and a fine of at least $315 but not more than
15 $1,875. An aggravated misdemeanor is punishable by confinement
16 for no more than two years and a fine of at least $625 but
17 not more than $6,250. A class "D" felony is punishable by
18 confinement for no more than five years and a fine of at least
19 $750 but not more than $7,500.

House File 574 - Introduced

HOUSE FILE 574
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 235)

A BILL FOR

1 An Act repealing a requirement that taxpayers indicate on their
2 tax returns the presence or absence of health care coverage
3 for their dependent children and apply for certain public
4 health care coverage, and including effective date and
5 retroactive applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2069HV (1) 85
av/sc

H.F. 574

1 Section 1. REPEAL. Section 422.12M, Code 2013, is repealed.
2 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
3 immediate importance, takes effect upon enactment.
4 Sec. 3. RETROACTIVE APPLICABILITY. This Act applies
5 retroactively to January 1, 2013, for tax years beginning on
6 or after that date.
7 EXPLANATION
8 This bill repeals Code section 422.12M, which requires
9 taxpayers to indicate on their tax returns the presence or
10 absence of health care coverage for their dependent children
11 and to apply for Medicaid or the hawk-i program if they meet
12 certain income eligibility standards. The bill is effective
13 upon enactment and applies retroactively to January 1, 2013,
14 for tax years beginning on or after that date.

House File 575 - Introduced

HOUSE FILE 575
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 160)

A BILL FOR

1 An Act relating to the technical administration of state
2 financial and regulatory matters, including administration
3 of income taxes, sales and use taxes, currency exchange
4 licenses, and the wireless surcharge for enhanced 911
5 emergency telephone systems, and including effective date
6 and retroactive applicability provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1277HV (4) 85
mm/sc

H.F. 575

DIVISION I
INCOME AND FRANCHISE TAXES

Section 1. Section 422.7, subsection 2, Code 2013, is amended to read as follows:

2. Add interest and dividends from foreign securities and from securities of state and other political subdivisions exempt from federal income tax under the Internal Revenue Code, except for those securities the interest and dividends from which are exempt from taxation by the state of Iowa as otherwise provided by law, including:

a. Vision Iowa program bonds pursuant to section 12.71, subsection 8.

b. School infrastructure program bonds pursuant to section 12.81, subsection 8.

c. Iowa jobs program revenue bonds pursuant to section 12.87, subsection 8.

d. Iowa utility board and Iowa consumer advocate building project bonds pursuant to section 12.91, subsection 9.

e. Iowa water pollution control works and drinking facilities financing program bonds pursuant to section 16.131, subsection 5.

f. Iowa prison infrastructure revenue bonds pursuant to section 12.80, subsection 3, and section 16.177, subsection 8.

g. Quad cities interstate metropolitan authority bonds pursuant to section 28A.24.

h. Iowa finance authority E911 program bonds pursuant to section 34A.20, subsection 6.

i. Alcoholic beverage control bonds pursuant to section 123.159, Code 2011.

j. Soil and water conservation subdistrict bonds pursuant to section 161A.22.

k. Agricultural development authority beginning farmer loan program bonds pursuant to section 175.17, subsection 10.

l. Community college residence hall and dormitory bonds pursuant to section 260C.61.

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m. Community college bond program bonds pursuant to section 260C.71, subsection 6.

n. Higher education loan authority bonds pursuant to section 261A.27.

o. State board of regents bonds pursuant to sections 262.41, 262.51, 262.60, 262A.8, and 263A.6.

p. Interstate bridges bonds pursuant to section 313A.36.

q. Aviation authority bonds pursuant to section 330A.16.

r. County health center bonds pursuant to section 331.441, subsection 2, paragraph *"c"*, subparagraph (7).

s. Rural water district bonds pursuant to section 357A.15.

t. Urban renewal bonds pursuant to section 403.9, subsection 2.

u. Municipal housing project bonds pursuant to section 403A.12.

v. Comprehensive petroleum underground storage tank fund bonds pursuant to section 455G.6, subsection 14.

w. Honey creek premier destination park bonds pursuant to section 463C.12, subsection 8.

Sec. 2. Section 422.7, subsections 19 and 48, Code 2013, are amended by striking the subsections.

Sec. 3. Section 422.9, subsections 6 and 7, Code 2013, are amended by striking the subsections.

Sec. 4. Section 422.20, subsection 3, paragraph a, Code 2013, is amended to read as follows:

a. Unless otherwise expressly permitted by section 8A.504, section 8G.4, section 11.41, section 96.11, subsection 6, section 421.17, subsections 22, 23, and 26, subsection 27, paragraph *"k"*, and subsection 31, section 252B.9, section 321.40, subsection 6, sections 321.120, 421.19, 421.28, 422.72, and 452A.63, ~~and~~ this section, or another provision of law, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

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Sec. 5. Section 422.35, subsection 2, Code 2013, is amended to read as follows:

2. Add interest and dividends from foreign securities, from securities of state and other political subdivisions, and from regulated investment companies exempt from federal income tax under the Internal Revenue Code, except for those securities the interest and dividends from which are exempt from taxation by the state of Iowa as otherwise provided by law, including those set forth in section 422.7, subsection 2.

Sec. 6. Section 422.35, subsection 13, Code 2013, is amended by striking the subsection.

Sec. 7. Section 422.61, subsection 3, paragraph b, Code 2013, is amended to read as follows:

b. Notwithstanding ~~sections 262.41 and 262.51~~ section 422.35, subsection 2, or any other provisions of law, income from obligations of the state and its political subdivisions and franchise taxes paid or accrued under this division during the taxable year shall be added. Income from sales of obligations of the state and its political subdivisions and interest and dividend income from these obligations are exempt from the taxes imposed by this division only if the law authorizing the obligations specifically exempts the income from the sale and interest and dividend income from the state franchise tax.

Sec. 8. Section 422.72, subsection 3, paragraph a, Code 2013, is amended to read as follows:

a. Unless otherwise expressly permitted by section 8A.504, section 8G.4, section 11.41, section 96.11, subsection 6, section 421.17, subsections 22, 23, and 26, subsection 27, paragraph *"k"*, and subsection 31, section 252B.9, section 321.40, subsection 6, sections 321.120, 421.19, 421.28, 422.20, and 452A.63, ~~and~~ this section, or another provision of law, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue

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service for use in a matter unrelated to tax administration.

Sec. 9. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this division of this Act amending section 422.9.

2. The section of this division of this Act amending section 422.20.

3. The section of this division of this Act amending section 422.72.

DIVISION II

SALES AND USE TAXES

Sec. 10. Section 423.1, subsection 39, paragraphs b and c, Code 2013, are amended to read as follows:

b. The property is transferred to the user of the service in connection with the performance of the service in a form or quantity capable of a fixed or definite price value~~, or the property is entirely consumed in connection with the performance of an auto body repair service purchased by the ultimate user~~.

c. The sale is evidenced by a separate charge for the identifiable piece of property ~~unless the property is entirely consumed in connection with the performance of an auto body repair service purchased by the ultimate user~~.

Sec. 11. Section 423.2, subsection 11, paragraph b, subparagraph (5), Code 2013, is amended to read as follows:

(5) Subject to the limitation on the calculation and deposit of sales tax increment revenues in section 418.12, beginning the first day of the quarter following adoption of the resolution pursuant to section 418.4, subsection 3, paragraph *"d"*, transfer to the account created in the sales tax increment fund for each governmental entity approved to use sales tax increment revenues under chapter 418, that portion of the increase in sales tax revenue, determined in section 418.11, subsection 2, paragraph *"d"*, in the applicable area of

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1 the governmental entity, that remains after the ~~transfer~~ other
2 transfers required under ~~subparagraph (3) of~~ this paragraph
3 "*b*".
4 Sec. 12. Section 423.3, subsection 18, paragraph c, Code
5 2013, is amended to read as follows:
6 *c.* Rehabilitation facilities that provide accredited
7 rehabilitation services to persons with disabilities which are
8 accredited by the commission on accreditation of rehabilitation
9 facilities or the ~~accreditation council for services for~~
10 ~~persons with an intellectual disability and other persons with~~
11 ~~developmental disabilities~~ council on quality and leadership
12 and adult day care services approved for reimbursement by the
13 state department of human services.
14 Sec. 13. Section 423.3, subsection 44, Code 2013, is amended
15 by striking the subsection.
16 Sec. 14. Section 423.3, subsection 58, Code 2013, is amended
17 to read as follows:
18 58. The sales price from the sale of items purchased with
19 coupons, food stamps, electronic benefits transfer cards,
20 or other methods of payment authorized by the United States
21 department of agriculture, and issued under the federal Food
22 Stamp Act of 1977, 7 U.S.C. § 2011 et seq. or under the federal
23 supplemental nutritional assistance program established in 7
24 U.S.C. § 2013.
25 Sec. 15. Section 423.3, Code 2013, is amended by adding the
26 following new subsection:
27 NEW SUBSECTION. 99. *a.* The sales price from the sale of
28 chemicals, solvents, sorbents, reagents, or other tangible
29 personal property used in providing a vehicle repair service
30 subject to section 423.2, subsection 6, if all of the following
31 conditions are met:
32 (1) The chemicals, solvents, sorbents, reagents, or other
33 tangible personal property are directly and primarily used in
34 providing the vehicle repair service.
35 (2) The chemicals, solvents, sorbents, reagents, or other

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tangible personal property are consumed or dissipated in providing the vehicle repair service.

(3) The chemicals, solvents, sorbents, reagents, or other tangible personal property will come into physical contact with the vehicle upon which the vehicle repair service is performed.

b. The exemption under this subsection does not apply to tangible personal property that can be used to provide multiple vehicle repair services, including but not limited to machinery, tools, and equipment.

DIVISION III

MISCELLANEOUS

Sec. 16. Section 34A.7B, subsection 11, Code 2013, is amended to read as follows:

11. The audit, ~~and~~ appeal, collection, and enforcement procedures and other pertinent provisions applicable to the sales and use tax imposed under chapter 423 shall apply to prepaid wireless E911 surcharges.

Sec. 17. Section 421.7, subsection 5, Code 2013, is amended to read as follows:

5. As used in subsection ~~3~~ 2, the term *"prime rate"* means the prime rate charged by banks on short-term business loans, as determined by the board of governors of the federal reserve system and published in the federal reserve bulletin.

Sec. 18. Section 421.17, subsection 10, unnumbered paragraph 1, Code 2013, is amended to read as follows:

To require any board of review at any time after its adjournment to reconvene and to make such orders as the director shall determine are just and necessary; to direct and order any board of review to raise or lower the valuation of the property, real or personal, in any township, city, or taxing district, to order and direct any board of review to raise or lower the valuation of any class or classes of property in any township, city, or taxing district, and generally to make any order or direction to any board of review as to the valuation of any property, or any class of property,

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in any township, city, county, or taxing district, which in the judgment of the director may seem just and necessary, to the end that all property shall be valued and assessed in the manner and according to the real intent of the law. For the purpose of this ~~paragraph~~ subsection the words *"taxing district"* include drainage districts and levee districts.

Sec. 19. Section 421.17, subsection 10, paragraph b, Code 2013, is amended to read as follows:

b. The director may order made effective reassessments or revaluations in any taxing district for any taxing year or years and the director may in any year order uniform increases or decreases in valuation of all property or upon any class of property within any taxing district or any area within such taxing district, such orders to be effective in the year specified by the director. ~~For the purpose of this paragraph the words *"taxing district"* include drainage districts and levee districts.~~

Sec. 20. Section 421.17, subsection 27, paragraph e, Code 2013, is amended to read as follows:

e. All state agencies and local government agencies shall be given access, at the discretion of the director, to the centralized computer data bank and, notwithstanding any other provision of law to the contrary, may deny, revoke, or suspend any license or deny any renewal authorized by the laws of this state to any person who has defaulted on an obligation owed to or collected by the state. The confidentiality provisions of sections 422.20 and 422.72 do not apply to tax information contained in the centralized computer data bank. State agencies and local government agencies shall endeavor to obtain from all applicants the applicant's social security or federal tax identification number, or, if the applicant has neither, the applicant's state driver's license number ~~from all applicants~~.

Sec. 21. Section 432.12C, subsection 2, Code 2013, is amended to read as follows:

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2. The taxes imposed under this ~~division~~ chapter shall be reduced by investment tax credits authorized pursuant to sections 15.333A and 15E.193B, subsection 6.

Sec. 22. Section 453A.45, subsection 5, paragraph b, Code 2013, is amended to read as follows:

b. The report shall be made on forms provided by the director ~~or the~~. The director may require by rule that the report be filed by electronic transmission.

Sec. 23. Section 453A.47, Code 2013, is amended to read as follows:

453A.47 Refunds, credits.

Where tobacco products upon which the tax imposed by this division has been reported and paid~~,~~ are shipped or transported by the distributor to consumers~~,~~ to be consumed without the state~~,~~ or to retailers or subjobbers without the state~~,~~ to be sold by those retailers~~,~~ or subjobbers without the state~~,~~ or are returned to the manufacturer by the distributor or destroyed by the distributor, refund of such tax or credit may be made to the distributor in accordance with regulations prescribed by the director. Any overpayment of the tax imposed under section 453A.43 may be made to the taxpayer in accordance with regulations prescribed by the director. The director shall cause any such refund of tax to be paid out of the general ~~revenue~~ fund of the state, and so much of said fund as may be necessary is hereby appropriated for that purpose.

Sec. 24. Section 453A.47A, subsection 7, paragraph b, Code 2013, is amended to read as follows:

b. If any permit is granted during the month of October, November, or December, the fee shall be three-fourths of the above maximum schedule; if granted during the month of January, February, or March, one-half of the maximum schedule~~,~~; and if granted during the month of April, May, or June, one-fourth of the maximum schedule.

Sec. 25. Section 533C.302, subsection 2, Code 2013, is amended to read as follows:

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2. A nonrefundable application fee of one thousand dollars and the license fee must accompany an application for a license under this article. The license fee shall be the sum of ~~five~~ two hundred fifty dollars plus an additional ~~one hundred~~ fifty dollars for each location at which business is conducted, but not to exceed ~~two~~ one thousand dollars. Fees for locations added after the initial application shall be submitted with the quarterly reports pursuant to section 533C.503, subsection 2. The license fee must be refunded if the application is denied. A license under this article expires on the next ~~September 30 of an odd-ending year~~ December 31 after its issuance. The initial license fee is considered ~~a biennial~~ an annual fee and the superintendent shall prorate the license fee, refunding any amount due to a partial license period. However, no refund of a license fee shall be made when a license is suspended, revoked, or surrendered.

Sec. 26. Section 533C.304, subsections 1 and 3, Code 2013, are amended to read as follows:

1. A licensee under this article shall pay ~~a biennial~~ an annual renewal fee no later than ~~September~~ December 1 ~~of an odd-ending year~~. The ~~biennial~~ annual renewal fee shall be the sum of ~~five~~ two hundred fifty dollars plus an additional ~~one hundred~~ fifty dollars for each location at which business is conducted, but shall not exceed ~~two~~ one thousand dollars. Fees for locations added after the initial application shall be submitted with the quarterly reports pursuant to section 533C.503, subsection 2.

3. If a licensee does not file a renewal report and pay its renewal fee by ~~September~~ December 1 ~~of an odd-ending year~~, or any extension of time granted by the superintendent, the superintendent may assess a late fee of one hundred dollars per day.

Sec. 27. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

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1 1. The section of this division of this Act amending section
2 34A.7B.
3 Sec. 28. RETROACTIVE APPLICABILITY. The following
4 provision or provisions of this Act apply retroactively to
5 January 1, 2013:
6 1. The section of this Act amending section 34A.7B.
7 EXPLANATION
8 This bill relates to the technical administration of state
9 financial and regulatory matters.
10 Division I relates to income and franchise taxes.
11 Under current law, the interest and dividends of specified
12 obligations of Iowa and its political subdivisions are exempted
13 from the individual and corporate income tax. However,
14 most of these exemptions are not specifically addressed in
15 Code sections 422.7, 422.35, or 422.61, which concern the
16 computation of net income for purposes of the individual and
17 corporate income tax, and the franchise tax, respectively. The
18 division amends these Code sections to add a nonexhaustive list
19 of the securities the interest and dividends from which are
20 currently exempt from the individual and corporate income tax
21 under Iowa law.
22 The division strikes Code section 422.9, subsections 6 and
23 7, which are provisions relating to the treatment of a federal
24 rate reduction tax credit which only affected the 2001 and 2002
25 tax years. This section of the division takes effect upon
26 enactment.
27 The division amends Code section 422.20, relating to the
28 confidentiality of individual income tax return information,
29 and Code section 422.72, relating to tax administration,
30 generally, by adding a reference to the auditor of state's
31 power to access certain confidential information in fulfillment
32 of the auditor's duties, and referencing any other provision of
33 law that permits certain disclosures. These sections of the
34 division take effect upon enactment.
35 Division II relates to sales and use taxes.

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1 The division strikes language relating to auto body repair
2 services from the definition of "property purchased for resale
3 in connection with the performance of a service" that was
4 added during the 2012 legislative session. Under current
5 law, property purchased for resale in connection with the
6 performance of a service is exempt from the sales and use
7 tax. Property falls within the applicable definition, and
8 therefore meets the requirements of this exemption, if it is
9 entirely consumed in connection with the performance of an
10 auto body repair service purchased by the ultimate user, and
11 if both parties intend that a sale of the property will occur.
12 The division strikes this language from the definition and
13 instead creates a separate sales and use tax exemption for the
14 sales price of chemicals, solvents, sorbents, reagents, or
15 other tangible personal property, used in providing a taxable
16 vehicle repair service, so long as the property is directly and
17 primarily used, and consumed or dissipated, in providing the
18 vehicle repair service, and comes into physical contact with
19 the vehicle upon which the vehicle repair service is performed.
20 The exemption does not apply to tangible personal property
21 that can be used to provide multiple vehicle repair services,
22 including but not limited to machinery, tools, and equipment.
23 The division amends Code section 423.2, subsection 11,
24 paragraph "b", to strike an incorrect internal reference in
25 the prescribed order in which sales tax revenues are to be
26 transferred to various funds.
27 The division amends Code section 423.3 to change a reference
28 to the accreditation council for services for persons with an
29 intellectual disability and other persons with developmental
30 disabilities to the council on quality and leadership to
31 reflect the council's current name.
32 The division strikes a sales and use tax exemption for wine
33 shipped from outside Iowa. The exemption was stricken from
34 Code section 123.187 in 2010.
35 The division amends the sales and use tax exemption for items

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1 purchased with food stamps to reflect the current name of the
2 program and the payment methods used to provide assistance.
3 Division III makes changes to miscellaneous tax and
4 financial and regulatory provisions.
5 The division amends Code section 34A.7B to apply the
6 collection, enforcement, and other pertinent provisions of
7 Code chapter 423 to the prepaid wireless E911 surcharge, in
8 addition to the audit and appeal provisions of Code chapter 423
9 currently applied to the prepaid wireless E911 surcharge. This
10 section of the division takes effect upon enactment and applies
11 retroactively to January 1, 2013.
12 The division amends Code section 421.17, relating to the
13 information obtained from applicants for licenses from state or
14 local agencies, to specify that the agencies shall endeavor to
15 obtain the applicant's social security number or federal tax
16 identification number or, if the applicant has neither, the
17 applicant's state driver's license number.
18 The division changes the currency exchange license obtained
19 under Code chapter 533C from a biennial license to an annual
20 license.
21 Finally, the division makes several nonsubstantive
22 grammatical, technical, and internal reference changes to Code
23 sections 421.7, 421.17(10), 432.12C, 453A.45, 453A.47, and
24 453A.47A.

House File 576 - Introduced

HOUSE FILE 576
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 191)

A BILL FOR

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

TLSB 2116HV (1) 85
ec/nh

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DIVISION I
IOWA JOBS BOARD

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

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

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

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

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

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

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

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

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evaluating eligible projects to receive financial assistance under the program:

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

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

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

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

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

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

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

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

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

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

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

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~~as determined by the board shall review Iowa jobs program applications submitted to the board and make recommendations regarding the applications to the board.~~ When reviewing the applications, the ~~review committee and the~~ authority shall consider the project criteria specified in sections 16.194 and 16.194A. The ~~board~~ authority shall develop the appropriate level of transparency regarding project fund allocations.

3. Upon approval of an application for financial assistance under the program, the ~~board~~ authority shall notify the treasurer of state regarding the amount of moneys needed to satisfy the award of financial assistance and the terms of the award. The treasurer of state shall notify the ~~Iowa finance~~ authority any time moneys are disbursed to a recipient of financial assistance under the program.

Sec. 13. Section 16.196, Code 2013, is amended to read as follows:

16.196 Iowa jobs ~~restricted capitals fund~~ — fund appropriations.

~~1. An Iowa jobs restricted capitals fund is created and established as a separate and distinct fund in the state treasury. The fund consists of moneys appropriated from the revenue bonds capitals fund created in section 12.88. The moneys in the fund are appropriated to the Iowa jobs board for purposes of the Iowa jobs program established in section 16.194. Moneys in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes of the Iowa jobs program. The treasurer of state shall act as custodian of the fund and disburse moneys contained in the fund. The fund shall be administered by the board which shall make allocations from the fund consistent with the purposes of the Iowa jobs program.~~

~~2.~~ 1. There is appropriated from the revenue bonds capitals fund created in section 12.88, to the ~~Iowa jobs restricted capitals fund~~ authority, for the fiscal year beginning July 1, 2009, and ending June 30, 2010, one hundred sixty-five million

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

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

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

(d) Five million dollars for a public library.

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

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

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

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

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

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

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recipient under subsection ~~2~~ 1, paragraph *"b"*, shall not be precluded from applying for a local infrastructure competitive grant pursuant to this section and section 16.195.

~~4. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.~~

~~5.~~ 3. Annually, on or before January 15 of each year, the ~~board~~ authority shall report to the legislative services agency and the department of management the status of all projects receiving moneys from the fund completed or in progress. The report shall include a description of the project, the progress of work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and the date the project was completed or an estimated completion date of the project, where applicable.

~~6.~~ 4. Payment of moneys appropriated from the fund shall be made in a manner that does not adversely affect the tax-exempt status of any outstanding bonds issued by the treasurer of state.

Sec. 14. Section 16.197, Code 2013, is amended to read as follows:

16.197 Limitation of liability.

~~A member of the Iowa jobs board, a person acting on behalf of the board while acting within the scope of their employment or agency,~~ The authority or the treasurer of state, shall not be subject to personal liability resulting from carrying out the powers and duties of the ~~board~~ authority or the treasurer, as applicable, in sections ~~16.192~~ 16.193 through 16.196.

Sec. 15. IOWA JOBS BOARD — TRANSITION PROVISIONS — LIMITATION OF LIABILITY.

1. Any contract or agreement issued or entered into by the Iowa jobs board relating to the provisions of this division of this Act, in effect on the effective date of this division of this Act, shall continue in full force and effect and

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

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

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

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search shall also be added to the amount necessary to redeem. However, if the certificate holder is other than a county, the search must be performed by an abstractor who is an active participant in the Iowa title guaranty program under section 16.91 or by an attorney licensed to practice law in the state of Iowa, and the amount of the cost of the record search that may be added to the amount necessary to redeem shall not exceed three hundred dollars.

DIVISION III

IOWA FINANCE AUTHORITY

Sec. 24. Section 7C.4A, subsection 5, Code 2013, is amended to read as follows:

5. Eighteen percent of the state ceiling shall be allocated to bonds issued by political subdivisions to finance a qualified industry or industries for the manufacturing, processing, or assembly of agricultural or manufactured products even though the processed products may require further treatment before delivery to the ultimate consumer. ~~A single project allocated a portion of the state ceiling pursuant to this subsection shall not receive an allocation in excess of ten million dollars in any calendar year.~~

Sec. 25. Section 16.1, subsection 1, paragraph ae, subparagraph (1), Code 2013, is amended to read as follows:

(1) Real or personal property connected with a facility to be acquired, constructed, financed, refinanced, improved, or equipped pursuant to one or more of the programs, including any such property located outside of the state if the authority has conclusively determined that the entity financing or refinancing property located outside the state, or an affiliate thereof, is also engaged in the financing or refinancing of property located within the state, or, alternatively, the entity seeking the financing or refinancing, or an affiliate thereof, maintains a presence within the state, and financing or refinancing the property located outside the state would promote the economy of the state for the benefit of the health,

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welfare, safety, trade, commerce, industry, or economy of the people of the state.

Sec. 26. Section 16.3, subsection 2, Code 2013, is amended to read as follows:

2. The authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter, and shall have broad discretion in interpreting the provisions of this chapter.

Sec. 27. Section 16.5, subsection 1, unnumbered paragraph 1, Code 2013, is amended to read as follows:

~~The~~ Notwithstanding any provision of law to the contrary, the authority has any and all powers necessary and convenient to carry out its purposes and duties, and exercise its specific powers, including but not limited to the power to:

Sec. 28. Section 16.5, subsection 1, paragraph a, Code 2013, is amended to read as follows:

a. Issue its negotiable bonds and notes as provided in this chapter in order to finance its programs. In addition, the authority may issue bonds, notes, or other obligations for public or private entities for the purpose of financing any project regardless of location.

Sec. 29. Section 16.5, subsection 1, paragraph o, Code 2013, is amended to read as follows:

o. Contract directly with architects, engineers, attorneys, accountants, housing construction and finance experts, and other advisors. However, the authority may enter into contracts or agreements for such services with local, state, or federal governmental agencies.

Sec. 30. Section 16.5, subsection 1, paragraph r, Code 2013, is amended to read as follows:

r. Make, alter, and repeal rules consistent with the provisions of this chapter, and subject to chapter 17A, including rules relating to Iowa finance authority programs.

Sec. 31. Section 16.5, subsection 1, Code 2013, is amended by adding the following new paragraph:

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1 NEW PARAGRAPH. *Ou.* Interpret, construe, and execute the
2 laws, rules, and regulations of this state relating to Iowa
3 finance authority programs.
4 Sec. 32. Section 16.26, Code 2013, is amended by adding the
5 following new subsections:
6 NEW SUBSECTION. 10. In connection with any financing
7 which involves an out-of-state issuer issuing bonds, notes, or
8 other obligations for facilities located in the state, the
9 authority is designated as the only governmental unit in the
10 state that may conduct the public hearing required by section
11 147(f) of the federal Internal Revenue Code, as defined in
12 section 422.3, and the governor of Iowa is designated as the
13 applicable elected representative pursuant to section 147(f) of
14 the federal Internal Revenue Code, as defined in section 422.3.
15 NEW SUBSECTION. 11. All bonds or notes issued by the
16 authority in connection with its single family and multifamily
17 programs are exempt from taxation by this state, and the
18 interest on the bonds or notes is exempt from state income tax.
19 Sec. 33. NEW SECTION. **16.182A Special projects revolving**
20 **loan program fund.**
21 1. A special projects revolving loan program fund is
22 created within the authority to further the goal of the senior
23 living program as specified in section 249H.2, further the
24 objectives specified in section 231.3, and adult day services,
25 respite services, congregate meals, health and wellness,
26 health screening, and nutritional assessments, and further
27 the availability of affordable housing for parents that are
28 reuniting with their children while completing or participating
29 in substance abuse treatment.
30 2. The moneys in the special projects revolving loan program
31 fund are appropriated to and shall be used by the authority for
32 the development and operation of a revolving loan program to
33 provide financing for all of the following:
34 *a.* To construct affordable assisted living and
35 service-enriched affordable housing for seniors and persons

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with disabilities, including through new construction or acquisition and rehabilitation.

b. To develop and expand facilities and infrastructure that provide adult day services, respite services, congregate meals, and programming space for health and wellness, health screening, and nutritional assessments that address the needs of persons with low incomes.

c. To construct affordable transitional housing, including through new construction or acquisition and rehabilitation of existing housing. The transitional housing provided shall be geographically located in close proximity to licensed substance abuse treatment programs.

3. The authority shall annually allocate moneys available in the fund to approved applicants.

4. Additionally, payments of interest, recaptures of awards, and other repayments shall be deposited in the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the special projects 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.

5. Loans awarded shall be awarded to applicants in the order received.

6. The authority shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 34. REPEAL. Sections 16.182, 16.183, and 16.184, Code 2013, are repealed.

Sec. 35. TRANSITION PROVISIONS —— CONSOLIDATION OF FUNDS. Any moneys remaining in the senior living revolving loan program fund, home and community-based services revolving loan program fund, and the transitional housing revolving loan program fund on the effective date of this Act shall be transferred to the special projects revolving loan program fund as enacted in this Act.

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1 EXPLANATION
2 This bill concerns the Iowa finance authority.
3 Division I eliminates the Iowa jobs board and provides that
4 any duties or responsibilities of the Iowa jobs board shall
5 become the responsibility of the Iowa finance authority. The
6 division also provides transition provisions relative to any
7 contracts or agreements entered into by the Iowa jobs board and
8 provides for a limitation of personal liability for actions by
9 a member or agent of the board taken prior to the effective
10 date of the division relative to the duties of the board.
11 Division II renames the title guaranty program as the
12 Iowa title guaranty program. The bill also allows the title
13 guaranty division to be referred to as Iowa title guaranty.
14 Division III concerns bond activity and the Iowa finance
15 authority.
16 Code section 7C.4A(5), concerning the allocation of
17 the state ceiling on bonds to bonds issued by a political
18 subdivision, is amended to strike the provision limiting any
19 one project from receiving more than $10 million of private
20 activity bonds.
21 Code section 16.1(1)(ae), defining "project" for purposes
22 of the Iowa finance authority programs, is amended to include
23 projects for property located outside of the state if the
24 entity seeking the financing of the project has some connection
25 to the state and the project will benefit the state.
26 Code section 16.3, concerning legislative findings relative
27 to the Iowa finance authority, is amended to provide that
28 the Iowa finance authority shall have broad discretion in
29 interpreting the provisions of the Code chapter governing the
30 Iowa finance authority.
31 Code section 16.5, describing the general powers of the Iowa
32 finance authority, is amended. The bill provides that the Iowa
33 finance authority shall have the powers delineated in this Code
34 section notwithstanding any provision of law to the contrary.
35 The bill grants the power to the authority to contract directly

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with architects, engineers, attorneys, and other advisors. The Code section is also amended to provide that the Iowa finance authority can issue bonds, notes, or other obligations for public or private entities for the purpose of financing any project regardless of location, to make, alter, and repeal rules relating to Iowa finance authority programs, and to interpret, construe, and execute the laws, rules, and regulations of this state relating to Iowa finance authority programs.

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

New Code section 16.182A creates the special projects revolving loan program fund to further the goal of the senior living program as specified in Code section 249H.2, to further the objectives specified in Code section 231.3, and adult day services, respite services, congregate meals, health and wellness, health screening, and nutritional assessments, and further the availability of affordable housing for parents that are reuniting with their children while completing or participating in substance abuse treatment. Moneys in the fund are appropriated to the authority to be used for such purposes. Moneys in the senior living revolving loan program fund, home and community-based services revolving loan program fund, and the transitional housing revolving loan program fund are transferred to the special projects revolving loan program fund and those funds are repealed.

House File 577 - Introduced

HOUSE FILE 577
BY WORTHAN

A BILL FOR

1 An Act exempting from the sales and use tax the sales price of
2 all-terrain vehicles and off-road utility vehicles exempt
3 from registration with the department of natural resources
4 and sold to certain eligible businesses.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1746YH (3) 85
mm/sc

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1 Section 1. Section 423.3, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 99. The sales price from the sale of an
4 all-terrain vehicle and an off-road utility vehicle, as defined
5 in section 321I.1, to an eligible business if the vehicle is
6 exempt from registration under chapter 321I. For purposes of
7 this subsection, *"eligible business"* means a business organized
8 in such a manner as to require the owner or owners to file a
9 schedule C or schedule F form for federal income tax purposes.
10 EXPLANATION
11 This bill provides a sales tax exemption for the sale of
12 an all-terrain vehicle and an off-road utility vehicle to an
13 eligible business if the vehicle is exempt from registration
14 under Code chapter 321I.
15 "Eligible business" is defined as a business organized in
16 such a manner as to require the owner or owners to file a
17 schedule C or schedule F form for federal income tax purposes.
18 In general, schedule C and schedule F forms are filed by
19 taxpayers engaged in farming or another business or profession
20 as a sole proprietor or single-member limited liability
21 company.
22 "All-terrain vehicle" means a motorized vehicle with not
23 less than three and not more than six nonhighway tires that
24 is limited in engine displacement to less than 1,000 cubic
25 centimeters and in total dry weight to less than 1,200 pounds
26 and that has a seat or saddle designed to be straddled by the
27 operator and handlebars for steering control.
28 "Off-road utility vehicle" means a motorized vehicle with
29 not less than four and not more than eight nonhighway tires or
30 rubberized tracks that is limited in engine displacement to
31 less than 1,500 cubic centimeters and in total dry weight to
32 not more than 2,000 pounds and that has a seat that is of bucket
33 or bench design, not intended to be straddled by the operator,
34 and a steering wheel or control levers for control.
35 All-terrain vehicles and off-road utility vehicles are

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1 required to be registered with the department of natural
2 resources under Code chapter 321I before they are used on
3 public land, public ice, or a designated riding trail of this
4 state, unless the vehicle is owned by the United States,
5 this state, or a governmental subdivision thereof and used
6 for certain nonrecreational purposes, or the vehicle is
7 used exclusively as a farm implement and any highway use is
8 incidental to the vehicle's use for agricultural purposes.
9 By operation of Code section 423.6, an item exempt from the
10 imposition of the sales tax is also exempt from the use tax
11 imposed in Code section 423.5.

House File 578 - Introduced

HOUSE FILE 578
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 80)

A BILL FOR

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

TLSB 1240HV (2) 85
rh/sc

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

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

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payment was sent.

(2) An effective satisfaction or release of the mortgage has not been executed and recorded within thirty days after the date of payment.

3. *Notice.*

a. Prior to the execution and filing of a certificate of release pursuant to this section, the division shall notify the mortgage servicer in writing of all of the following:

(1) The mortgage has not been released.

(2) The division's intention to execute and record a certificate of release pursuant to this section after expiration of the thirty-day period following the sending of the notice.

b. The notice shall include instructions to notify the division in writing within thirty days of the effective date of the notice of any reason why the certificate of release should not be executed and recorded.

c. For purposes of this section, notice may be served by any of the following methods:

(1) By certified mail or any commercial delivery service, properly addressed with postage or cost of delivery provided for.

(2) By facsimile transmission or electronic mail to an address provided by the mortgage servicer, but only if the mortgage servicer agrees to receive notice in that manner.

(3) By publication in a newspaper of general circulation published in each county where the mortgage is recorded once each week for three consecutive weeks after receiving an affidavit by the applicant that service in accordance with the provisions of subparagraph (1) or (2) cannot be made on the mortgage servicer.

(4) By otherwise causing the notice to be received by the mortgage servicer within the time it would have been received if notice had been served by certified mail or commercial delivery service.

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

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

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

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

House File 579 - Introduced

HOUSE FILE 579
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 36)

A BILL FOR

1 An Act relating to medical malpractice actions including
2 expert witness testimony, evidence-based medical practice
3 guidelines, and medical malpractice review panels, and
4 providing for fees.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1483HV (3) 85
rh/rj

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1 Section 1. Section 147.139, Code 2013, is amended to read
2 as follows:
3 **147.139 Expert witness testimony — standards.**
4 1. If the standard of care given by a physician and surgeon
5 or an osteopathic physician and surgeon licensed pursuant
6 to chapter 148, or a dentist licensed pursuant to chapter
7 153, is at issue, the court shall only allow a person to
8 qualify as an expert witness and to testify on the issue of
9 the appropriate standard of care ~~if the person's medical or~~
10 ~~dental qualifications relate directly to the medical problem~~
11 ~~or problems at issue and the type of treatment administered~~
12 ~~in the case.~~, breach of the standard of care, or proximate
13 cause if all of the following qualifications of the person are
14 established:
15 *a.* The person is licensed to practice medicine, osteopathic
16 medicine, or dentistry and in the five years preceding the
17 allegedly negligent act, was engaged in the active practice
18 of medicine, osteopathic medicine, or dentistry, or was a
19 qualified instructor at an accredited university of medicine
20 and surgery, osteopathic medicine and surgery, or dentistry.
21 *b.* The person practices or provides university instruction
22 in the same or substantially similar specialty as the
23 defendant.
24 *c.* If the defendant is board-certified in a specialty,
25 the person is also certified in that specialty by a board
26 recognized by the American board of medical specialties or
27 the American osteopathic association and is licensed and in
28 good standing in each state of licensure, and has not had the
29 person's license revoked or suspended in the past five years.
30 2. A person who is licensed in another state who testifies
31 pursuant to this section as an expert against a defendant,
32 whether in contract or tort arising out of the provision of or
33 failure to provide care, shall be deemed to hold a temporary
34 license to practice in this state for the purpose of providing
35 such testimony and shall be subject to the authority of the

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1 applicable licensing board in this state including but not
2 limited to section 147.55.
3 Sec. 2. NEW SECTION. **147.140 Medical malpractice review**
4 **panels.**
5 1. For the purpose of this section, *"health care provider"*
6 means a physician and surgeon, osteopathic physician and
7 surgeon, dentist, podiatric physician, optometrist, pharmacist,
8 chiropractor, physician assistant, or nurse licensed pursuant
9 to this chapter, a hospital licensed pursuant to chapter 135B,
10 or a health care facility licensed pursuant to chapter 135C.
11 2. *a.* Upon the filing of any action for personal injury
12 or wrongful death against any health care provider based upon
13 the alleged negligence of the licensee in the practice of that
14 profession or occupation, or upon the alleged negligence of
15 the hospital or health care facility in patient care, and upon
16 the filing of an answer thereto by all named defendants, the
17 chief judge of the judicial district within which the action
18 was filed shall convene a medical malpractice review panel to
19 review the validity of the action.
20 *b.* Upon the convening of the medical malpractice review
21 panel, all legal proceedings in the legal action filed with
22 the district court shall be stayed until thirty days after the
23 findings issued by the medical malpractice review panel.
24 3. *a.* The membership of the medical malpractice review
25 panel shall consist of all of the following persons:
26 (1) An attorney licensed to practice law in this state
27 and in good standing who primarily represents plaintiffs in
28 personal injury actions.
29 (2) An attorney licensed to practice law in this state
30 and in good standing who primarily represents defendants in
31 personal injury actions.
32 (3) A health care practitioner licensed in this state and in
33 good standing who practices in the specialty or profession of
34 the person accused of negligence.
35 (4) If one of the defendants is a hospital or health care

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1 facility, a person familiar with hospital or health care
2 administration.
3 (5) A lay person with no connection to any health care
4 provider or insurance company.
5 (6) A nonvoting chairperson who is an attorney licensed
6 to practice law in this state and in good standing, appointed
7 by the chief judge of the judicial district within which the
8 action was filed from a list of attorneys maintained by the
9 district court or the chief judge of the judicial district for
10 such selection purpose.
11 *b.* Within ten days of receipt of the notification of
12 appointment as chairperson of the medical malpractice review
13 panel, the chairperson shall appoint the members of the review
14 panel for the particular medical malpractice claim to be heard.
15 (1) The department of public health and the board of
16 nursing, board of medicine, dental board, and board of pharmacy
17 shall maintain and make available to the chairperson of the
18 review panel a current list of health care providers who are
19 licensed in this state and in good standing to serve on the
20 review panel. A health care provider's license shall be
21 revoked if the health care provider does not serve as a review
22 panel member when so appointed, unless excused for good cause
23 shown.
24 (2) The supreme court shall maintain a current list of
25 attorneys who are licensed in this state and in good standing
26 to serve on the review panel. An attorney's license shall be
27 revoked if the attorney does not serve as a review panel member
28 when so appointed, unless excused for good cause shown.
29 4. *a.* Within thirty days of convening the medical
30 malpractice review panel, a party to the proceedings shall
31 produce to all other parties all medical and health care
32 provider records within the possession or control of the party
33 pertaining to the plaintiff regardless of whether the party
34 believes such records are relevant to the proceedings.
35 *b.* The chairperson may permit reasonable discovery, and

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if so allowed, shall determine a timetable for any additional discovery prior to the hearing before the review panel. Depositions of persons other than the parties and experts designated by the parties shall not be taken except for good cause shown by the party requesting the deposition.

c. The chairperson shall have the power to issue subpoenas for both discovery and compulsion of testimony in the same manner and method as the district court.

d. The chairperson shall also determine a date on or before which the plaintiff must submit a certificate-of-merit affidavit as provided in subsection 5 for each expert the plaintiff intends to call as a witness to testify with respect to the issues of breach of the applicable standard of care or causation.

5. *a.* A plaintiff shall submit a separate certificate-of-merit affidavit for each defendant named in the action. The affidavit submitted for the defendant must be signed by the expert. The affidavit must certify the purpose for calling the expert by providing under the oath of the expert all of the following:

(1) The expert's statement of familiarity with the applicable standard of care.

(2) The expert's statement that the standard of care was breached by the health care provider named as the defendant.

(3) The expert's statement of the actions that the health care provider failed to take or should have taken to comply with the standard of care.

(4) The expert's statement of the manner by which the breach of the standard of care was the cause of the injury alleged in the petition.

b. If a plaintiff fails to submit a certificate-of-merit affidavit within the time determined by the chairperson, the chairperson shall file a motion with the district court to dismiss the plaintiff's action with regard to the defendant for which the certificate-of-merit affidavit was not submitted.

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1 The district court shall then dismiss with prejudice the
2 plaintiff's action against the defendant.
3 6. *a.* The chairperson of the medical malpractice review
4 panel shall hold a hearing of the full review panel to review
5 the plaintiff's claim and defendant's defenses within six
6 months from the date all members of the review panel were
7 appointed, unless the time period has been extended by the
8 chairperson for good cause shown by a requesting party. In no
9 event shall any extension cause the hearing to occur more than
10 one year after all review panel members were appointed.
11 *b.* Except as otherwise provided in this subsection, one
12 combined hearing or hearings shall be held for all claims
13 under this section arising out of the same action. If the
14 action includes more than one defendant, the parties may,
15 upon agreement of all parties, require that separate hearings
16 be held for each defendant or group of defendants. The
17 chairperson may, for good cause shown, order separate hearings.
18 7. At the hearing before the medical malpractice review
19 panel, all parties who are natural persons shall be personally
20 present and all entity parties shall have a representative
21 present with responsibility for the subject matter that is the
22 subject of the action. If a plaintiff fails to appear at the
23 hearing, the chairperson shall file a motion with the district
24 court to dismiss the plaintiff's action with prejudice, and
25 the court shall grant the motion. If the defendant fails to
26 appear at the hearing, the defendant shall be precluded from
27 presenting any evidence or making any presentation before the
28 review panel or at any subsequent trial.
29 8. At the hearing before the medical malpractice review
30 panel, the plaintiff shall present the plaintiff's case to
31 the review panel and each defendant shall present evidence
32 in response to the plaintiff's presentation. Wide latitude
33 shall be afforded the parties in the conduct of the hearing
34 including but not limited to the right of examination and
35 cross-examination of witnesses by attorneys for the parties.

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1 Depositions shall be admissible regardless of whether the
2 person deposed is available at the hearing. The Iowa rules of
3 civil procedure shall not apply at the hearing, and evidence
4 may be admitted if such evidence is evidence upon which
5 reasonable persons are accustomed to rely. The chairperson
6 shall make all procedural rulings and such rulings shall be
7 binding and final. The hearing shall be recorded either
8 electronically or with the assistance of a court reporter. The
9 cost of recording the hearing shall be equally divided among
10 the parties. The record of the proceedings and all documents
11 presented as exhibits shall be confidential except in the
12 following circumstances:
13 *a.* Any testimony or writings made under oath may be used in
14 subsequent proceedings for purposes of impeachment.
15 *b.* The party who made a statement or presented evidence
16 agrees to the submission, use, or disclosure of the statement
17 or evidence.
18 *c.* The parties unanimously agree upon disclosure of any part
19 of the record or proceedings.
20 9. Upon the conclusion of the hearing, the medical
21 malpractice review panel may request from any party additional
22 facts, records, or other information to be submitted in writing
23 or at a continuation of the hearing. A continued hearing
24 shall be held as soon as possible. A continued hearing shall
25 be attended by the same review panel members and parties who
26 attended the initial hearing, unless otherwise agreed to by all
27 parties.
28 10. The medical malpractice review panel shall issue its
29 findings in writing within thirty days of submission of all
30 presentations and evidence.
31 *a.* The review panel's findings shall contain answers to all
32 of the following questions:
33 (1) Whether the acts or omissions complained of constitute
34 a deviation from the applicable standard of care by the health
35 care provider charged with such care.

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1 (2) Whether the acts or omissions complained of proximately
2 caused the injury complained of.
3 (3) If negligence on the part of a health care provider
4 is found, whether any negligence on the part of the plaintiff
5 was equal to or greater than the negligence of the health care
6 provider.
7 *b.* The review panel shall make any affirmative finding by a
8 preponderance of the evidence.
9 *c.* With regard to each question, the review panel's findings
10 with regard to each question shall be determined by a majority
11 of the panel members. The determination of the answer to
12 any question by any individual review panel member shall be
13 confidential and shall not be disclosed to any party or other
14 member of the public. The findings shall reflect the number
15 of review panel members making a determination of an answer
16 in the affirmative and in making a determination of an answer
17 in the negative. The findings, including the cumulative
18 determinations in the affirmative and the negative for each
19 answer, shall be signed by all review panel members, with
20 each review panel member attesting that the written findings
21 accurately reflect the determinations made.
22 *d.* The chairperson of the review panel shall serve the
23 findings upon the parties within seven days of the date of
24 the findings. The review panel's written findings shall be
25 preserved until thirty days after final judgment or the action
26 is finally resolved after which time such findings shall be
27 destroyed. All medical and health care provider records shall
28 be returned to the party providing them to the review panel.
29 *e.* The deliberations and discussion of the review panel
30 shall be privileged and confidential and a review panel
31 member shall not be asked or compelled to testify at a later
32 proceeding concerning the deliberations, discussions, or
33 findings expressed during the review panel's deliberations,
34 except as such deliberation, discussion, or findings may be
35 required to prove an allegation of intentional fraud. All

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1 review panel members and the chairperson shall be immune from
2 liability as a result of participation in or serving as a
3 review panel member, except for instances of intentional fraud.
4 11. The effect of the medical malpractice review panel's
5 findings shall be as follows:
6 *a.* The review panel's findings are admissible as evidence in
7 any subsequent action between the parties.
8 *b.* If the review panel's findings are unanimous and
9 unfavorable to the plaintiff in such a manner as would not
10 permit recovery by the plaintiff if the answers were made at
11 trial, all of the following shall apply:
12 (1) If the action proceeds and results in a verdict and
13 judgment for the defendant, the plaintiff shall be required to
14 pay all expert witness fees and court costs incurred by the
15 defendant.
16 (2) If the action proceeds and results in a verdict and
17 judgment for the plaintiff, any noneconomic damages awarded
18 to the plaintiff shall not exceed two hundred fifty thousand
19 dollars.
20 *c.* If the review panel's findings are unanimous and
21 unfavorable to the defendant, allowing the plaintiff to recover
22 based upon the defendant's answers, all of the following shall
23 apply:
24 (1) The defendant shall promptly admit liability or enter
25 into negotiations to pay the plaintiff's claim for damages.
26 (2) If liability is admitted, the claim may be resubmitted
27 to the review panel upon agreement of the plaintiff and the
28 defendant for a determination of damages. Any determination
29 of damages by the review panel shall be admissible in any
30 subsequent action.
31 (3) If liability is not admitted and the parties are not
32 able to resolve the claim through settlement negotiations
33 within thirty days after service of the review panel's
34 findings, the plaintiff may proceed with the action. If
35 the plaintiff obtains a verdict or judgment in excess of

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1 the plaintiff's last formal demand after the settlement
2 negotiations following the review panel's findings, the
3 defendant shall be required to pay all expert witness fees and
4 court costs incurred by the plaintiff.
5 12. *a.* Upon the appointment of all members of the review
6 panel, each party shall pay to the clerk of the district court
7 a filing fee of two hundred fifty dollars.
8 *b.* Any party may apply to the chairperson of the review
9 panel for a waiver of the filing fee. The chairperson shall
10 grant the waiver if the party is indigent.
11 *c.* Any party who is or was an employee of another party at
12 the time of the claimed injury and was acting in the course and
13 scope of employment with such other party shall not be required
14 to pay a filing fee.
15 *d.* The review panel member who is a lay member shall be
16 paid fifty dollars per day for each day spent participating in
17 a hearing and for time spent deliberating a case. The other
18 members of the review panel shall not receive compensation for
19 their efforts, as service on a review panel shall be deemed a
20 part of the privilege of professional licensure.
21 *e.* All review panel members shall be reimbursed for
22 reasonable travel expenses incurred to participate in a hearing
23 and deliberation of a case and such travel costs shall be
24 divided equally among and paid by the parties.
25 Sec. 3. NEW SECTION. **622.31A Evidence-based medical**
26 **practice guidelines — affirmative defense.**
27 1. For purposes of this section:
28 *a.* *"Evidence-based medical practice guidelines"* means
29 voluntary medical practice parameters or protocols established
30 and released through a recognized physician consensus-building
31 organization approved by the United States department of health
32 and human services, through the American medical association's
33 physician consortium for performance improvement or similar
34 activity, or through a recognized national medical specialty
35 society.

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1 *b. "Health care provider"* means a physician and surgeon,
2 osteopathic physician and surgeon, physician assistant, or
3 advanced registered nurse practitioner.
4 2. In any action for personal injury or wrongful death
5 against any health care provider based upon the alleged
6 negligence of the health care provider in patient care, the
7 health care provider may assert, as an affirmative defense,
8 that the health care provider complied with evidence-based
9 medical practice guidelines in the diagnosis and treatment of
10 a patient.
11 3. A judge may admit evidence-based medical practice
12 guidelines into evidence if introduced only by a health
13 care provider or by the health care provider's employer and
14 if the health care provider or the health care provider's
15 employer establishes foundational evidence in support of the
16 evidence-based medical practice guidelines as well as evidence
17 that the health care provider complied with the guidelines.
18 Evidence of departure from an evidence-based medical practice
19 guideline is admissible only on the issue of whether the health
20 care provider is entitled to assert an affirmative defense.
21 4. This section shall not apply to any of the following:
22 *a.* A mistaken determination by the health care provider
23 that the evidence-based medical practice guideline applied to a
24 particular patient where such mistake is caused by the health
25 care provider's negligence or intentional misconduct.
26 *b.* The health care provider's failure to properly follow the
27 evidence-based medical practice guideline where such failure is
28 caused by the health care provider's negligence or intentional
29 misconduct. There shall be no presumption of negligence if
30 a health care provider does not adhere to an evidence-based
31 medical practice guideline.
32 EXPLANATION
33 This bill relates to medical malpractice actions including
34 expert witness testimony, evidence-based medical practice
35 guidelines, and medical malpractice review panels and provides

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1 for fees.
2 EXPERT WITNESS TESTIMONY STANDARDS. Under current law,
3 if the standard of care given by a physician and surgeon, an
4 osteopathic physician and surgeon, or a dentist is at issue,
5 the court shall only allow a person to qualify as an expert
6 witness and to testify on the issue of the appropriate standard
7 of care if the person's medical or dental qualifications relate
8 directly to the medical problem or problems at issue and the
9 type of treatment administered in the case. The bill amends
10 this law to provide that an expert witness must meet certain
11 professional practice and educational practice qualifications
12 before testifying on the issue of the appropriate standard of
13 care, breach of the standard of care, or proximate cause in
14 such a case. In addition, a person who is licensed in another
15 state who testifies as an expert against a defendant shall be
16 deemed to hold a temporary license to practice in this state
17 for the purpose of providing such testimony and is subject to
18 the authority of the applicable licensing board in this state.
19 MEDICAL MALPRACTICE REVIEW PANELS. The bill provides
20 that in any personal injury or wrongful death action against
21 any health care provider, hospital, or health care facility
22 based upon negligence, and upon the filing of an answer by
23 all defendants, the chief judge of the judicial district
24 within which the action was filed is required to convene a
25 medical malpractice review panel to review the validity of the
26 action. Once convened, all legal proceedings in the action
27 are stayed until 30 days after the medical review panel issues
28 its findings in the case. "Health care provider" is defined
29 as a licensed physician and surgeon, osteopathic physician and
30 surgeon, dentist, podiatric physician, optometrist, pharmacist,
31 chiropractor, physician assistant, or nurse, licensed hospital,
32 or licensed health care facility.
33 The bill provides for the appointment of the members of the
34 medical review panel, including professional qualifications of
35 the members, if applicable, and specific procedures for the

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1 selection of the review panel members.
2 The bill provides that upon the appointment of all members
3 of the review panel, each party is required to pay a filing fee
4 of $250 which may be waived in some circumstances. A review
5 panel member who is a lay member shall be paid $50 per day
6 for each day spent participating in a hearing and for time
7 spent deliberating a case. The other members of the review
8 panel shall not receive compensation, however all review panel
9 members shall be reimbursed for reasonable travel expenses.
10 The bill provides that within 30 days of convening the
11 medical malpractice review panel, a party to the proceedings is
12 required to produce to all other parties all medical and health
13 care provider records within the possession or control of the
14 party pertaining to the plaintiff regardless of whether the
15 party believes such records are relevant to the proceedings.
16 The chairperson of the review panel may permit reasonable
17 discovery, but depositions of persons other than the parties
18 and experts designated by the parties shall not be taken except
19 for good cause shown by the party requesting the deposition.
20 The chairperson shall also have the power to issue subpoenas.
21 The plaintiff is required to submit a separate
22 certificate-of-merit affidavit for each defendant named in the
23 action, signed by the expert, which must certify the purpose
24 for calling the expert by providing under the oath of the
25 expert certain specific criteria. If a plaintiff fails to
26 submit a certificate-of-merit affidavit within the time period
27 determined by the chairperson, upon the chairperson's motion,
28 the court is required to dismiss with prejudice the plaintiff's
29 action against the defendant.
30 The chairperson of the medical malpractice review panel
31 is required to hold a hearing of the full review panel to
32 review the plaintiff's claim and defendant's defenses within
33 six months from the date all members of the review panel
34 were appointed, unless extended by the chairperson for good
35 cause shown, not to exceed one year after all review panel

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1 members were appointed. If the action includes more than one
2 defendant, the parties may, upon agreement of all parties,
3 require that separate hearings be held for each defendant or
4 group of defendants.
5 The bill provides specific provisions relating to the
6 conduct of the hearing of the medical malpractice review
7 panel including provisions relating to personal appearance by
8 the parties and the presentation and admission of evidence.
9 The hearing and exhibits are confidential except in certain
10 circumstances. Upon the conclusion of the hearing, the review
11 panel may request from any party additional facts, records,
12 or other information to be submitted in writing or at a
13 continuation of the hearing.
14 The review panel is required to issue its findings in writing
15 within 30 days of submission of all presentations and evidence
16 and served upon the parties within seven days of the date of
17 the findings. Such findings shall be determined by a majority
18 of the review panel members, shall be determined based upon a
19 preponderance of the evidence standard, shall contain certain
20 answers relating to the acts or omissions of the health care
21 provider, and shall be signed by all review panel members. The
22 determination of the answer to any question by any individual
23 review panel member shall be confidential and shall not be
24 disclosed to any party or other member of the public. The
25 review panel´s findings shall be preserved until 30 days after
26 final judgment or the action is finally resolved after which
27 time such findings shall be destroyed. All medical and health
28 care provider records shall be returned to the party providing
29 them to the review panel. The deliberations and discussion of
30 the review panel shall be privileged and confidential. All
31 review panel members and the chairperson shall be immune from
32 liability as a result of participation in or serving as a
33 review panel member, except for instances of intentional fraud.
34 The medical malpractice review panel´s findings are
35 admissible as evidence in any subsequent action between the

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1 parties. The bill specifies conditions under which each party
2 may be responsible for witness fees and court costs. If the
3 civil action proceeds to trial and results in a verdict and
4 judgment for the plaintiff, any noneconomic damages are capped
5 at $250,000.
6 The bill provides that if the review panel's findings
7 are unanimous and unfavorable to the defendant, allowing the
8 plaintiff to recover based upon the defendant's answers, the
9 defendant is required to promptly admit liability or enter
10 into negotiations to pay the plaintiff's claim for damages.
11 If liability is admitted, the claim may be resubmitted
12 to the review panel for a determination of damages and
13 any determination of damages by the review panel shall be
14 admissible in any subsequent action. If liability is not
15 admitted and the parties cannot resolve the claim through
16 settlement negotiations within 30 days after service of the
17 review panel's findings, the plaintiff is allowed to proceed
18 with the action.
19 EVIDENCE-BASED MEDICAL PRACTICE GUIDELINES. The bill
20 provides that a judge may admit evidence-based medical practice
21 guidelines into evidence if introduced only by a health
22 care provider or by the health care provider's employer and
23 if the health care provider or the health care provider's
24 employer establishes foundational evidence in support of the
25 evidence-based medical practice guidelines as well as evidence
26 that the health care provider complied with the guidelines.
27 Evidence of departure from an evidence-based medical practice
28 guideline is admissible only on the issue of whether the
29 health care provider is entitled to assert an affirmative
30 defense. Evidence-based medical practice guidelines shall
31 not be admitted into evidence where the health care provider
32 mistakenly determined that the evidence-based medical practice
33 guideline applied to a particular patient where such mistake
34 was caused by the health care provider's negligence or
35 intentional misconduct or the health care provider failed to

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1 properly follow the evidence-based medical practice guideline
2 where such failure was caused by the health care provider's
3 negligence or intentional misconduct.
4 "Evidence-based medical practice guidelines" means voluntary
5 medical practice parameters or protocols established and
6 released through a recognized physician consensus-building
7 organization approved by the United States department of health
8 and human services, through the American medical association's
9 physician consortium for performance improvement or similar
10 activity, or through a recognized national medical specialty
11 society. "Health care provider" means a physician and surgeon,
12 osteopathic physician and surgeon, physician assistant, or
13 advanced registered nurse practitioner.

House File 580 - Introduced

HOUSE FILE 580
BY COMMITTEE ON ECONOMIC GROWTH

(SUCCESSOR TO HSB 61)

A BILL FOR

1 An Act providing for business entities qualifying for Iowa
2 start-up businesses, including the payment of fees by
3 persons forming or organizing such entities.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1167HV (2) 85
da/nh

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DIVISION I
IOWA START-UP BUSINESS INITIATIVE

Section 1. NEW SECTION. **9.11 Definitions.**

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

1. *"Business entity"* means a business operating on a profit, nonprofit, or cooperative basis formed or organized under the laws of this state, as a partnership or limited liability partnership under chapter 486A; limited partnership under chapter 488; limited liability company including a professional limited liability company under chapter 489; corporation under chapter 490; cooperative association under chapter 499, 501, or 501A; or nonprofit corporation under chapter 504.

2. *"Foreign business entity"* means a business operating on a profit, nonprofit, or cooperative basis, that is formed or organized in another jurisdiction, including an entity that receives authority from the secretary of state to transact business in this state as a foreign limited liability partnership as provided in section 486A.1102; foreign limited partnership under section 488.902; foreign limited liability company or foreign professional limited liability company under section 489.802; foreign corporation under section 490.1503; foreign cooperative association under section 499.54 or 490.1503; foreign cooperative association under section 501A.221; or foreign nonprofit corporation under section 504.1503.

Sec. 2. NEW SECTION. **9.12 Business entities qualifying as Iowa start-up businesses.**

1. In order to qualify as an Iowa start-up business, a business entity shall file an organic document with the secretary of state which includes the following:

a. For a partnership, a statement of partnership authority under section 486A.303. However, the statement must be filed within six months from the date that the partnership first acquired property as provided in section 486A.204.

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1 *b.* For a limited partnership, a certificate of limited
2 partnership under section 488.201.
3 *c.* For a limited liability company, a certificate of
4 organization under section 489.201.
5 *d.* For a corporation, articles of incorporation under
6 section 490.202.
7 *e.* For a cooperative association, the following:
8 (1) Articles of incorporation under section 499.40.
9 (2) Articles of organization under section 501.202.
10 (3) Articles of organization under section 501A.503.
11 *f.* For a nonprofit corporation, articles of incorporation
12 under section 504.202.
13 2. A business entity described in subsection 1 does not
14 qualify as an Iowa start-up business if any of the following
15 apply:
16 *a.* Another business entity or a foreign business entity
17 holds an equity interest in the business entity.
18 *b.* The business entity does not employ at least one
19 individual who works thirty-five hours per week or more.
20 *c.* The business entity is formed or organized by the same
21 person who formed or organized a business entity in the prior
22 twelve months.
23 *d.* Any other factor established by the secretary of state
24 exists.
25 Sec. 3. NEW SECTION. **9.13 Iowa start-up businesses — fees.**
26 A business entity qualifying as an Iowa start-up business
27 shall not be charged a fee that is otherwise required to be
28 paid to the secretary of state as a direct result of forming
29 or organizing a business entity with the secretary of state,
30 including fees associated with filing an organic document with
31 the secretary of state pursuant to the following:
32 1. For a partnership, a statement of partnership authority
33 under section 486A.1202.
34 2. For a limited partnership, a certificate of limited
35 partnership under section 488.1206.

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1 3. For a limited liability company, a certificate of
2 organization under section 489.117.
3 4. For a corporation, articles of incorporation under
4 section 490.122.
5 5. For a cooperative association, the following:
6 *a.* Articles of incorporation under section 499.45.
7 *b.* Articles of organization under section 501.105.
8 *c.* Articles of organization under section 501A.205.
9 6. For a nonprofit corporation, articles of incorporation
10 under section 504.113.
11 Sec. 4. NEW SECTION. **9.14 Rulemaking.**
12 The secretary of state shall adopt rules as necessary in
13 order to implement and administer this subchapter.
14 Sec. 5. CODE EDITOR DIRECTIVE. The Code editor shall codify
15 the provisions designated for codification in this division of
16 this Act as new subchapter II of chapter 9.
17 DIVISION II
18 COORDINATING AMENDMENTS
19 Sec. 6. Section 486A.1202, Code 2013, is amended by adding
20 the following new subsection:
21 NEW SUBSECTION. 1A. Notwithstanding subsection 1, a fee
22 shall not be charged to an Iowa start-up business for filing a
23 statement of partnership authority under section 486A.303, or
24 any other document determined by the secretary of state to be
25 an organic document, as provided in section 9.13.
26 Sec. 7. Section 488.1206, Code 2013, is amended by adding
27 the following new subsection:
28 NEW SUBSECTION. 1A. Notwithstanding subsection 1, a fee
29 shall not be charged to an Iowa start-up business for filing a
30 certificate of limited partnership under section 488.201, or
31 any other document determined by the secretary of state to be
32 an organic document, as provided in section 9.13.
33 Sec. 8. Section 489.117, Code 2013, is amended by adding the
34 following new subsection:
35 NEW SUBSECTION. 1A. Notwithstanding subsection 1, a fee

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1 shall not be charged to an Iowa start-up business for filing a
2 certificate of organization under section 489.201, or any other
3 document determined by the secretary of state to be an organic
4 document, as provided in section 9.13.
5 Sec. 9. Section 490.122, Code 2013, is amended by adding the
6 following new subsection:
7 NEW SUBSECTION. 1A. Notwithstanding subsection 1, a fee
8 shall not be charged to an Iowa start-up business for filing
9 articles of incorporation under section 490.202, or any other
10 document determined by the secretary of state to be an organic
11 document, as provided in section 9.13.
12 Sec. 10. Section 499.45, Code 2013, is amended to read as
13 follows:
14 **499.45 Fees.**
15 1. A fee of twenty dollars shall be paid to the secretary
16 of state upon filing articles of incorporation, amendments, or
17 renewals.
18 1A. Notwithstanding subsection 1, a fee shall not be
19 charged to an Iowa start-up business for filing articles of
20 incorporation under section 499.40, or any other document
21 determined by the secretary of state to be an organic document,
22 as provided in section 9.13.
23 2. Except as provided in this section, the association shall
24 pay the fees prescribed by section 490.122 when the documents
25 described in that section are delivered to the secretary of
26 state for filing.
27 Sec. 11. Section 501.105, Code 2013, is amended by adding
28 the following new subsection:
29 NEW SUBSECTION. 3A. Notwithstanding subsection 3, a fee
30 shall not be charged to an Iowa start-up business for filing
31 articles of organization under section 501.202, or any other
32 document determined by the secretary of state to be an organic
33 document, as provided in section 9.13.
34 Sec. 12. Section 501A.205, Code 2013, is amended by adding
35 the following new subsection:

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1 NEW SUBSECTION. 1A. Notwithstanding subsection 1, a fee
2 shall not be charged to an Iowa start-up business for filing
3 articles of organization under section 501A.503, or any other
4 document determined by the secretary of state to be an organic
5 document, as provided in section 9.13.
6 Sec. 13. Section 504.113, Code 2013, is amended by adding
7 the following new subsection:
8 NEW SUBSECTION. 1A. Notwithstanding subsection 1, a fee
9 shall not be charged to an Iowa start-up business for filing
10 articles of organization under section 504.202, or any other
11 document determined by the secretary of state to be an organic
12 document, as provided in section 9.13.
13 EXPLANATION
14 This bill provides that a qualifying start-up business is
15 not required to pay a fee associated with filing an organic
16 document with the secretary of state. The form of the organic
17 document depends upon the type of business being formed or
18 organized, and includes a partnership (Code chapter 486A),
19 limited partnership (Code chapter 488), limited liability
20 company (Code chapter 489), corporation (Code chapter 490),
21 cooperative association (Code chapters 499, 501, and 501A),
22 or a nonprofit corporation (Code chapter 504). An organic
23 document differs based on the business entity being formed
24 or organized, but includes a statement of partnership,
25 a certificate of limited partnership, a certificate of
26 organization, articles of incorporation, or articles of
27 organization.
28 The bill provides that a business entity does not qualify
29 as an Iowa start-up business under certain circumstances,
30 including if another business entity or a foreign business
31 entity holds an equity interest in the entity (e.g., stock),
32 the business entity fails to employ at least one individual who
33 works a minimum of 35 hours per week, the business entity is
34 formed or organized by the same person who formed or organized
35 a business entity in the prior 12-month period, or any other

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1 factor established by the secretary of state.
2 The secretary of state is required to adopt rules necessary
3 in order to implement and administer the bill's provisions.
4 The Code editor is required to codify the new provisions in
5 the bill as a new subchapter in Code chapter 9. The bill also
6 provides a number of coordinating provisions in each Code
7 chapter which requires a business entity to pay the secretary
8 of state fees for filing organic documents.

House File 581 - Introduced

HOUSE FILE 581
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 48)

A BILL FOR

1 An Act relating to the licensure of ambulatory surgical
2 centers, providing for fees to be considered repayment
3 receipts, providing penalties, and including effective date
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1638HV (2) 85
pf/nh

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1 Section 1. NEW SECTION. **135P.1 Definitions.**
2 As used in this chapter, unless the context otherwise
3 requires:
4 1. *"Ambulatory surgical center"* means a distinct facility
5 that operates exclusively for the purpose of providing surgical
6 services to patients not requiring hospitalization and in which
7 the expected duration of services does not exceed twenty-four
8 hours following an admission. *"Ambulatory surgical center"* does
9 not include individual or group practice offices of private
10 physicians or podiatrists that do not contain a distinct area
11 used for outpatient surgical treatment on a regular basis, or
12 that only provide surgery routinely provided in a physician's
13 or podiatrist's office using local anesthesia or conscious
14 sedation; individual or group practice offices of private
15 dentists; or a portion of a licensed hospital designated for
16 outpatient surgical treatment.
17 2. *"Department"* means the department of inspections and
18 appeals.
19 Sec. 2. NEW SECTION. **135P.2 Purpose.**
20 The purpose of this chapter is to protect the public
21 health, safety, and welfare by providing for the licensing and
22 regulation of ambulatory surgical centers.
23 Sec. 3. NEW SECTION. **135P.3 Licensure.**
24 A person, acting severally or jointly with any other person,
25 shall not establish, operate, or maintain an ambulatory
26 surgical center in this state without obtaining a license as
27 provided under this chapter.
28 Sec. 4. NEW SECTION. **135P.4 Application for license — fee.**
29 1. An applicant for an ambulatory surgical center license
30 shall submit an application to the department. Applications
31 shall be upon such forms and shall include such information
32 as the department may reasonably require, which may include
33 affirmative evidence of ability to comply with reasonable rules
34 and standards prescribed under this chapter.
35 2. *a.* An application for an initial license for

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1 an ambulatory surgical center that is in existence and
2 Medicare-certified prior to July 1, 2014, shall be accompanied
3 by a fee of fifty dollars.
4 *b.* An application for an initial license for an ambulatory
5 surgical center established on or after July 1, 2014, shall
6 be accompanied by a fee sufficient to cover the costs of
7 performing the inspection required in section 135P.8 in an
8 amount as provided in rules adopted by the department.
9 3. The fees collected under this section shall be considered
10 repayment receipts as defined in section 8.2 and shall be used
11 by the department to administer this chapter.
12 Sec. 5. NEW SECTION. **135P.5 Issuance and renewal of**
13 **license.**
14 1. Upon receipt of an application for license and the
15 license fee, the department shall issue a license if the
16 applicant and the ambulatory surgical center meet the
17 requirements of this chapter and the rules adopted by the
18 department.
19 2. A license shall be issued only for the premises and
20 persons named in the application.
21 3. A license is not transferable or assignable except with
22 the written approval of the department.
23 4. A license shall be posted in a conspicuous place on the
24 licensed premises as prescribed by rule of the department.
25 5. Separate licenses are not required for ambulatory
26 surgical center facilities that are maintained on the same
27 physical site and that have the same ownership or control.
28 Multiple buildings located on the same physical site under the
29 same ownership or control shall be considered one ambulatory
30 surgical center facility for purposes of this chapter and
31 section 135.61, subsection 21, and may operate under one
32 license.
33 6. A license, unless sooner suspended or revoked, shall
34 expire on June 30 of each year and shall be renewed annually.
35 The department shall renew a license upon payment of a five

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1 hundred dollar annual license renewal fee and filing of an
2 application for renewal at least thirty days prior to the
3 expiration of the existing license. The annual licensure fee
4 shall be considered a repayment receipt as defined in section
5 8.2 and dedicated to support the staffing necessary to conduct
6 the inspections and investigations provided in section 135P.8.
7 Sec. 6. NEW SECTION. **135P.6 Denial, suspension, or**
8 **revocation of license — hearings and review.**
9 1. The department may deny, suspend, or revoke a license in
10 any case where it finds there has been a substantial failure
11 to comply with this chapter or the rules and standards adopted
12 under this chapter.
13 2. The denial, suspension, or revocation of a license by
14 the department and appeal from that action are governed by the
15 procedures for a contested case hearing under chapter 17A.
16 3. *a.* If the department finds, after providing notice of
17 noncompliance and a reasonable time for corrective action, that
18 an ambulatory surgical center is in repeated noncompliance with
19 this chapter or the department's rules but that noncompliance
20 does not endanger public health or safety, the department may
21 issue a conditional license to the ambulatory surgical center
22 as an alternative to suspending or revoking the ambulatory
23 surgical center's license.
24 *b.* The department shall provide notice of its intent to
25 issue a conditional license to the ambulatory surgical center
26 and of the items of noncompliance not less than ten days before
27 the date the conditional license is issued.
28 *c.* The department shall designate a period of not more
29 than one year during which the ambulatory surgical center may
30 operate under a conditional license.
31 *d.* During the period an ambulatory surgical center is
32 operating under a conditional license, the ambulatory surgical
33 center shall correct the items that are in noncompliance and
34 report the corrections to the department for approval.
35 4. The department may suspend or revoke the license of an

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1 ambulatory surgical center that does not correct items that
2 are in noncompliance or that does not comply with this chapter
3 or the rules adopted under this chapter within the applicable
4 period.
5 5. The department may issue an emergency order to suspend
6 a license issued under this chapter if the department has
7 reasonable cause to believe that the conduct of the ambulatory
8 surgical center creates an immediate danger to the public
9 health and safety. An emergency suspension is effective
10 immediately without a hearing or notice to the licensee. On
11 written request of the licensee, the department shall conduct
12 a hearing not earlier than the tenth day or later than the
13 thirtieth day after the date the hearing request is received
14 to determine if the emergency suspension is to be continued,
15 modified, or rescinded. The hearing and any appeal are
16 governed by the department's rules for a contested case hearing
17 and chapter 17A.
18 Sec. 7. NEW SECTION. **135P.7 Rules.**
19 1. The department, with the advice and approval of the state
20 board of health, shall adopt rules specifying the standards for
21 ambulatory surgical centers to be licensed under this chapter.
22 The rules shall be consistent with and shall not exceed the
23 requirements of this chapter and the conditions for coverage in
24 the federal Medicare program for ambulatory surgical centers
25 under 42 C.F.R. pt. 416.
26 2. The department shall adopt rules as the department deems
27 necessary to implement the provisions of this chapter relating
28 to the issuance, renewal, denial, suspension, and revocation
29 of a license to establish, operate, and maintain an ambulatory
30 surgical center.
31 3. An ambulatory surgical center which is in operation at
32 the time of adoption of any applicable rules or standards under
33 this chapter shall be given a reasonable time, not to exceed
34 one year from the date of adoption, within which to comply with
35 such rules and standards.

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1 4. The department shall enforce the rules.
2 Sec. 8. NEW SECTION. **135P.8 Inspections.**
3 1. The department shall make or cause to be made inspections
4 or investigations of ambulatory surgical centers to determine
5 compliance with this chapter and applicable rules and
6 standards. The department shall perform inspections on a
7 schedule that is of the same frequency required for inspections
8 of Medicare-certified ambulatory surgical centers.
9 2. The department shall recognize, in lieu of its own
10 licensure inspection, the comparable inspection and inspection
11 findings of a Medicare conditions for coverage survey completed
12 by the department or an accrediting organization authorized by
13 the centers for Medicare and Medicaid services with deeming
14 authority.
15 3. A department inspector shall not participate in an
16 inspection or investigation of an ambulatory surgical center in
17 which the inspector or a member of the inspector's immediate
18 family works or has worked within the last two years or in
19 which the inspector or the inspector's immediate family has
20 a financial ownership interest. For the purposes of this
21 section, "*immediate family member*" means a spouse, natural or
22 adoptive parent or grandparent, child, grandchild, sibling,
23 stepparent, stepchild, or stepsibling.
24 Sec. 9. NEW SECTION. **135P.9 Employee background checks.**
25 1. *a.* Prior to employment of a person in an ambulatory
26 surgical center, the ambulatory surgical center shall request
27 that the department of public safety perform a criminal
28 history check and the department of human services perform
29 child and dependent adult abuse record checks of the person
30 in this state. An ambulatory surgical center shall inform
31 all persons prior to employment regarding the performance of
32 the record checks and shall obtain from the persons a signed
33 acknowledgment of the receipt of the information.
34 *b.* An ambulatory surgical center shall include the following
35 inquiry in an application for employment:

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1 Do you have a record of founded child or dependent adult abuse
2 or have you ever been convicted of a crime, in this state or any
3 other state?
4 2. *a.* If it is determined that a person being considered
5 for employment in an ambulatory surgical center has been
6 convicted of a crime, the department of public safety shall
7 notify the ambulatory surgical center that upon the request
8 of the ambulatory surgical center the department of human
9 services will perform an evaluation to determine whether the
10 crime warrants prohibition of the person's employment in the
11 ambulatory surgical center.
12 *b.* If a department of human services child or dependent
13 adult abuse record check shows that the person has a record of
14 founded child or dependent adult abuse, the department of human
15 services shall notify the ambulatory surgical center that upon
16 the request of the ambulatory surgical center the department of
17 human services will perform an evaluation to determine whether
18 the founded child or dependent adult abuse warrants prohibition
19 of the person's employment in the ambulatory surgical center.
20 *c.* An evaluation performed under this subsection shall
21 be performed in accordance with procedures adopted for this
22 purpose by the department of human services.
23 *d.* (1) If a person owns or operates more than one
24 ambulatory surgical center, and an employee of one of such
25 ambulatory surgical centers is transferred to another such
26 ambulatory surgical center without a lapse in employment,
27 the ambulatory surgical center is not required to request
28 additional criminal and child and dependent adult abuse record
29 checks of that employee.
30 (2) If the ownership of an ambulatory surgical center is
31 transferred, at the time of transfer the record checks required
32 by this section shall be performed for each employee for whom
33 there is no documentation that such record checks have been
34 performed. The ambulatory surgical center may continue to
35 employ such employee pending the performance of the record

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1 checks and any related evaluation.
2 3. In an evaluation, the department of human services
3 shall consider the nature and seriousness of the crime
4 or founded child or dependent adult abuse in relation to
5 the position sought or held, the time elapsed since the
6 commission of the crime or founded child or dependent adult
7 abuse, the circumstances under which the crime or founded
8 child or dependent adult abuse was committed, the degree of
9 rehabilitation, the likelihood that the person will commit
10 the crime or founded child or dependent adult abuse again,
11 and the number of crimes or founded child or dependent adult
12 abuses committed by the person involved. If the department of
13 human services performs an evaluation for the purposes of this
14 section, the department of human services has final authority
15 in determining whether prohibition of the person's employment
16 is warranted.
17 4. *a.* Except as provided in paragraph "*b*" and subsection 2,
18 a person who has been convicted of a crime or has a record of
19 founded child or dependent adult abuse shall not be employed
20 in an ambulatory surgical center licensed under this chapter
21 unless an evaluation has been performed by the department of
22 human services.
23 *b.* A person with a criminal or abuse record who is or was
24 employed by an ambulatory surgical center licensed under this
25 chapter and is hired by an employer who is another licensee
26 without a lapse in employment shall be subject to the criminal
27 history and abuse record checks required pursuant to subsection
28 1. However, if an evaluation was previously performed by the
29 department of human services concerning the person's criminal
30 or abuse record and it was determined that the record did not
31 warrant prohibition of the person's employment and the latest
32 record checks do not indicate a crime was committed or founded
33 abuse record was entered subsequent to that evaluation, the
34 person may commence employment with the other licensee in
35 accordance with the department of human services' evaluation

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1 and an exemption from the requirements in paragraph *"a"* for
2 reevaluation of the latest record checks is authorized.
3 Otherwise, the requirements of paragraph *"a"* remain applicable
4 to the person's employment. Authorization of an exemption
5 under this lettered paragraph *"b"* from requirements for
6 reevaluation of the latest record checks by the department of
7 human services is subject to all of the following provisions:
8 (1) The position with the subsequent employer is
9 substantially the same or has the same job responsibilities as
10 the position for which the previous evaluation was performed.
11 (2) Any restrictions placed on the person's employment in
12 the previous evaluation by the department of human services
13 shall remain applicable in the person's subsequent employment.
14 (3) The person subject to the record checks has maintained a
15 copy of the previous evaluation and provides the evaluation to
16 the subsequent employer or the previous licensee provides the
17 previous evaluation from the person's personnel file pursuant
18 to the person's authorization. If a physical copy of the
19 previous evaluation is not provided to the subsequent employer
20 the record checks shall be reevaluated.
21 (4) Although an exemption under this lettered paragraph *"b"*
22 may be authorized, the subsequent employer may instead request
23 a reevaluation of the record checks and may employ the person
24 while the reevaluation is being performed.
25 5. *a.* If a person employed by an ambulatory surgical center
26 licensed under this chapter is convicted of a crime or has a
27 record of founded child or dependent adult abuse entered in the
28 abuse registry after the person's employment application date,
29 the person shall inform the ambulatory surgical center of such
30 information within forty-eight hours of the criminal conviction
31 or entry of the record of founded child or dependent adult
32 abuse. The ambulatory surgical center shall act to verify
33 the information within forty-eight hours of notification. If
34 the information is verified, the requirements of subsections
35 2, 3, and 4 regarding employability and evaluations shall

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be applied by the ambulatory surgical center to determine whether or not the person's employment is continued. The ambulatory surgical center may continue to employ the person pending the performance of an evaluation by the department of human services to determine whether prohibition of the person's employment is warranted. A person who is required by this subsection to inform the ambulatory surgical center of a conviction or entry of an abuse record and fails to do so within the required period commits a serious misdemeanor.

b. If an ambulatory surgical center receives credible information, as determined by the ambulatory surgical center, that a person employed by the ambulatory surgical center has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after employment from a person other than the employee and the employee has not informed the ambulatory surgical center of such information within the period required under paragraph *"a"*, the ambulatory surgical center shall act to verify the credible information within forty-eight hours of receipt of the credible information. If the information is verified, the requirements of subsections 2, 3, and 4 regarding employability and evaluations shall be applied by the ambulatory surgical center to determine whether or not the person's employment is continued.

c. The ambulatory surgical center may notify the county attorney for the county where the ambulatory surgical center is located of any violation or failure by an employee to notify the ambulatory surgical center of a criminal conviction or entry of an abuse record within the period required under paragraph *"a"*.

6. An ambulatory surgical center licensed under this chapter may access the single contact repository established by the department pursuant to section 135C.33 as necessary for the ambulatory surgical center to perform record checks of persons employed or being considered for employment by the ambulatory

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1 surgical center.
2 Sec. 10. NEW SECTION. **135P.10 Confidentiality.**
3 The department's final findings with respect to compliance
4 by an ambulatory surgical center with requirements for
5 licensing shall be made available to the public in a readily
6 available form and place. Other information relating to
7 an ambulatory surgical center obtained by the department
8 which does not constitute the department's findings from an
9 inspection of the ambulatory surgical center shall not be made
10 available to the public, except in proceedings involving the
11 denial, suspension, or revocation of a license under this
12 chapter. The name of a person who files a complaint with the
13 department shall remain confidential and shall not be subject
14 to discovery, subpoena, or other means of legal compulsion for
15 its release to a person other than department employees or
16 agents involved in the investigation of the complaint.
17 Sec. 11. NEW SECTION. **135P.11 Injunction.**
18 Notwithstanding the existence or pursuit of any other
19 remedy, the department may, in the manner provided by law,
20 maintain an action in the name of the state for injunction
21 or other process against any person to restrain or prevent
22 the establishment, operation, or maintenance of an ambulatory
23 surgical center without a license.
24 Sec. 12. NEW SECTION. **135P.12 Judicial review.**
25 Judicial review of an action of the department may be sought
26 in accordance with chapter 17A. Notwithstanding the provisions
27 of chapter 17A, petitions for judicial review may be filed
28 in the district court of the county in which the ambulatory
29 surgical center is located or is to be located and the status
30 quo of the petitioner or licensee shall be preserved pending
31 final disposition of the judicial review matter.
32 Sec. 13. NEW SECTION. **135P.13 Penalties.**
33 Any person establishing, operating, or maintaining any
34 ambulatory surgical center without a license commits a serious
35 misdemeanor, and each day of continuing violation after

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1 conviction shall be considered a separate offense.
2 Sec. 14. Section 135.11, Code 2013, is amended by adding the
3 following new subsection:
4 NEW SUBSECTION. 32. Adopt rules requiring ambulatory
5 surgical centers to report quality data to the department of
6 public health that is consistent with the data required to be
7 reported to the centers for Medicare and Medicaid services
8 of the United States department of health and human services
9 as authorized by the Medicare Improvements and Extension Act
10 of 2006 under Title I of the Tax Relief and Health Care Act
11 of 2006, Pub. L. No. 109-432, and the regulations adopted
12 under such Acts. Notwithstanding any provision of law to
13 the contrary, nothing in this subsection shall require an
14 ambulatory surgical center to provide health data to the
15 department of public health or any other public or private
16 entity that is in addition to, different than, or exceeds
17 the quality data required to be reported to the centers for
18 Medicare and Medicaid services of the United States department
19 of health and human services.
20 Sec. 15. Section 135.61, Code 2013, is amended by adding the
21 following new subsection:
22 NEW SUBSECTION. 1A. *"Ambulatory surgical center"* means
23 ambulatory surgical center as defined in section 135P.1.
24 Sec. 16. Section 135.61, subsection 14, paragraph d, Code
25 2013, is amended to read as follows:
26 *d.* An ~~outpatient~~ ambulatory surgical ~~facility~~ center.
27 Sec. 17. Section 135.61, subsection 21, Code 2013, is
28 amended by striking the subsection.
29 Sec. 18. EFFECTIVE DATE. This Act takes effect July 1,
30 2014.
31 EXPLANATION
32 This bill creates a new Code chapter to provide for the
33 licensing and regulation of ambulatory surgical centers.
34 The bill defines "ambulatory surgical center" as a distinct
35 facility that operates exclusively for the purpose of providing

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1 surgical services to patients not requiring hospitalization
2 and in which the expected duration of services does not
3 exceed 24 hours following an admission. "Ambulatory surgical
4 center" does not include individual or group practice offices
5 of private physicians or podiatrists that do not contain a
6 distinct area used for outpatient surgical treatment on a
7 regular basis, or that only provide surgery routinely provided
8 in a physician's or podiatrist's office using local anesthesia
9 or conscious sedation; individual or group practice offices of
10 dentists; or a portion of a licensed hospital designated for
11 outpatient surgical treatment. The department of inspections
12 and appeals is designated to enforce the regulations.
13 The bill provides that the purpose of the new Code chapter is
14 to protect the public health, safety, and welfare by providing
15 for the licensing and regulation of ambulatory surgical
16 centers. The bill prohibits the establishment, operation,
17 or maintenance of an ambulatory surgical center in the state
18 without obtaining a license.
19 The bill provides the process for application for licensure.
20 An application for an initial license for an ambulatory
21 surgical center that is in existence and Medicare-certified
22 prior to July 1, 2014, is required to be accompanied by a
23 fee of $50. An application for an initial license for an
24 ambulatory surgical center established on or after July 1,
25 2014, is required to be accompanied by a fee sufficient to
26 cover the costs of performing the required inspection in an
27 amount provided in rules adopted by the department. The fees
28 collected are repayment receipts and are to be used by the
29 department to administer the chapter.
30 The bill provides for the issuance and renewal of licenses.
31 A license is to be issued only for the premises and persons
32 named in the application; is not transferable or assignable
33 except with the written approval of the department; and is
34 required to be posted in a conspicuous place on the licensed
35 premises as prescribed by rule of the department. The bill

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1 provides that separate licenses are not required for ambulatory
2 surgical center facilities that are maintained on the same
3 physical site and that have the same ownership or control.
4 Multiple buildings located on the same physical site under
5 the same ownership or control are considered one ambulatory
6 surgical center facility for purposes of the new Code chapter
7 and Code chapter 135, division VI, relating to the health
8 facilities council and certificate of need provisions, and
9 are to be permitted to operate under one license. Licenses
10 expire on June 30 of each year and are required to be renewed
11 annually. The bill directs the department to renew a license
12 upon payment of a $500 annual license renewal fee and filing
13 of an application for renewal at least 30 days prior to the
14 expiration of the existing license. The annual licensure fee
15 is considered a repayment receipt and is to be dedicated to
16 support the staffing necessary to conduct the inspections and
17 investigations under the Code chapter.
18 The bill provides for denial, suspension, or revocation of
19 licenses. A license may be denied, suspended, or revoked if
20 the department finds there has been a substantial failure to
21 comply with the Code chapter or the rules and standards adopted
22 under the Code chapter. The denial, suspension, or revocation
23 of a license by the department and appeal from that action are
24 governed by the procedures for a contested case hearing under
25 Code chapter 17A. The bill authorizes the department, after
26 providing notice of noncompliance and a reasonable time for
27 corrective action, and if the noncompliance does not endanger
28 public health or safety, to issue a conditional license to the
29 ambulatory surgical center as an alternative to suspending or
30 revoking its license.
31 The bill also authorizes the department to issue an
32 emergency order to suspend a license if the department has
33 reasonable cause to believe that the conduct of the ambulatory
34 surgical center creates an immediate danger to the public
35 health or safety. On written request of the licensee, the

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1 department is required to conduct a hearing to determine if
2 the emergency suspension is to be continued, modified, or
3 rescinded. The hearing and any appeal are governed by the
4 department's rules for a contested case hearing and Code
5 chapter 17A.
6 The bill directs the department to adopt rules with the
7 advice and approval of the state board of health to specify
8 the standards for ambulatory surgical centers. The rules are
9 required to be consistent with and not exceed the requirements
10 of the Code chapter and the conditions for coverage in the
11 federal Medicare program for ambulatory surgical centers.
12 The department is also directed to adopt rules relating to
13 provisions of the Code chapter relating to the issuance,
14 renewal, denial, suspension, and revocation of a license to
15 establish, operate, and maintain an ambulatory surgical center.
16 If an ambulatory surgical center is in operation at the time of
17 adoption of any applicable rules or standards, the center is
18 to be given a reasonable time, not to exceed one year from the
19 date of adoption, within which to comply with such rules and
20 standards.
21 The bill provides for inspections or investigations of
22 ambulatory surgical centers, and directs that the department
23 shall perform inspections on a schedule that is of the same
24 frequency required for inspections of Medicare-certified
25 ambulatory surgical centers. The bill also requires the
26 department to recognize, in lieu of its own licensure
27 inspection, the comparable inspection and inspection findings
28 of a Medicare conditions for coverage survey.
29 The bill prohibits a department inspector from participating
30 in an inspection or investigation of an ambulatory surgical
31 center in which the inspector or a member of the inspector's
32 immediate family works or has worked within the last two years
33 or in which the inspector or the inspector's immediate family
34 has a financial ownership interest.
35 The bill requires an ambulatory surgical center to comply

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with child and dependent adult abuse information and criminal record checks and evaluations.

The bill provides confidentiality provisions relating to ambulatory surgical center information. The final findings with respect to compliance by an ambulatory surgical center are to be made available to the public in a readily available form and place. Other information relating to an ambulatory surgical center shall not be made available to the public, except in proceedings involving the denial, suspension, or revocation of a license. The name of a person who files a complaint with the department is required to remain confidential and not be subject to discovery, subpoena, or other means of legal compulsion.

The bill provides for injunctive relief and judicial review.

The bill provides that any person establishing, operating, or maintaining an ambulatory surgical center without a license commits a serious misdemeanor, and each day of continuing violation after conviction shall be considered a separate offense. A serious misdemeanor is punishable by confinement for no more than one year and a fine of at least $315 but not more than $1,875.

The bill also directs the department of public health to adopt rules requiring ambulatory surgical centers to report quality data to the department of public health that is consistent with the data required to be reported to the centers for Medicare and Medicaid services of the United States department of health and human services. However, the rules are not to require an ambulatory surgical center to provide health data to the department of public health or any other public or private entity that is in addition to, different than, or exceeds the quality data required to be reported to the centers for Medicare and Medicaid services of the United States department of health and human services.

The bill makes conforming changes in the Code to reflect the terminology of "ambulatory surgical center".

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1 The bill takes effect July 1, 2014.

House File 582 - Introduced

HOUSE FILE 582
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 78)

A BILL FOR

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

TLSB 1298HV (2) 85
dea/nh

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Section 1. Section 22.7, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 65. Personal information contained on electronic driver's license or nonoperator's identification card records that is provided by the licensee or card holder to the department of transportation for use by law enforcement, first responders, emergency medical service providers, and other medical personnel responding to or assisting with an emergency.

Sec. 2. Section 321.1, subsection 60, Code 2013, is amended to read as follows:

60. *"Registration year"* means the period of twelve consecutive months beginning on the first day of the month following the month of the birth of the owner of the vehicle for vehicles registered by the county treasurer, except that *"registration year"* means the calendar year for motor trucks and truck tractors ~~with a combined gross weight exceeding five tons~~ which are registered by the county treasurer in two equal semiannual installments pursuant to sections 321.120, 321.121, and 321.122, and *"registration year"* means the period of twelve consecutive months, as determined by the owner, for motor trucks and truck tractors that are registered by the county treasurer on an annual basis pursuant to sections 321.120, 321.121, and 321.122. For leased vehicles registered by the county treasurer, except for motor trucks and truck tractors ~~with a combined gross weight exceeding five tons~~ registered pursuant to sections 321.120, 321.121, and 321.122, *"registration year"* means the period of twelve consecutive months beginning on the first day of the month following the month in which the lease expires. For vehicles registered under chapter 326, *"registration year"* means the twelve-month period determined by the department pursuant to section 326.14.

Sec. 3. Section 321.20B, subsection 1, paragraph a, Code 2013, is amended to read as follows:

a. Notwithstanding chapter 321A, which requires certain

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

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

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

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

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

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

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

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

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

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

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

3. The department shall also require certification of installation of an ignition interlock device of a type approved by the commissioner of public safety on all motor vehicles owned or operated by any person seeking reinstatement following a second or subsequent revocation under section 321J.4, 321J.9,

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

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

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1 of time for which the temporary restricted license is issued,
2 and for such additional period of time following reinstatement
3 as is required under section 321J.17, subsection 3. However,
4 a person whose driver's license or nonresident operating
5 privilege has been revoked under section 321J.21 may apply to
6 the department for a temporary restricted license without the
7 requirement of an ignition interlock device if at least twelve
8 years have elapsed since the end of the underlying revocation
9 period for a violation of section 321J.2.
10 Sec. 15. Section 321M.9, subsection 4, Code 2013, is amended
11 by striking the subsection.
12 Sec. 16. REPEAL. Section 321.116, Code 2013, is repealed.
13 Sec. 17. REPEAL. 1984 Iowa Acts, chapter 1229, section 2,
14 is repealed.
15 Sec. 18. APPLICABILITY —— PRIOR ELECTRIC VEHICLE
16 REGISTRATIONS.
17 1. Except as provided in subsection 2, the section of this
18 Act that repeals section 321.116 applies to the registration of
19 electric motor vehicles for registration years beginning on or
20 after January 1, 2014.
21 2. For an annual renewal of registration for an electric
22 motor vehicle which was registered to the same owner for a
23 registration year beginning prior to January 1, 2014, the
24 annual registration fee shall be according to the terms of
25 section 321.116, Code 2013.
26 EXPLANATION
27 This bill contains provisions relating to a variety of
28 matters administered by the department of transportation.
29 The bill amends Code section 22.7 to provide that personal
30 information contained on electronic driver's license or
31 nonoperator's identification card records that is provided by
32 the licensee or card holder for use by certain law enforcement
33 and medical personnel responding to or assisting with an
34 emergency constitutes a confidential record.
35 The bill provides that a proof of financial liability

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1 coverage card required to be carried in a motor vehicle may
2 be produced in paper or electronic format. An electronic
3 image displayed on the screen of a cellular telephone or other
4 portable electronic device with a touch screen or miniature
5 keyboard is an acceptable electronic format. The bill allows
6 insurance companies to issue a financial liability coverage
7 card in paper format or, at the request of the insured, in
8 electronic format.
9 Under current law, commercial vehicles operated in
10 interstate commerce are registered by the department on a
11 staggered schedule for registration years determined by the
12 department. This bill amends the definition of "registration
13 year" in Code section 321.1 and related provisions in Code
14 sections 321.26 and 321.106 to permit staggered registration,
15 at the option of the owner, for any motor truck registered for
16 six tons or more. Code section 321.134 is amended to include
17 business-trade trucks in provisions allowing for semiannual
18 payment of registration fees.
19 Under current law, a person is disqualified from operating
20 a commercial motor vehicle if the person has two or more
21 convictions within a three-year period for certain specified
22 offenses committed while operating a commercial motor vehicle,
23 or committed while operating a noncommercial motor vehicle and
24 holding a commercial driver's license if the convictions result
25 in a sanction of the person's driving privileges. Code section
26 321.208 is amended to add texting and using a hand-held mobile
27 telephone in violation of a state or local law while operating
28 a commercial motor vehicle to that list of specified offenses.
29 Currently, the owner of a vehicle may increase the gross
30 weight registration of a vehicle by paying the difference
31 between the fee for the higher gross weight and the fee for the
32 gross weight for which the vehicle is registered. Beginning
33 in the seventh month of a registration year, the gross weight
34 registration fee is determined by prorating the difference in
35 the fee for the remaining months. Under the bill, proration

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1 of the fee applies at any time in the registration year
2 that the owner applies for an increased weight registration.
3 However, if the owner has a conviction or action pending for
4 a weight registration violation, the fee for increased weight
5 registration is the difference between the annual fee for the
6 higher gross weight and the fee for the gross weight at which
7 the vehicle is registered.
8 Under current law, a person whose driver's license is
9 revoked upon conviction of a second offense of operating while
10 intoxicated may apply for a temporary restricted license 45
11 days after the effective date of revocation if the person
12 submitted to chemical testing, and 90 days after revocation
13 if the person refused testing. The issuance of a temporary
14 restricted license is conditioned upon the installation of
15 an ignition interlock device on all motor vehicles owned
16 or operated by the person. At the end of the period of
17 revocation, an ignition interlock device is required for a
18 period of one year, unless a different period is required
19 by statute; however, an ignition interlock device is not
20 required for reinstatement if the person had a temporary
21 restricted license during the revocation period. The bill
22 amends Code sections 321J.17 and 321J.20 to provide that a
23 person is required to maintain an ignition interlock device
24 for one year or longer following reinstatement. The one-year
25 period is reduced by any period of time the person held a
26 valid temporary restricted license during the revocation
27 for the occurrence from which the arrest arose. A person
28 is prohibited from operating any motor vehicle not equipped
29 with an ignition interlock device during the period in which
30 a device is required to be maintained, and a person must
31 certify installation of an ignition interlock device before
32 the department can grant reinstatement. The bill also strikes
33 a provision in current law that ties the permissible use of
34 certain temporary restricted licenses to uses permitted under
35 federal law. Finally, the bill strikes the current requirement

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that a person who was issued a temporary restricted license must submit proof of deinstallation of an ignition interlock device as a condition for reinstatement of a full driver's license.

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

Code section 321.116, which establishes an annual registration fee of $25 for an electric motor vehicle up to five model years old and a fee of $15 thereafter, is repealed. As a result, electric motor vehicles will be subject to registration fees based on the weight and value of the vehicle. The change applies for registration years beginning on or after January 1, 2014. However, current fees will continue to apply to registration renewals for electric motor vehicles registered to the same owner for a registration year beginning prior to January 1, 2014.

The bill repeals a provision in 1984 Acts, chapter 1229, that linked the contingent repeal of Code section 314.14, as it existed at that time, to the repeal or expiration of a federal statute relating to set-aside contracts for disadvantaged business enterprises. Due to subsequent substantive amendments to the Code section, the contingent repeal provision is no longer relevant.

House File 583 - Introduced

HOUSE FILE 583
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 135)

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 1290HV (2) 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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~~permitting~~ permit-issuing authority prior to movement of the load that highway conditions have not changed so as to prohibit movement of the vehicle.

b. Any cost to repair damage to highways or highway structures shall be borne by the owner or operator of the vehicle causing the damage.

c. Permitted vehicles under this subsection shall not be allowed to travel on any portion of the interstate highway system.

d. Vehicles with indivisible loads operating under the permit provisions of this subsection may operate under the permit provisions of subsection 1 provided the vehicle and load comply with the limitations described in subsection 1.

3. 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~~ permit-issuing authority.

Sec. 6. Section 321E.9, Code 2013, is amended to read as follows:

321E.9 Single-trip permits.

Subject to the discretion and judgment provided for in section 321E.1, single-trip permits, which may include a round trip to and from a job or delivery site, shall be issued in accordance with the following provisions:

1. ~~Vehicles with indivisible loads having an overall width not to exceed forty feet, zero inches, an overall length not to exceed one hundred twenty feet, zero inches, or a total gross weight not to exceed one hundred thousand pounds may be moved, provided the gross weight on any one axle shall not exceed the maximum prescribed in section 321.463, pursuant to rules adopted pursuant to chapter 17A. The height of the vehicles and loads shall be limited only to height limitations of underpasses, bridges, power lines and other established height 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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permit-issuing authority.

Sec. 7. Section 321E.9A, subsections 1 and 2, Code 2013, are amended to read as follows:

1. Vehicles with indivisible loads having an overall length not to exceed one hundred twenty feet, an overall width not to exceed sixteen feet, and ~~of any~~ a height not to exceed fifteen feet five inches may be moved on highways specified by the permitting authority, provided the gross weight on any one axle shall not exceed the maximum prescribed in section 321.463 and the total gross weight is not greater than one hundred fifty-six thousand pounds.

2. Vehicles or combinations of vehicles consisting of ~~construction machinery~~ special mobile equipment not exceeding the height, length, and width limitations of this section being temporarily moved on highways with a maximum total gross weight limitation and a single axle weight limitation in accordance with section 321E.7 may be moved.

Sec. 8. Section 321E.9B, subsections 1 and 3, Code 2013, are amended to read as follows:

1. Vehicles with an indivisible load having an overall length not to exceed two hundred twenty-five feet, an overall width not to exceed sixteen feet, a height not to exceed sixteen feet, and a total gross weight not to exceed two hundred fifty-six thousand pounds may be moved on highways specified by the ~~permitting~~ permit-issuing authority to an alternative energy construction site or staging area for alternative energy transportation, provided the gross weight on any one axle shall not exceed twenty thousand pounds.

3. The ~~permitting~~ permit-issuing authority shall have discretion to include restrictions and require special considerations, such as responsibility for protection or repair of the roadway and bridges, prior to issuance of the permit.

Sec. 9. Section 321E.10, Code 2013, is amended to read as follows:

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~~.~~, provided the following limits are not exceeded:
32 *a.* Overall width not to exceed twelve feet five inches.
33 *b.* Overall length not to exceed seventy-five feet.
34 *c.* Overall height not to exceed fourteen feet six inches.
35 *d.* Total gross weight of the vehicle or combination of

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vehicles not to exceed eighty thousand pounds.

Sec. 22. Section 321E.29A, Code 2013, is amended to read as follows:

321E.29A Raw milk transporters.

~~The department or a local~~ A permit-issuing authority may issue annual permits authorizing a raw milk transporter to transport by motor truck raw milk to or from a milk plant, receiving station, or transfer station. The combined gross weight or gross weight on any axle or ~~groups~~ group of axles of the motor truck shall not exceed the limits established under section 321.463. The ~~issuing~~ permit-issuing authority may specify weight limits or routes for each raw milk transporter or establish weight limits or routes under section 321E.8.

Sec. 23. NEW SECTION. **321E.30 Compacted rubbish transporters.**

1. A permit-issuing authority may issue annual 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 twenty thousand pounds per axle, and for tandem axle vehicles or transferrable axle vehicles, not exceeding a gross weight on the rear axles of thirty-six thousand pounds.

2. Vehicles operated pursuant to an annual permit issued under this section shall be operated only over routes designated by the permit-issuing authority.

3. Annual permits approved by the permit-issuing authority shall be issued upon payment of an annual fee, in addition to other registration fees imposed, to be paid to the permit-issuing authority for all nongovernmental vehicles.

Sec. 24. Section 321E.32, Code 2013, is amended to read as follows:

321E.32 Movement of structures and other loads on dolly axles.

~~The weight limits on axles used for the movement of physical~~

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~~structures and buildings shall be subject to the same weight limits which are placed on all other axles. However, when physical structures or buildings are moved and the axles under the load are five feet or more apart, each axle shall be considered a separate axle in determining the axle weight 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~~

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1 ~~subsection 2~~. The rules shall include ~~escorting requirements~~
2 ~~for annual permits, single-trip permits, multi-trip permits,~~
3 ~~special or emergency situations, length, height, and weight~~
4 operator requirements; escort vehicle requirements; and length,
5 height, width, and weight requirements for the load or vehicle
6 being moved under an annual or single-trip permit or in a
7 special or emergency situation.
8 Sec. 26. Section 331.362, subsection 9, Code 2013, is
9 amended to read as follows:
10 9. A county may regulate traffic on and use of the secondary
11 roads, in accordance with sections 321.236 to 321.250, 321.254,
12 321.255, 321.285, subsection 4, sections 321.352, 321.471
13 to 321.473, and other applicable provisions of chapter 321,
14 chapter 321E, and sections 321G.9, 321I.10, and 327G.15.
15 Sec. 27. REPEAL. Sections 321E.21, 321E.22, 321E.23,
16 321E.28, 321E.31, and 321E.33, Code 2013, are repealed.
17 Sec. 28. TRANSFER OF SECTIONS. The Code editor is requested
18 to transfer section 321E.27 to section 321E.1; to transfer
19 section 321E.1, as amended in this Act, to section 321E.2; to
20 transfer section 321E.2, as amended in this Act, to section
21 321E.3; and to correct internal references as necessary.
22 EXPLANATION
23 This bill contains provisions concerning the movement of
24 vehicles of excessive size and weight on Iowa roads.
25 Code section 321.473 is amended by striking provisions
26 relating to annual permits for the operation of compact rubbish
27 vehicles, which are moved to new Code section 321E.30.
28 Code section 321E.1 is amended to provide that if a vehicle
29 permitted to transport indivisible loads has a retractable body
30 extension, the extension must be reduced to legal dimensions
31 unless the vehicle is loaded and the extension is in use. The
32 bill allows persons requesting permits to do so in person,
33 through the internet, by facsimile machine, or by telephone.
34 Currently, Code section 321E.2 allows the department of
35 transportation to issue all-systems permits for movements on

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all highways or streets under the jurisdiction of either the state or local authorities that have indicated in writing those streets or highways for which an all-systems permit is not valid. Under the bill, at the request of a local authority, the department shall also issue other types of permits for streets under local jurisdiction if the local authority has indicated to the department in writing those streets or highways where a permit is not valid. The bill stipulates that "in writing" includes electronic communication.

Code section 321E.7, which relates to load limits per axle, is amended by making technical revisions to existing language and by including the axle and gross weight limitations for raw milk transporters and compact rubbish vehicles by reference to those provisions, which are found elsewhere in the Code chapter.

Code section 321E.8, which provides for the issuance of annual permits, is amended to provide that certain commercial vehicles other than special trucks, which are currently allowed to operate at weight limits of up to 90,000 pounds with six axles, and up to 96,500 pounds with seven axles, are exempt from permitting requirements based on weight in excess of 80,000 pounds. Currently, cranes that are used in the construction of alternative energy facilities and which exceed the 20,000 weight limit established under Code chapter 321 on any one axle may be moved with approval of the permit-issuing authority, without the requirement of an annual permit. The bill allows such cranes to exceed the 24,000 pound weight limit established under Code section 321E.7 for any one axle. The exemption is also allowed for such cranes operating under a single-trip permit.

Currently, Code section 321E.9 provides that a vehicle with an indivisible load, having an overall width of 40 feet, overall length of 120 feet, or a total gross weight of 100,000 pounds may be moved under a single-trip permit provided the gross weight on any one axle does not exceed maximum weight

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

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

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1 321E.9.
2 $25 for an annual permit for special mobile equipment with a
3 combined gross weight of not more than 80,000 pounds.
4 $25 for a vehicle of excessive size with a divisible load.
5 $25 for a raw milk transporter permit.
6 $100 for a compact rubbish transporter permit.
7 $120 for an annual all-systems permit. Pursuant to current
8 law, all-systems permit fees are to be deposited in the road
9 use tax fund.
10 An escort fee of up to $250 per day, or a fee prorated per
11 person and car, may be charged to provide escort for a movement
12 under permit. Proration of the fees between governmental
13 entities involved in the escort service is determined by
14 administrative rule.
15 Code section 321E.16, which contains penalties for
16 violations of permit provisions, is amended to include a
17 penalty for violations by escort vehicle operators. The bill
18 provides that operating a civilian escort vehicle in violation
19 of administrative rules is a simple misdemeanor punishable
20 by a scheduled fine of $200. This is the same fine which is
21 currently applicable to violations of Code chapter 321E, other
22 than weight violations.
23 Code section 321E.17 currently provides that the imposition
24 of penalties on five or more occasions within a 12-month period
25 for violations of certain Code sections in Code chapters 321
26 and 321E with respect to the operation of one or more vehicles
27 by any one permit holder constitutes prima facie evidence
28 of a willful violation of Code chapter 321E. The bill adds
29 violations of Code sections 321.256 (obedience to official
30 traffic-control devices), 321.457 (maximum length of vehicles
31 and combinations of vehicles), and 321.474 (authority of the
32 department to restrict weight) to the list of violations to
33 which this provision applies.
34 Code section 321E.18 currently requires that in proceedings
35 involving violations under Code chapter 321E, permit-issuing

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1 authorities consider, among other things, evidence relating to
2 the character and gravity of the violations. The bill replaces
3 the terms "character and gravity" with the terms "nature and
4 severity".
5 Code section 321E.19 is amended to provide that a
6 permit-issuing authority may deny, change, suspend, or revoke
7 any permit issued by the authority for good cause. Decisions
8 of the department may be appealed according to administrative
9 procedures, and decisions of local authorities may be
10 appealed in accordance with the appeal procedures of the local
11 authority. This replaces current requirements for hearings
12 before one or more members of the permit-issuing body for
13 permits issued by local authorities, and before the department
14 of inspections and appeals for permits issued by the department
15 of transportation.
16 Code section 321E.20 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.24 currently requires vehicles of a
20 certain size and weight to carry a warning device clearly
21 visible from a distance of 500 feet to the rear. The bill
22 replaces that requirement with a provision for the adoption
23 by the department of administrative rules regarding oversize
24 load signs, warning flags, warning lights, and projecting-load
25 lights.
26 Code section 321E.25 is amended to conform the citation of
27 federal law to the style of the Code.
28 Code section 321E.29 is amended to specify that permits
29 which currently may be issued for vehicles with divisible
30 loads of hay, straw, or stover without a finding of special or
31 emergency situations are annual permits which allow the vehicle
32 to be moved with a width not exceeding 12 feet 5 inches, a
33 length not exceeding 75 feet, a height not exceeding 14 feet
34 6 inches, and a total gross weight of not more than 80,000
35 pounds.

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1 Code section 321E.29A is amended by making technical
2 changes to the language in the Code section to conform to the
3 terminology used throughout the Code chapter.
4 New Code section 321E.30 contains current provisions for the
5 permitting of compacted rubbish vehicles, which are transferred
6 from Code chapter 321 into Code chapter 321E. The bill moves
7 the responsibility for issuance of the permits and designation
8 of routes over which compacted rubbish vehicles may be operated
9 from the department to local authorities. The $100 annual
10 permit fee, which is currently paid to the department, is to be
11 paid instead to the issuing authority under the bill.
12 Code section 321E.32 is amended to provide that current
13 requirements for the movement of structures and buildings on
14 dolly axles apply to the movement of structures and other
15 indivisible loads.
16 Code section 321E.34 is amended by deleting current specific
17 requirements for escort vehicles used in the movement of
18 vehicles of excessive size and weight. The bill requires
19 the department to adopt administrative rules for escort
20 requirements.
21 Code section 331.362, which provides for a county's
22 authority over specific issues relating to roads, is amended to
23 include the regulation of traffic on and the use of secondary
24 roads in accordance with Code chapter 321E, relating to
25 vehicles of excessive size and weight.
26 The bill repeals Code sections 321E.21, 321E.22, and
27 321E.23, designating the Iowa secretary of state as the agent
28 for service of process for a nonresident operating a vehicle
29 in this state under Code chapter 321E, providing a procedure
30 for service of process in a proceeding against a nonresident,
31 and establishing the rights of a person to receive notice of
32 the service, a copy of the process, and an opportunity for a
33 hearing; Code section 321E.28, containing specific provisions
34 for the issuance of single-trip, multi-trip, and annual
35 permits for the movement of manufactured or mobile homes or

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1 factory-built structures; Code section 321E.31, relating to the
2 movement of manufactured and mobile homes which are registered
3 in another state; and Code section 321E.33, concerning
4 reciprocal agreements with other states for the movement of
5 vehicles under permit.
6 The bill requests that the Code editor transfer Code
7 sections 321E.1, 321E.2, and 321E.27 to new positions within
8 the Code chapter to improve readability.

House File 584 - Introduced

HOUSE FILE 584
BY COMMITTEE ON ECONOMIC GROWTH

(SUCCESSOR TO HSB 132)

A BILL FOR

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

TLSB 1207HV (3) 85
mm/rj

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DIVISION I
COLLECTION OF FEES

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

12.10 Deposits by state officers.

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

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

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

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

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

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

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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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(2) Any amount of tax credits authorized and awarded during a fiscal year for a program specified in subsection 2 which are irrevocably declined by the awarded business on or before June 30 of the next fiscal year may be reallocated, authorized, and awarded during the fiscal year in which the declination occurs. Tax credits authorized pursuant to this subparagraph shall not be considered for purposes of subparagraph (1).

Sec. 8. Section 15.119, subsection 2, paragraphs d and e, Code 2013, are amended to read as follows:

d. The tax credits for investments in qualifying businesses and community-based seed capital funds issued pursuant to section 15E.43. In allocating tax credits pursuant to this subsection, the authority shall allocate two million dollars for purposes of this paragraph, unless the authority determines that the tax credits awarded will be less than that amount.

e. The tax credits for investments in an innovation fund pursuant to section 15E.52. In allocating tax credits pursuant to this subsection, the authority shall allocate eight million dollars for purposes of this paragraph, unless the authority determines that the tax credits awarded will be less than that amount.

Sec. 9. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 10. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to July 1, 2012.

DIVISION III

ENDOW IOWA TAX CREDIT LIMIT

Sec. 11. Section 15E.305, subsection 2, Code 2013, is amended to read as follows:

2. The aggregate amount of tax credits authorized pursuant to this section shall not exceed a total of ~~three~~ six million five hundred thousand dollars ~~plus such additional credit amount as provided by this section~~ annually.

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, 2012, for endow Iowa
22 tax credits authorized on or after that date and for endow Iowa
23 tax credit applications received on or after that date.
24 DIVISION IV
25 WITHHOLDING TAX DIVERSION
26 Sec. 15. NEW SECTION. **15.331 Withholding tax payment**
27 **diversion.**
28 1. If the authority enters into an agreement pursuant to
29 this part, or pursuant to chapter 15E, division XVIII, for
30 any of the incentives or assistance provided under this part,
31 the authority and the eligible business may agree to credit
32 a portion of the withholding payments required under section
33 422.16 to the authority as provided in this section.
34 2. *a.* An eligible business entering into a withholding
35 agreement with the authority pursuant to this section shall

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

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7. The authority, in conjunction with the department of revenue, shall adopt rules for the administration of this section.

Sec. 16. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 17. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to July 1, 2012, for high quality jobs program agreements and enterprise zone program agreements entered into on or after that date, and for awards of incentives or assistance made under those programs on or after that date.

DIVISION V

CITY DEVELOPMENT BOARD FEES

Sec. 18. Section 368.10, Code 2013, is amended to read as follows:

368.10 Rules — establishment of filing fees.

The board may establish rules for the performance of its duties and the conduct of proceedings before it. The rules may include establishing filing fees for applications and petitions submitted to the board. The amounts collected from the establishment of such fees are appropriated to the board for the purpose of reimbursing the economic development authority for the budgeted costs of covering the board's expenses as described in section 368.9, subsection 1. Any amounts collected in a fiscal year by the board in excess of such budgeted costs shall be deposited in the general fund of the state. The board's rules are subject to chapter 17A, as applicable.

EXPLANATION

This bill relates to the financial management of the economic development authority (EDA) by authorizing and creating fees, affecting the aggregate tax credit limit for certain economic development programs and the tax credit for the endow Iowa tax credit, authorizing the diversion of

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1 withholding tax payments for certain programs, and by making
2 an appropriation.
3 COLLECTION OF FEES. Division I amends Code section
4 15.106B, relating to the program powers of the EDA, to allow
5 for the imposition and collection of fees from businesses or
6 individuals who receive financial assistance from the EDA under
7 Code chapter 15 or 15E. The fee amounts are to be determined
8 based on the EDA's costs of administering contracts under its
9 various economic development programs. The division also
10 allows the EDA to charge a fee for the use of its federal EB-5
11 immigrant investor regional center. Code section 12.10 is
12 amended to allow the EDA to retain the fees it collects by
13 adding the EDA to the list of departments exempted from the
14 requirement to deposit all collected fees with the treasurer of
15 state.
16 The division creates two compliance cost fees to be imposed
17 on all persons or entities that enter into an agreement with
18 the EDA under its high quality jobs program or enterprise zone
19 program. First, a one-time compliance cost fee of $500 due
20 prior to the issuance of a tax incentive certificate or the
21 disbursement of financial assistance. Second, a compliance
22 cost fee equal to 0.5 percent of the value of tax incentives
23 claimed under any agreement that has an aggregate tax incentive
24 value of $100,000 or greater, which fee is due after a tax
25 incentive is claimed from the department of revenue.
26 The division takes effect upon enactment and applies to
27 agreements entered into on or after the effective date of the
28 division.
29 AGGREGATE TAX CREDIT LIMITATION. Division II increases
30 the aggregate tax credit limit on EDA programs listed in
31 Code section 15.119 from $120 million per fiscal year to
32 $185 million per fiscal year. The division allows the EDA
33 to reallocate, authorize, and award for a fiscal year any
34 amount of tax credits that were previously awarded by the EDA,
35 provided the tax credit is irrevocably declined by the awarded

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1 business before the close of the fiscal year which follows the
2 fiscal year in which it was awarded. Any amount of tax credits
3 reallocated, authorized, and awarded under this provision shall
4 not be included in the calculation of the aggregate tax credit
5 limit for the fiscal year.
6 The division amends the requirements that $2 million and $8
7 million in tax credits be allocated to the qualifying business
8 and community-based seed capital funds investment tax credits
9 and the innovation fund tax credit, respectively, to allow
10 the EDA to allocate a lesser amount if it determines the tax
11 credits awarded for that fiscal year will be lower.
12 The division takes effect upon enactment and applies
13 retroactively to July 1, 2012.
14 ENDOW IOWA TAX CREDIT LIMIT. Under current law, the amount
15 of endow Iowa tax credits that may be authorized in a calendar
16 year cannot exceed a total of $3.5 million plus a certain
17 percentage of the wagering tax receipts as provided in Code
18 section 99F.11. Division III amends this annual limit to
19 provide that a maximum of $6.5 million per calendar year may
20 be authorized and to provide that amounts collected from the
21 wagering tax pursuant to Code section 99F.11 will no longer be
22 used to fund the endow Iowa tax credit.
23 The division takes effect upon enactment and applies
24 retroactively to January 1, 2012, for endow Iowa tax credits
25 authorized on or after that date and for endow Iowa tax credit
26 applications received on or after that date.
27 WITHHOLDING TAX DIVERSION. Division IV provides for
28 a diversion of withholding tax to the EDA. The division
29 provides that the authority may enter into agreements with
30 recipients of financial assistance under the high quality jobs
31 program and the enterprise zones program that allow for the
32 diversion of withholding tax payments pursuant to Code section
33 422.16 from the department of revenue to the authority. The
34 diversion amount will be 2.5 percent of gross wages paid by
35 eligible businesses to each employee considered to be holding a

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1 created or retained job. The division establishes a priority
2 withholding order if the employee's wages are subject to
3 another withholding diversion. The division provides that the
4 withholding diversion takes effect upon enactment and applies
5 retroactively to high quality jobs program agreements and
6 enterprise zone program agreements entered into on or after
7 July 1, 2012, and awards of incentives and assistance made
8 under those programs on or after July 1, 2012.
9 CITY DEVELOPMENT BOARD FEES. Under current law, the EDA
10 is required to provide office space and staff assistance to
11 the city development board created in Code section 368.9,
12 and to budget funds to cover expenses of the board. Also
13 under current law, the city development board is allowed to
14 impose fees upon applications and petitions submitted to the
15 board. Division V appropriates the amounts collected from
16 those fees to the city development board for the purpose of
17 reimbursing the EDA for the budgeted costs of covering the
18 board's expenses. Any fees collected in a fiscal year by the
19 city development board in excess of such budgeted costs shall
20 be deposited in the general fund of the state.

House File 585 - Introduced

HOUSE FILE 585
BY COMMITTEE ON ECONOMIC GROWTH

(SUCCESSOR TO HSB 198)

A BILL FOR

1 An Act relating to the innovation fund investment tax credit
2 by modifying the tax credit and the authority and duties of
3 the Iowa innovation corporation relating to the tax credit,
4 and including effective date and retroactive applicability
5 provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2327HV (2) 85
mm/sc

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1 Section 1. Section 15.107A, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 3. The corporation may establish an
4 innovation fund for purposes of stimulating early-stage
5 and seed capital investment in the state. If the fund is
6 established to qualify for innovation fund investment tax
7 credits pursuant to section 15E.52, the corporation shall
8 ensure that the following requirements are met:
9 *a.* If the corporation seeks to enter into a contract with
10 an entity to provide investment management services to the
11 innovation fund, such an entity shall be chosen according to an
12 open and competitive proposal process.
13 *b.* The compensation package provided to an entity under
14 paragraph *"a"* shall be at or below the market rate for such
15 services as determined by at least one independent investment
16 management evaluation group.
17 *c.* Any contract entered into for services pursuant to
18 this subsection shall be made available, upon request, to the
19 authority, the general assembly, the auditor of state, and the
20 governor's office.
21 Sec. 2. Section 15E.52, Code 2013, is amended to read as
22 follows:
23 **15E.52 Innovation fund investment tax credits.**
24 1. For purposes of this section, unless the context
25 otherwise requires:
26 *a.* *"Board"* means the same as defined in section 15.102.
27 *b.* *"Innovation fund"* means one or more early-stage capital
28 funds certified by the board.
29 *c.* *"Innovative business"* means a business applying novel
30 or original methods to the manufacture of a product or the
31 delivery of a service. *"Innovative business"* includes but is
32 not limited to a business engaged in the industries of advanced
33 manufacturing, biosciences, and information technology.
34 2. *a.* A tax credit shall be allowed against the taxes
35 imposed in chapter 422, divisions II, III, and V, and in

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chapter 432, and against the moneys and credits tax imposed in section 533.329, for ~~a portion of~~ a taxpayer's equity investment in the form of cash in an innovation fund.

b. An individual may claim a tax credit under this section of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

3. *a.* The amount of ~~a tax credit allowed under this section shall equal twenty percent of the taxpayer's equity investment in an innovation fund~~ tax credits issued under this section for a fiscal year shall equal the amount allocated in section 15.119, subsection 2, paragraph *"e"*.

b. The authority shall issue one or more certificates totaling the amount allowed per fiscal year under paragraph *"a"* to one or more nonprofit corporations operating an innovation fund.

c. Notwithstanding subsection 9, a nonprofit corporation to which a certificate has been issued pursuant to paragraph *"b"* shall only transfer the amount of tax credits represented on the certificate to taxpayers who make an equity investment in the form of cash in an innovation fund operated by the nonprofit corporation. In transferring such tax credits, the nonprofit corporation shall ensure that the total amount of tax credits transferred by the nonprofit corporation to a taxpayer equals fifty percent of the taxpayer's investment in the innovation fund.

d. A nonprofit corporation to which a certificate has been issued pursuant to paragraph *"b"* shall ensure that an investor in an innovation fund operated by the nonprofit corporation shall not be permitted to vote for or participate in a decision to invest moneys from the innovation fund in a business in which the investor has an equity interest of greater than fifty

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1 percent if that investor has received or will receive a tax
2 credit pursuant to this section.
3 *e.* A certificate and related tax credit issued pursuant to
4 this section shall be deemed a vested right of the original
5 holder or any transferee thereof, and the state shall not cause
6 either to be redeemed in such a way that amends or rescinds the
7 certificate or that curtails, limits, or withdraws the related
8 tax credit, except as otherwise provided in this section or
9 upon consent of the proper holder. A certificate issued
10 pursuant to this section cannot pledge the credit of the state
11 and any such certificate so pledged to secure the debt of the
12 original holder or a transferee shall not constitute a contract
13 binding the state.
14 4. A taxpayer shall not claim a tax credit under this
15 section if the taxpayer is a venture capital investment fund
16 allocation manager for the Iowa fund of funds created in
17 section 15E.65 or an investor that receives a tax credit for
18 the same investment in a qualifying business as described in
19 section 15E.44 or in a community-based seed capital fund as
20 described in section 15E.45.
21 5. ~~*a.* The board shall issue certificates under this section~~
22 ~~which may be redeemed for tax credits. The board shall issue~~
23 ~~such certificates so that not more than the amount allocated~~
24 ~~for such tax credits under section 15.119, subsection 2, may be~~
25 ~~claimed. The certificates shall not be transferable.~~
26 ~~*b.*~~ The board shall, in cooperation with the department of
27 revenue, establish criteria and procedures for the allocation
28 and issuance of tax credits by means of certificates issued
29 by the board. The criteria shall include the contingencies
30 that must be met for a certificate to be redeemable in order
31 to receive a tax credit. The procedures established by the
32 board, in cooperation with the department of revenue, shall
33 relate to the procedures for the issuance and transfer of
34 the certificates and for the redemption of a certificate and
35 related tax credit.

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6. The department of revenue in conjunction with the authority shall by February 15 of each year issue an annual report to the general assembly containing the name of each person to whom a tax credit certificate was issued or transferred pursuant to this section during the previous calendar year.

~~6.~~ 7. ~~A taxpayer shall not redeem a certificate and related tax credit prior to the third tax year following the tax year in which the investment is made.~~ Any tax credit in excess of the taxpayer's liability for the tax year in which the taxpayer claims the credit may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

~~7.~~ 8. An innovation fund shall submit an application for certification to the board. The board shall approve the application and certify the innovation fund if all of the following criteria are met:

a. The fund is organized for the purposes of making investments in promising early-stage companies which have a principal place of business in the state.

b. The fund proposes to make investments in innovative businesses.

c. The fund seeks to secure private funding sources for investment in such businesses.

d. The fund meets any other criteria adopted by the authority by rule.

9. Tax credit certificates issued pursuant to this section may be transferred, in whole or in part, to any person. A tax credit certificate shall only be transferred twice. For purposes of this subsection, the two transfers shall include the first transfer from the corporation to an investor and one subsequent transfer from the investor to another transferee. Within ninety days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue

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1 along with a statement containing the transferee's name, tax
2 identification number, and address, the denomination that each
3 replacement tax credit certificate is to carry, and any other
4 information required by the department of revenue.
5 10. Within thirty days of receiving the transferred
6 tax credit certificate and the transferee's statement, the
7 department of revenue shall issue one or more replacement
8 tax credit certificates to the transferee. Each replacement
9 tax credit certificate must contain the information required
10 for the original tax credit certificate. A replacement tax
11 credit certificate may designate a different tax than the
12 tax designated on the original tax credit certificate. A
13 tax credit shall not be claimed by a transferee under this
14 section until a replacement tax credit certificate identifying
15 the transferee as the proper holder has been issued. The
16 department of revenue shall conspicuously label on the face of
17 the certificate any tax credit certificate that is ineligible
18 for transfer.
19 11. The transferee may use the amount of the tax credit
20 transferred against the taxes imposed in chapter 422, divisions
21 II, III, and V, and in chapter 432, and against the moneys and
22 credits tax imposed in section 533.329, for any tax year the
23 original transferor could have claimed the tax credit. Any
24 consideration received for the transfer of the tax credit shall
25 not be included as income under chapter 422, divisions II, III,
26 and V. Any consideration paid for the transfer of the tax
27 credit shall not be deducted from income under chapter 422,
28 divisions II, III, and V.
29 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
30 immediate importance, takes effect upon enactment.
31 Sec. 4. RETROACTIVE APPLICABILITY. This Act applies
32 retroactively to January 1, 2013, for tax years beginning on
33 or after that date and for equity investments in an innovation
34 fund made on or after that date.
35 EXPLANATION

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1 This bill modifies the innovation fund investment tax credit
2 and allows the Iowa innovation corporation to establish an
3 innovation fund.
4 Under current law, the economic development authority is
5 required to issue nontransferable tax credit certificates
6 equal to 20 percent of a taxpayer's equity investment in an
7 innovation fund. The tax credits available for issuance are
8 under the aggregate tax credit limit for certain economic
9 development programs in Code section 15.119, and are limited to
10 a total of $8 million per fiscal year.
11 The bill modifies the credit by removing the 20 percent
12 limitation and specifying that for each fiscal year a total
13 of $8 million in innovation fund investment tax credit
14 certificates shall be issued by the authority to one or more
15 nonprofit corporations operating an innovation fund.
16 The bill provides that tax credit certificates may be
17 transferred no more than two times and establishes procedures
18 for transferring the credit to another person. A nonprofit
19 corporation which receives a tax credit certificate from the
20 authority shall only transfer the certificate to taxpayers who
21 make an equity investment in the form of cash in an innovation
22 fund operated by the nonprofit corporation, which taxpayer
23 shall receive a total amount of tax credits equal to 50 percent
24 of the taxpayer's investment in the innovation fund. The
25 department of revenue and the economic development authority
26 are required to publish an annual report listing the name of
27 each person who has been issued or transferred a tax credit
28 certificate.
29 The bill provides that any innovation tax credit
30 certificates issued by the authority are deemed to be a vested
31 right of the original holder or transferee and the state shall
32 not cause them to be redeemed in such a way that amends,
33 rescinds, curtails, limits, or withdraws the tax credits,
34 except as provided in Code section 15E.52 as amended in the
35 bill. The certificates cannot pledge the credit of the state

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1 and shall not constitute a contract binding the state if a
2 certificate is pledged to secure the debt of the original
3 holder or a transferee.
4 The bill adds an additional requirement for certification of
5 an innovation fund by requiring an applicant fund to meet any
6 other criteria adopted by the economic development authority
7 by rule.
8 The bill allows the Iowa innovation corporation to establish
9 an innovation fund for purposes of stimulating early-stage
10 and seed capital investment in the state. If the fund is
11 established to qualify for innovation fund tax credits,
12 it must meet certain requirements as described in the bill
13 relating to contracts for investment management services. In
14 addition, any investor in an innovation fund operated by the
15 Iowa innovation corporation is not permitted to vote on or
16 participate in investment decisions of the innovation fund
17 related to businesses in which the investor has a greater than
18 50 percent equity interest if that investor has or will receive
19 an innovation fund tax credit.
20 The bill is effective upon enactment and applies
21 retroactively to January 1, 2013, for tax years beginning on
22 or after that date and for equity investments in an innovation
23 fund made on or after that date.

House File 586 - Introduced

HOUSE FILE 586
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 192)

A BILL FOR

1 An Act relating to the rulemaking process and state agency
2 decision making.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2491HV (1) 85
jr/rj

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Section 1. Section 17A.4, subsection 3, Code 2013, is amended to read as follows:

3. *a.* ~~When an agency for good cause finds that notice and public participation would be unnecessary, impracticable, or contrary to the public interest~~ When the statute so provides, or with the approval of the administrative rules review committee, if the committee finds good cause that notice and public participation would be unnecessary, impracticable, or contrary to the public interest, the provisions of subsection 1 shall be inapplicable. ~~The agency shall incorporate in each rule issued in reliance upon this provision either the finding and a brief statement of the reasons for the finding, or a statement that the rule is within a very narrowly tailored category of rules whose issuance has previously been exempted from subsection 1 by a special rule relying on this provision and including such a finding and statement of reasons for the entire category.~~

b. (1) If the administrative rules review committee by a two-thirds vote, the governor, or the attorney general files with the administrative code editor an objection to the adoption of ~~any~~ a rule or portion of a rule pursuant to this subsection, ~~that~~ the rule or portion of the rule shall cease to be effective one hundred eighty days after the date the objection was filed. ~~A~~

(2) If the administrative rules review committee files with the administrative code editor an objection to the adoption of a rule or portion of a rule pursuant to this subsection, the administrative rules review committee, by a separate two-thirds vote, may suspend the applicability of the rule or portion of the rule until the rule ceases to be effective under this paragraph "*b*". The determination to suspend the applicability of the rule or portion of the rule shall be included in the copy of the objection to be forwarded to the agency.

c. If an objection to a rule is filed under this subsection, a copy of the objection, properly dated, shall be forwarded to

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1 the agency at the time of filing the objection. In any action
2 contesting a rule or portion of a rule adopted pursuant to
3 this subsection, the burden of proof shall be on the agency to
4 show that the procedures of subsection 1 were impracticable,
5 unnecessary, or contrary to the public interest and that, if a
6 category of rules was involved, the category was very narrowly
7 tailored.
8 Sec. 2. Section 17A.4, subsection 7, Code 2013, is amended
9 to read as follows:
10 7. *a.* Upon the vote of two-thirds of its members the
11 administrative rules review committee may delay the effective
12 date of a rule or portion of a rule seventy days beyond that
13 permitted in section 17A.5, unless the rule was promulgated
14 under section 17A.5, subsection 2, paragraph *"b"*. ~~This~~
15 ~~provision shall be utilized by the committee only if further~~
16 ~~time is necessary to study and examine the rule.~~ If the
17 rule was promulgated under section 17A.5, subsection 2,
18 paragraph *"b"*, the administrative rules review committee,
19 within thirty-five days of the effective date of the rule and
20 upon the vote of two-thirds of its members, may suspend the
21 applicability of the rule or portion of the rule for seventy
22 days.
23 *b.* Notice of an effective date that was delayed under this
24 provision shall be published in the Iowa administrative code
25 and bulletin.
26 Sec. 3. Section 17A.4, Code 2013, is amended by adding the
27 following new subsection:
28 NEW SUBSECTION. 9. Upon the vote of two-thirds of its
29 members, the administrative rules review committee, following
30 notice of intended action as provided in subsection 1 and prior
31 to adoption of a rule pursuant to that notice, may suspend
32 further action relating to that notice for seventy days.
33 Notice of a notice of intended action that was suspended under
34 this provision shall be published in the Iowa administrative
35 code and bulletin.

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1 Sec. 4. Section 17A.8, subsection 9, Code 2013, is amended
2 to read as follows:
3 9. *a.* Upon a vote of two-thirds of its members, the
4 administrative rules review committee may delay the effective
5 date of a rule or portion of a rule until the adjournment
6 of the next regular session of the general assembly, unless
7 the rule was promulgated under section 17A.5, subsection 2,
8 paragraph *"b"*. If the rule was promulgated under section
9 17A.5, subsection 2, paragraph *"b"*, the administrative rules
10 review committee, within thirty-five days of the effective date
11 of the rule and upon the vote of two-thirds of its members,
12 may suspend the applicability of the rule or portion of the
13 rule until the adjournment of the next regular session of the
14 general assembly.
15 *b.* The committee shall refer a rule or portion of a rule
16 whose effective date has been delayed or applicability has
17 been suspended to the speaker of the house of representatives
18 and the president of the senate who shall refer the delayed
19 or suspended rule or portion of the rule to the appropriate
20 standing committees of the general assembly. A standing
21 committee shall review ~~a~~ the rule within twenty-one days
22 after the rule is referred to the committee by the speaker
23 of the house of representatives or the president of the
24 senate and shall take formal committee action by sponsoring
25 a joint resolution to disapprove the rule, by proposing
26 legislation relating to the rule, or by refusing to propose
27 a joint resolution or legislation concerning the rule. The
28 standing committee shall inform the administrative rules review
29 committee of the committee action taken concerning the rule.
30 If the general assembly has not disapproved of the rule by a
31 joint resolution, the rule shall become effective. The speaker
32 of the house of representatives and the president of the senate
33 shall notify the administrative code editor of the final
34 disposition of each rule or portion of a rule whose effective
35 date has been delayed or whose applicability has been suspended

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pursuant to this subsection. If ~~a~~ the rule is disapproved, ~~it~~ the rule shall not ~~become~~ be effective and the agency shall rescind the rule. ~~This section shall not apply to rules made effective under section 17A.5, subsection 2, paragraph "b".~~

Sec. 5. Section 17A.23, Code 2013, is amended to read as follows:

17A.23 Construction — delegation of authority.

1. Except as expressly provided otherwise by this chapter or by another statute referring to this chapter by name, the rights created and the requirements imposed by this chapter shall be in addition to those created or imposed by every other statute in existence on July 1, 1975, or enacted after that date. If any other statute in existence on July 1, 1975, or enacted after that date diminishes a right conferred upon a person by this chapter or diminishes a requirement imposed upon an agency by this chapter, this chapter shall take precedence unless the other statute expressly provides that it shall take precedence over all or some specified portion of this ~~named~~ cited chapter.

2. This chapter shall be construed broadly to effectuate its purposes. This chapter shall also be construed to apply to all agencies not expressly exempted by this chapter or by another statute specifically referring to this chapter by ~~name~~ citation; and except as to proceedings in process on July 1, 1975, this chapter shall be construed to apply to all covered agency proceedings and all agency action not expressly exempted by this chapter or by another statute specifically referring to this chapter by ~~name~~ citation.

3. An agency shall have only that authority or discretion delegated to or conferred upon the agency by law and shall not expand or enlarge its authority or discretion beyond the powers delegated to or conferred upon the agency. Unless otherwise specifically provided in statute, a grant of rulemaking authority shall be construed narrowly.

EXPLANATION

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1 This bill relates to the rulemaking process and agency
2 decision making. The bill concerns the administrative rules
3 review committee (ARRC) relative to its powers concerning the
4 rulemaking process.
5 As it relates to the rulemaking process, the bill provides
6 that a rule can be adopted without notice only if the statute
7 so provides or with the approval of the ARRC. Code section
8 17A.4(3) relates to so-called "emergency" rulemaking. This
9 section is amended to empower the ARRC to object to an
10 emergency adopted rule and suspend its effect by a two-thirds
11 vote. Code section 17A.4(7), concerning the 70-day delay
12 authority of the ARRC, is amended to provide that the ARRC
13 may, upon a two-thirds vote, suspend the applicability of a
14 rule promulgated under Code section 17A.5(2)(b) (so-called
15 emergency rulemaking) for 70 days. The bill provides that
16 action to suspend the applicability of a rule under this new
17 provision must be taken within 35 days of the effective date
18 of the rule. In addition, the bill provides that the ARRC may
19 utilize the 70-day delay authority regardless of the reason
20 for the delay and for a portion of a rule. Under current law,
21 rules promulgated under Code section 17A.5(2)(b) take effect
22 upon filing and are not subject to the 70-day delay authority
23 of the ARRC.
24 Code section 17A.4, new subsection 9, provides that the
25 ARRC, upon a two-thirds vote, may suspend for 70 days further
26 action relating to a notice of intended action filed by an
27 agency. Under current law, the ARRC has no authority relating
28 to a notice of intended action until the adopted rule is filed
29 in final form following this notice.
30 Code section 17A.8(9), concerning the session delay
31 authority of the ARRC, is amended to provide that the ARRC,
32 upon a two-thirds vote, may suspend the applicability of an
33 emergency rule until the adjournment of the next regular
34 session of the general assembly. The bill also provides that
35 action to suspend the applicability of a rule under this new

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1 provision must be taken within 35 days of the effective date
2 of the rule. In addition, the bill provides that the ARRC
3 may utilize the session delay authority for a portion of a
4 rule. Under current law, rules promulgated under Code section
5 17A.5(2)(b) take effect upon filing and are not subject to the
6 session delay authority of the ARRC.
7 The bill creates a rule of statutory construction relating
8 to the delegation of rulemaking authority. The bill provides
9 that unless otherwise specifically provided in statute, a grant
10 of rulemaking authority shall be construed narrowly.

House File 587 - Introduced

HOUSE FILE 587
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 189)

(COMPANION TO 1690SV BY
COMMITTEE ON STATE GOVERNMENT)

A BILL FOR

1 An Act relating to the licensing of plumbing, mechanical,
2 HVAC-refrigeration, sheet metal, or hydronic professionals,
3 including transition provisions, including effective date
4 provisions, and making penalties applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1690HV (7) 85
jr/sc

H.F. 587

1 Section 1. Section 91C.1, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 3. The labor services division of the Iowa
4 department of workforce development and the Iowa department of
5 public health will work with stakeholders to develop a plan to
6 combine the contractor registration and contractor licensing
7 application process for contractors licensed under chapter 105,
8 to be implemented in time for licensing renewals due July 1,
9 2017. The department of public health shall transfer to the
10 labor services division a portion of each contractor license
11 fee equal to three times the current contractor registration
12 fee. Effective July 1, 2017, a contractor licensed under
13 chapter 105 shall register as a contractor under this chapter
14 in conjunction with the contractor licensing process. At no
15 cost to the labor services division, the department of public
16 health shall collect both the registration and licensing
17 applications as part of one combined application. The
18 labor commissioner shall design the contractor registration
19 application form to exclude from the division of labor's
20 contractor registration application process those contractors
21 who are also covered by chapter 105. The labor commissioner
22 is authorized to adopt rules as needed to accomplish a merger
23 of the application systems including transitional registration
24 periods and fees.
25 Sec. 2. Section 105.2, subsections 1, 3, 6, 9, 10, 11, 12,
26 and 17, Code 2013, are amended to read as follows:
27 1. *"Apprentice"* means any person, other than a helper,
28 journeyperson, or master, who, as a principal occupation,
29 is engaged in working as an employee of a plumbing, ~~HVAC,~~
30 ~~refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or
31 hydronic systems contractor under the direct supervision of
32 either a master or a journeyperson and is progressing toward
33 completion of an apprenticeship training program registered by
34 the office of apprenticeship of the United States department of
35 labor while learning and assisting in the design, installation,

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and repair of plumbing, HVAC, refrigeration, sheet metal, or hydronic systems, as applicable.

3. *"Contractor"* means a person or entity that provides plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems services on a contractual basis and who is paid a predetermined amount under that contract for rendering those services.

6. *"Helper"* means a person engaged in general manual labor activities who provides assistance to an apprentice, journeyperson, or master while under the direct supervision of a journeyperson or master.

9. *"Journeyperson"* means any person, other than a master, who, as a principal occupation, is engaged as an employee of, or otherwise working under the direction of, a master in the design, installation, and repair of plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems, as applicable.

10. *"Master"* means any person who works in the planning or superintending of the design, installation, or repair of plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems and is otherwise lawfully qualified to conduct the business of plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems, and who is familiar with the laws and rules governing the same.

11. *"Mechanical professional"* means a person engaged in the HVAC, refrigeration, sheet metal, or hydronic industry.

12. *"Mechanical systems"* means HVAC, refrigeration, sheet metal, and hydronic systems.

17. *"Routine maintenance"* means the maintenance, repair, or replacement of existing fixtures or parts of plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems in which no changes in original design are made. Fixtures or parts do not include smoke and fire dampers, or water, gas, or steam piping permanent repairs except for traps or strainers. *"Routine maintenance"* shall include emergency repairs, and the board shall define the term *"emergency repairs"*

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to include the repair of water pipes to prevent imminent damage to property. *"Routine maintenance"* does not include the replacement of furnaces, boilers, cooling appliances, or water heaters more than one hundred gallons in size.

Sec. 3. Section 105.2, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 18. *"Sheet metal"* means heating, ventilation, air conditioning, pollution control, fume hood systems and related ducted systems or installation of equipment associated with any component of a sheet metal system. *"Sheet metal"* excludes refrigeration and electrical lines and all natural gas, propane, liquid propane, or other gas lines associated with any component of a sheet metal system.

Sec. 4. Section 105.3, subsection 7, Code 2013, is amended to read as follows:

7. The board may maintain a membership in any national organization of state boards for the professions of plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic professionals, with all membership fees to be paid from funds appropriated to the board.

Sec. 5. Section 105.4, subsection 1, Code 2013, is amended to read as follows:

1. The board shall establish by rule a plumbing installation code governing the installation of plumbing in this state. The board shall adopt the most current version of the uniform plumbing code and the international mechanical code, as the state plumbing code and the state mechanical code, to govern the installation of plumbing and mechanical systems in this state. The board shall adopt the current version of each code within six months of its being released. However, the board and local jurisdictions may adopt standards that are more restrictive. Local jurisdictions shall have until December 31, 2015, to comply with the state plumbing code and state mechanical code.

Sec. 6. Section 105.5, Code 2013, is amended by adding the

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following new subsection:

NEW SUBSECTION. 4. The board shall adopt an industry standardized examination for each license type. If a standardized examination is not available for a specified license type, the board shall work with the appropriate testing vendor to create an examination for the specified license type.

Sec. 7. Section 105.9, subsections 6, 7, 8, and 10, Code 2013, are amended by striking the subsections.

Sec. 8. Section 105.9, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 11. *a.* Licenses issued under this chapter on or after July 1, 2014, shall expire on the same renewal date every three years, beginning with June 30, 2017.

b. New licenses issued after the July 1 beginning of each three-year renewal cycle shall be prorated using a one-sixth deduction for each six-month period of the renewal cycle.

Sec. 9. Section 105.10, subsections 1 and 2, Code 2013, are amended to read as follows:

1. Except as provided in section 105.11, a person shall not operate as a contractor or install or repair plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems without obtaining a license issued by the board, or install or repair medical gas piping systems without obtaining a valid certification approved by the board.

2. Except as provided in section 105.11, a person shall not engage in the business of designing, installing, or repairing plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems unless at all times a licensed master, who shall be responsible for the proper designing, installing, and repairing of the HVAC, refrigeration, sheet metal, or hydronic system, is employed by the person and is actively in charge of the plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic work of the person. An individual who performs such work pursuant to a business operated as a sole proprietorship shall be a licensed master in the applicable discipline.

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1 Sec. 10. Section 105.10, subsection 3, Code 2013, is amended
2 by striking the subsection and inserting in lieu thereof the
3 following:
4 3. An individual holding a master mechanical license shall
5 not be required to get an HVAC-refrigeration, sheet metal, or
6 hydronic license in order to design, install, or repair the
7 work defined in this chapter as mechanical, HVAC-refrigeration,
8 sheet metal, or hydronic work. An individual holding a
9 journey mechanical license shall not be required to get an
10 HVAC-refrigeration, sheet metal, or hydronic license in order
11 to install and repair the work defined in this chapter as
12 mechanical, HVAC-refrigeration, sheet metal, or hydronic work.
13 An individual holding a master or journey mechanical license
14 shall also not be required to obtain a special, restricted
15 license that is designated as a sublicense of the mechanical,
16 HVAC-refrigeration, sheet metal, or hydronic licenses.
17 Sec. 11. Section 105.10, subsection 5, Code 2013, is amended
18 by striking the subsection.
19 Sec. 12. Section 105.11, subsections 1, 7, and 10, Code
20 2013, are amended to read as follows:
21 1. Apply to a person licensed as an engineer pursuant to
22 chapter 542B, licensed as a manufactured home retailer or
23 certified as a manufactured home installer pursuant to chapter
24 103A, registered as an architect pursuant to chapter 544A, or
25 licensed as a landscape architect pursuant to chapter 544B
26 who provides consultations or develops plans or other work
27 concerning plumbing, HVAC, refrigeration, sheet metal, or
28 hydronic work and who is exclusively engaged in the practice of
29 the person's profession.
30 7. Require a helper engaged in general manual labor
31 activities while providing assistance to an apprentice,
32 journeyperson, or master to obtain a plumbing, ~~HVAC,~~
33 ~~refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal,
34 or hydronic license. Experience as a helper shall not be
35 considered as practical experience for a journeyperson license.

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10. Apply to the employees of manufacturers, manufacturer representatives, or wholesale suppliers who provide consultation or develop plans concerning plumbing, HVAC, refrigeration, sheet metal, or hydronic work, or who assist a person licensed under this chapter in the installation of mechanical or plumbing systems.

Sec. 13. Section 105.12, subsection 1, Code 2013, is amended to read as follows:

1. A contracting, plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic license shall be in the form of a certificate under the seal of the department, signed by the director of public health, and shall be issued in the name of the board. The license number shall be noted on the face of the license.

Sec. 14. Section 105.15, Code 2013, is amended to read as follows:

105.15 Registry of licenses.

The name, location, license number, and date of issuance of the license of each person to whom a license has been issued shall be entered in a registry kept in the office of the department to be known as the plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic registry. The registry may be electronic and shall be open to public inspection~~; however~~. However, the licensee's home address, home telephone number, and other personal information as determined by rule shall be confidential.

Sec. 15. Section 105.16, Code 2013, is amended to read as follows:

105.16 Change of residence.

If a person licensed to practice as a contractor or a plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic professional under this chapter changes the person's residence or place of practice, the person shall so notify the board.

Sec. 16. Section 105.17, Code 2013, is amended to read as

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follows:

105.17 Preemption of local licensing requirements.

1. The provisions of this chapter regarding the licensing of plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, and hydronic professionals and contractors shall supersede and preempt all plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, hydronic, and contracting licensing provisions of all governmental subdivisions.

a. ~~A governmental subdivision that issues licenses on July 1, 2008, shall continue to issue licenses until June 30, 2009.~~ On July 1, 2009, all plumbing and mechanical licensing provisions promulgated by any governmental subdivision shall be null and void, except reciprocal licenses as provided in section 105.21, and of no further force and effect.

b. On and after July 1, 2008, a governmental subdivision shall not prohibit a contractor or a plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic professional licensed pursuant to this chapter from performing services for which that person is licensed pursuant to this chapter or enforce any plumbing and mechanical licensing provisions promulgated by the governmental subdivision against a person licensed pursuant to this chapter.

2. Nothing in this chapter shall prohibit a governmental subdivision from assessing and collecting permit fees or inspection fees related to work performed by ~~plumbers and mechanical~~ plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professionals.

Sec. 17. Section 105.18, subsection 2, unnumbered paragraph 1, Code 2013, is amended to read as follows:

The board shall issue ~~separate~~ master licenses for plumbing, ~~HVAC, refrigeration~~ mechanical, HVAC-refrigeration, sheet metal, and hydronic professionals ~~and for contractors~~. The board shall issue journeyperson licenses for plumbing, mechanical, HVAC-refrigeration, sheet metal, and hydronic

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1 professionals. A plumbing license shall allow an individual
2 to perform work defined as plumbing. A mechanical license
3 shall allow an individual to perform work defined as
4 HVAC, refrigeration, sheet metal, and hydronic. An
5 HVAC-refrigeration license shall allow an individual to perform
6 work defined as HVAC and refrigeration. A hydronic license
7 shall allow an individual to perform work defined as hydronic.
8 A sheet metal license shall allow an individual to perform work
9 defined as sheet metal. The board shall issue the separate
10 licenses as follows:
11 Sec. 18. Section 105.18, subsection 2, paragraph a,
12 subparagraph (2), Code 2013, is amended to read as follows:
13 (2) Certify that the person will work under the direct
14 supervision of a licensed journeyperson or master ~~in the~~
15 ~~applicable discipline~~ who is licensed to do the type of
16 work that the apprentice is performing. For the purposes of
17 this chapter, direct supervision means that the supervising
18 journeyperson or master is on the same job site as the
19 apprentice.
20 Sec. 19. Section 105.18, subsection 2, paragraph b, Code
21 2013, is amended by adding the following new subparagraph:
22 NEW SUBPARAGRAPH. (3) An individual who has passed
23 both the journeyperson HVAC-refrigeration examination and
24 the journeyperson hydronic examination separately shall
25 be qualified to be issued a journeyperson mechanical
26 license without having to pass the journeyperson mechanical
27 examination.
28 Sec. 20. Section 105.18, subsection 2, paragraph c, Code
29 2013, is amended to read as follows:
30 *c. Master license.* (1) In order to be licensed by the
31 board as a master, a person shall do all of the following:
32 ~~(1)~~ (a) File an application and pay application fees as
33 established by the board, which application shall establish
34 that the person meets the minimum educational and experience
35 requirements adopted by the board.

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1 ~~(2)~~ (b) Pass the state master licensing examination for the
2 applicable discipline.
3 ~~(3)~~ (c) Provide evidence to the board that the person
4 has previously been a licensed journeyperson or master in the
5 applicable discipline.
6 (2) An individual who has passed both the master
7 HVAC-refrigeration examination and the master hydronic
8 examination separately shall be qualified to be issued a master
9 mechanical license without having to pass the master mechanical
10 examination.
11 Sec. 21. Section 105.18, subsection 2, paragraph d,
12 subparagraph (1), Code 2013, is amended by striking the
13 subparagraph and inserting in lieu thereof the following:
14 (1) File an application and pay application fees as
15 established by the board and establish that the person meets
16 the minimum requirements adopted by the board. Through
17 June 30, 2016, the application shall include the person's
18 state contractor registration number. After July 1, 2017,
19 the application shall include proof of workers compensation
20 insurance coverage, proof of unemployment insurance compliance,
21 and, for out-of-state contractors, a bond as described in
22 chapter 91C.
23 Sec. 22. Section 105.18, subsection 3, paragraph b, Code
24 2013, is amended to read as follows:
25 *b. Special, restricted license.* The board may by rule
26 provide for the issuance of special plumbing and mechanical
27 professional licenses authorizing the licensee to engage in a
28 limited class or classes of plumbing or mechanical professional
29 work, which class or classes shall be specified on the license.
30 Each licensee shall have experience, acceptable to the board,
31 in each such limited class for which the person is licensed.
32 The board shall designate each special, restricted license to
33 be a sublicense of either a plumbing, ~~HVAC, refrigeration,~~
34 mechanical, HVAC-refrigeration, sheet metal, or hydronic
35 license. A special, restricted license may be a sublicense of

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1 multiple types of licenses. An individual holding a master
2 or journeyperson, plumbing, ~~HVAC, refrigeration,~~ mechanical,
3 HVAC-refrigeration, sheet metal, or hydronic license shall not
4 be required to obtain any special, restricted license which is
5 a sublicense of the license that the individual holds. Special
6 plumbing and mechanical professional licenses shall be issued
7 to employees of a rate-regulated gas or electric public utility
8 who conduct the repair of appliances. *"Repair of appliances"*
9 means the repair or replacement of mechanical connections
10 between the appliance shutoff valve and the appliance and
11 repair of or replacement of parts to the appliance. Such
12 special, restricted license shall require certification
13 pursuant to industry-accredited certification standards.
14 Sec. 23. Section 105.18, subsection 3, paragraph d, Code
15 2013, is amended to read as follows:
16 *d.* An individual that holds either a master or
17 journeyperson ~~HVAC license or a master or journeyperson~~
18 ~~refrigeration~~ mechanical license or a master or journeyperson
19 HVAC-refrigeration license shall be exempt from having to
20 obtain a special electrician's license pursuant to chapter 103
21 in order to perform disconnect and reconnect of existing air
22 conditioning and refrigeration systems.
23 Sec. 24. Section 105.18, subsection 4, Code 2013, is amended
24 by striking the subsection.
25 Sec. 25. Section 105.19, subsections 2 and 3, Code 2013, are
26 amended to read as follows:
27 2. If the applicant is engaged in plumbing, mechanical,
28 HVAC, refrigeration, sheet metal, or hydronic work individually
29 through a business conducted as a sole proprietorship, the
30 applicant shall personally obtain the insurance and surety
31 bond required by this section. If the applicant is engaged in
32 the plumbing, mechanical, HVAC, refrigeration, sheet metal, or
33 hydronic business as an employee or owner of a legal entity,
34 then the insurance and surety bond required by this section
35 shall be obtained by the entity and shall cover all plumbing or

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mechanical work performed by the entity.

3. The insurance and surety bond shall be written by an entity licensed to do business in this state and each licensed contractor shall maintain on file with the board a certificate evidencing the insurance providing that the insurance or surety bond shall not be canceled without the entity first giving ~~fifteen~~ ten days' written notice to the board.

Sec. 26. Section 105.20, subsection 3, Code 2013, is amended to read as follows:

3. *a.* The board shall notify each licensee by mail at least sixty days prior to the expiration of a license.

b. This subsection is repealed effective December 31, 2016.

Sec. 27. Section 105.21, Code 2013, is amended to read as follows:

105.21 Reciprocal licenses.

The board may license without examination a nonresident applicant who is licensed under plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic professional licensing statutes of another state having similar licensing requirements as those set forth in this chapter and the rules adopted under this chapter if the other state grants the same reciprocal licensing privileges to residents of Iowa who have obtained Iowa plumbing or mechanical professional licenses under this chapter. The board shall adopt the necessary rules, not inconsistent with the law, for carrying out the reciprocal relations with other states which are authorized by this chapter.

Sec. 28. Section 105.22, unnumbered paragraph 1, Code 2013, is amended to read as follows:

A license to practice as a contractor or as a plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic professional may be revoked or suspended, or an application for licensure may be denied pursuant to procedures established pursuant to chapter 272C by the board, or the licensee may be otherwise disciplined in accordance with that

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chapter, when the licensee commits any of the following acts or offenses:

Sec. 29. Section 105.22, subsection 8, Code 2013, is amended to read as follows:

8. Aiding and abetting a person who is not licensed pursuant to this chapter in that person's pursuit of an unauthorized and unlicensed plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic professional practice.

Sec. 30. Section 105.25, Code 2013, is amended to read as follows:

105.25 Advertising — violations — penalties.

1. Only a person who is duly licensed pursuant to this chapter may advertise the fact that the person is licensed as a contractor or as a plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic professional by the state of Iowa.

2. All written advertisements distributed in this state by a person who is engaged in the business of designing, installing, or repairing plumbing, HVAC, refrigeration, sheet metal, or hydronic systems shall include the listing of ~~at least one master~~ the contractor license number, as applicable. ~~A master plumbing, HVAC, refrigeration, or hydronic professional shall not allow the master's license number to be used in connection with the advertising for more than one person engaged in the business of designing, installing, or repairing plumbing, HVAC, refrigeration, or hydronic systems.~~

3. A person who fraudulently claims to be a licensed contractor or a licensed plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic professional pursuant to this chapter, either in writing, cards, signs, circulars, advertisements, or other communications, is guilty of a simple misdemeanor.

4. ~~A person who fraudulently lists a contractor or a master plumbing, HVAC, refrigeration, or hydronic license number in connection with that person's advertising or falsely displays~~

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~~a contractor or a master plumbing, HVAC, refrigeration, or hydronic professional license number is guilty of a simple misdemeanor. In order to be entitled to use a license number of a master plumbing, HVAC, refrigeration, or hydronic professional, the master plumbing, HVAC, refrigeration, or hydronic professional must be employed by the person in whose name the business of designing, installing, or repairing plumbing or mechanical systems is being conducted.~~ A person who fraudulently lists a license number in connection with that person's advertising or falsely displays a license number is guilty of a simple misdemeanor.

Sec. 31. Section 105.29, Code 2013, is amended to read as follows:

105.29 Report of violators.

Every licensee and every member of the board shall report to the board the name of every person who is practicing as a contractor or as a ~~plumber or~~ plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional without a license issued pursuant to this chapter pursuant to the knowledge or reasonable belief of the person making the report. The opening of an office or place of business for the purpose of providing any services for which a license is required by this chapter, the announcing to the public in any way the intention to provide any such service, the use of any professional designation, or the use of any sign, card, circular, device, vehicle, or advertisement, as a provider of any such services shall be prima facie evidence of engaging in the practice of a contractor or a ~~plumber or~~ plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional.

Sec. 32. NEW SECTION. **105.31 Licenses.**

1. *License expiration.*

a. All licenses that currently possess an expiration date prior to June 30, 2014, shall be granted a one-time extension of the expiration date to June 30, 2014, at no additional

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1 charge or continuing education requirements. The licensees of
2 these licenses shall pay a full renewal fee upon renewal and
3 shall be issued a license with an expiration date of June 30,
4 2017. Applicable late renewal fees shall apply during this
5 period.
6 *b.* Licenses with an expiration date of July 1, 2014, or
7 later shall have the license renewal fee prorated using a
8 one-sixth deduction for each six-month period following July
9 1, 2014. Applicable late renewal fees shall apply during this
10 period. Licenses renewed through June 29, 2017, shall be
11 issued with an expiration date of June 30, 2017.
12 2. *License reissue.* A license reissued pursuant to this
13 subsection shall be for the same level of license held by the
14 licensee on the effective date of this Act, but may be for a
15 class described in paragraphs *"a"* through *"e"*, if applicable. A
16 license shall be reissued at the date of the first renewal.
17 *a.* An individual with either an HVAC or a refrigeration
18 license will be issued an HVAC-refrigeration license.
19 *b.* An individual who holds an HVAC and a hydronic license
20 will be issued a mechanical license at the first renewal.
21 *c.* An individual who holds a refrigeration and a hydronic
22 license will be issued a mechanical license.
23 *d.* An individual who holds only a hydronic license will be
24 issued a hydronic license.
25 *e.* An individual who holds an HVAC or a refrigeration
26 license may take the hydronic test before June 30, 2014, in
27 order to be issued a mechanical license at the time of renewal.
28 Sec. 33. NEW SECTION. **105.32 Transition provisions.**
29 A licensee whose license expires between June 30, 2014, and
30 July 1, 2017, may voluntarily renew their license early so they
31 may have an expiration date of June 30, 2017. This voluntary
32 early renewal may happen at any time on or after July 1, 2014.
33 The department shall promulgate rules that allow for this
34 one-time early renewal process, including fees and continuing
35 education requirements.

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1 Sec. 34. Section 331.301, subsection 6, paragraph b, Code
2 2013, is amended to read as follows:
3 *b.* A county shall not impose any fee or charge on any
4 individual or business licensed by the board for the right to
5 perform plumbing, mechanical, HVAC, refrigeration, sheet metal
6 or hydronic systems work within the scope of the license. This
7 paragraph does not prohibit a county from charging fees for the
8 issuance of permits for, and inspections of, work performed in
9 its jurisdiction.
10 Sec. 35. Section 364.3, subsection 3, paragraph b, Code
11 2013, is amended to read as follows:
12 *b.* A city shall not impose any fee or charge on any
13 individual or business licensed by the board for the right to
14 perform plumbing, mechanical, HVAC, refrigeration, sheet metal
15 or hydronic systems work within the scope of the license. This
16 paragraph does not prohibit a city from charging fees for the
17 issuance of permits for, and inspections of, work performed in
18 its jurisdiction.
19 Sec. 36. EMERGENCY RULES. The plumbing and mechanical
20 systems board may adopt emergency rules under section 17A.4,
21 subsection 3, and section 17A.5, subsection 2, paragraph "b",
22 to implement the provisions of this Act and the rules shall
23 be effective immediately upon filing unless a later date is
24 specified in the rules. Any rules adopted in accordance with
25 this section shall also be published as a notice of intended
26 action as provided in section 17A.4.
27 Sec. 37. EFFECTIVE UPON ENACTMENT. This Act, being deemed
28 of immediate importance, takes effect upon enactment.
29 EXPLANATION
30 This bill makes changes relating to the licensing of
31 plumbing, mechanical, HVAC-refrigeration, sheet metal, or
32 hydronic professionals, and includes transition provisions.
33 The bill redefines plumbing, HVAC, refrigeration, or
34 hydronic systems professionals as plumbing, mechanical,
35 HVAC-refrigeration, sheet metal, or hydronic professionals and

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1 makes related changes.
2 A plumbing license allows an individual to perform plumbing
3 work. A mechanical license allows an individual to perform
4 HVAC, refrigeration, sheet metal, and hydronic work. An
5 HVAC-refrigeration license allows an individual to perform
6 HVAC and refrigeration work. A hydronic license shall allow
7 an individual to perform hydronic work. A sheet metal license
8 allows an individual to perform sheet metal work.
9 The bill requires that the labor services division of
10 the department of workforce development and the department
11 of public health develop a plan to combine the contractor
12 registration and contractor licensing application process
13 for contractors licensed under Code chapter 105, to be
14 implemented in time for licensing renewals due July 1, 2017.
15 The department of public health shall transfer to the labor
16 services division a portion of each contractor license fee
17 equal to three times the current contractor registration
18 fee. Effective July 1, 2017, a contractor licensed under Code
19 chapter 105 shall register as a contractor under Code chapter
20 91C.
21 The bill adds "sheet metal" to the list of licensed
22 professionals. The term includes heating, ventilation, air
23 conditioning, pollution control, fume hood systems, and related
24 ducted systems.
25 The bill requires that the board adopt the most current
26 version of the uniform plumbing code and the international
27 mechanical code. Local jurisdictions must comply with the
28 state plumbing code and state mechanical code, as provided for
29 in the bill, by December 31, 2015. However, the bill provides
30 that the board and local jurisdictions may adopt standards that
31 are more restrictive.
32 The bill requires that the board adopt an industry
33 standardized examination for each license type. If a
34 standardized examination is not available for a specified
35 license type, the board shall work with the testing vendor to

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1 create an examination for the specified license type.
2 The bill requires that an apprentice work under the direct
3 supervision of an appropriately licensed journeyperson or
4 master who is on the same job site.
5 The bill provides that an individual who has passed both
6 the journeyperson HVAC-refrigeration examination and the
7 journeyperson hydronic examination separately shall be
8 issued a journeyperson mechanical license without having to
9 pass an examination. An individual who has passed both the
10 master HVAC-refrigeration examination and the master hydronic
11 examination separately shall be issued a master mechanical
12 license without having to pass an examination.
13 Relating to the use of master license numbers in
14 advertising, the bill requires a contractor license number,
15 instead of master license number, in written advertisements and
16 also eliminates a current provision that prohibited the use of
17 a master's license number in connection with the advertising
18 for more than one person engaged in the business.
19 The bill repeals, effective December 31, 2016, the
20 requirement that the board notify each licensee by mail at
21 least 60 days before the licensee's license expires.
22 The bill provides that all licenses that currently possess
23 an expiration date prior to June 30, 2014, shall be granted a
24 one-time extension of the expiration date to June 30, 2014,
25 at no additional charge. Licenses issued on or after July
26 1, 2014, shall expire on the same renewal date every three
27 years, beginning with June 30, 2017. Licensees whose licenses
28 have an expiration date of July 1, 2014, or later shall be
29 issued a license with an expiration date of June 30, 2017,
30 and shall have the license renewal fee prorated. These
31 licensees may also voluntarily renew their licenses early and
32 be issued a license with a June 30, 2017, expiration date.
33 Licenses renewed through June 29, 2017, shall be issued with an
34 expiration date of June 30, 2017.
35 At the time of license renewal:

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1 a. An individual with either an HVAC or a refrigeration
2 license will be issued an HVAC-refrigeration license.
3 b. An individual who holds an HVAC and a hydronic license
4 will be issued a mechanical license at the first renewal.
5 c. An individual who holds a refrigeration and a hydronic
6 license will be issued a mechanical license.
7 d. An individual who holds only a hydronic license will be
8 issued a hydronic license.
9 e. An individual who holds an HVAC or a refrigeration
10 license may take the hydronic test before June 30, 2014, in
11 order to be issued a mechanical license.
12 The bill exempts a holder of a mechanical license from the
13 requirement to also hold an HVAC-refrigeration, sheet metal, or
14 hydronic license in order to perform that work.
15 In addition to the administrative penalties set out in
16 Code chapter 272C, relating to licensees, Code chapter 105
17 makes it a simple misdemeanor for a person to claim to be a
18 mechanical, HVAC, refrigeration, sheet metal, or hydronic
19 contractor or professional. A simple misdemeanor is punishable
20 by confinement for no more than 30 days or a fine of at least
21 $65 but not more than $625 or both.

House File 588 - Introduced

HOUSE FILE 588
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 75)

A BILL FOR

1 An Act relating to special assessments imposed by cities and
2 counties and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1543HV (2) 85
md/sc

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1 Section 1. Section 331.488, subsection 3, Code 2013, is
2 amended to read as follows:
3 3. The method of specially assessing and determining
4 benefits and determining individual benefits, area benefits,
5 and community benefits.
6 Sec. 2. Section 384.37, Code 2013, is amended by adding the
7 following new subsections:
8 NEW SUBSECTION. 2A. *"Area benefit"* means the benefit
9 derived from all or a part of a public improvement that is
10 designated to principally serve a district and be accessible
11 for use by all lots within the district.
12 NEW SUBSECTION. 2B. *"Community benefit"* means that portion
13 of the total benefit derived from a public improvement designed
14 to be used by or serve the general public and community that
15 is in excess of the area benefit or the sum of all individual
16 benefits, if any, including but not limited to those public
17 improvements or parts of a public improvement specified in
18 section 384.61, subsection 4.
19 NEW SUBSECTION. 8A. *"Individual benefit"* means that
20 amount of the total benefit of a public improvement that is
21 proportionate to the lot's use of the public improvement or
22 the amount of a benefit conferred upon the individual lot by a
23 public improvement that is intended to benefit, serve, or be
24 used only by the lot, including but not limited to those items
25 specified in section 384.61, subsection 3.
26 Sec. 3. Section 384.37, subsections 4 and 25, Code 2013, are
27 amended to read as follows:
28 4. *"District"* means the lots or parts of lots within
29 boundaries of a benefited area established by the council
30 for the purpose of the assessment of all or part of the cost
31 of a public improvement that is intended in whole or in part
32 to principally serve the benefited area and to provide an
33 individual benefit to and be accessible for use by such lots
34 or parts of lots.
35 25. *"Street improvement"* means the construction or repair of

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a street by grading, paving, curbing, guttering, and surfacing with oil, oil and gravel, or chloride, ~~and~~ street lighting fixtures, connections and facilities, storm water management intakes, sewers, and facilities, and traffic-control devices, fixtures, connections, and facilities.

Sec. 4. NEW SECTION. **384.37A Exceptions — applicability.**

1. This division applies to cities with a population in excess of three thousand.

2. A city having a population of three thousand or less may assess to private property within the city the cost of construction and repair of public improvements within the city, and main sewers, sewage pumping stations, disposal and treatment plants, waterworks, water mains, extensions, and drainage conduits extending outside the city. However, the imposition of such a special assessment by a city with a population of three thousand or less is subject to the requirements and procedures of chapter 384, division IV, Code 2013.

Sec. 5. Section 384.38, subsection 1, Code 2013, is amended to read as follows:

1. A city may, subject to the limitations of this division, assess to private property within the city the cost of construction and repair of public improvements within the city, and main sewers, sewage pumping stations, disposal and treatment plants, waterworks, water mains, extensions, and drainage conduits extending outside the city. However, such an assessment to private property, as allocated to each lot, shall not exceed that portion of the total assessment that is proportionate to the individual benefit to the lot as compared to the total benefit of the public improvement.

Sec. 6. Section 384.42, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 01. Prior to initiating procedures to determine the amount of benefit that will be conferred upon private property as the result of a public improvement for

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which a special assessment will be imposed and prior to the adoption of a preliminary resolution under subsection 2, adopt a master ordinance after a public hearing the notice of which is published thirty days prior to the hearing in accordance with section 362.3, setting forth, in accordance with this division, the methodology and procedure to be used by the city for all future special assessments in determining the amount of individual benefit, area benefit, and community benefit that will result from a public improvement and a description of the manner in which the cost of a public improvement will be allocated to each category of benefit.

Sec. 7. Section 384.42, subsections 1, 2, and 3, Code 2013, are amended to read as follows:

1. Arrange for engineering services to prepare the plats, schedules, estimates of cost, plans, and specifications and to supervise construction of the proposed improvement, and if necessary, arrange for planning studies or engineering studies to determine the amount of benefit that will be conferred upon private property as the result of the public improvement.

2. Adopt a preliminary resolution by the vote of a majority of all the members of the council, after a public hearing the notice of which is published thirty days prior to the hearing in accordance with section 362.3. The notice shall also be sent by certified mail no later than thirty days prior to the public hearing to each owner of a lot which the council believes will be individually benefited by the improvement. The preliminary resolution shall contain the following:

a. A description of the types or alternate types of improvement proposed.

b. The beginning and terminal points or general location of the proposed improvement.

c. An order to the engineer to prepare preliminary plans and specifications, estimated total cost of the work, and a plat and schedule, and to file them with the clerk.

d. A general description of the property or a designation

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of the lots which the council believes will be ~~specially~~ individually benefited by the improvement.

e. A detailed description of the method used for determining benefits in accordance with the ordinance adopted under subsection 01, an estimate of the proportion of area benefit and community benefit that will be conferred as a result of the public improvement, a statement of the proportion of the total cost of the public improvement that the council proposes to assess against all individually benefited property within the proposed district, and a statement of the method by which that portion of the total cost of the public improvement proposed to be assessed against individually benefited property in the proposed district will be allocated to each lot as the result of individual benefits conferred on the lots.

3. The preliminary resolution may also contain ~~the following:~~

~~*a.* A statement of the proportion of the total cost which the council proposes to assess against specially benefited property.~~

~~*b.* A~~ a short and convenient designation for the public improvement by which it may be referred to in all subsequent proceedings.

Sec. 8. Section 384.44, Code 2013, is amended to read as follows:

384.44 Estimated cost.

The estimated total cost of any public improvement constructed under this part must include all of the items of cost listed in section 384.37, subsection 26, which the council proposes to include as a part of the cost of the public improvement, and may include an item to be known as the default fund amounting to not more than ten percent of the portion of the total cost of the improvement which the council proposes to assess against ~~specially~~ individually benefited property.

Sec. 9. Section 384.47, subsections 3 through 5, Code 2013, are amended to read as follows:

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3. The total amount proposed to be assessed to each lot according to the method described in the preliminary resolution, including the assessment for the default fund, if any.

4. The proportion of the estimated total cost of the public improvement which is allocated to each lot as an individual benefit.

5. The amount of deficiency, if any, between the amount proposed to be assessed and the proportion of the estimated total cost of the public improvement allocated to each lot as an individual benefit. The amount of deficiency shall be shown as a conditional deficiency assessment as authorized by sections 384.60, 384.62 and 384.63.

Sec. 10. Section 384.51, unnumbered paragraph 2, Code 2013, is amended to read as follows:

An amendment which extends the boundaries of a district, increases the amount to be assessed against a lot, or adds additional public improvements, is not effective until an amended ordinance, if necessary, plat, schedule, and estimate have been prepared and adopted, a notice published and mailed to all affected property owners, and hearing held in the same manner as the original proceedings, or until all affected property owners agree in writing to the change. The adoption of a resolution of necessity is a legislative determination that the improvement is expedient and proper and that property assessed will be ~~specially~~ individually benefited by the improvement and this determination of the council is conclusive. Ownership of property to be assessed by an improvement does not, except for fraud or bad faith, disqualify a council member from voting on any measure.

Sec. 11. Section 384.54, subsection 15, Code 2013, is amended to read as follows:

15. ~~*a.* The cost of all court proceedings are a legitimate item of expense in connection with a public improvement, and may be included within the final assessment against any~~

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~~property specially benefited in the assessment district.~~

~~*b.*~~ Whenever on a hearing by the court, the amount of any assessment is reduced or canceled so that there is a deficiency in the total amount remaining assessed in the proceeding, the court may assess the deficiency to the city or distribute the deficiency upon the other ~~property abutting upon or adjacent to the improvement or~~ lots benefiting from the improvement in the district assessed, in a manner ~~the court finds to be just and equitable~~ consistent with this chapter, not exceeding, however, the amount the ~~property~~ lot would be ~~specially~~ individually benefited by the improvement, and not exceeding twenty-five percent of the value of the lot as shown by the plat and schedule of assessments or as reduced by the court.

Sec. 12. Section 384.61, Code 2013, is amended to read as follows:

384.61 Assessment of benefits.

1. The total cost of a public improvement, except for paving that portion of a street lying between railroad tracks and one foot outside of the tracks, or which is to be otherwise paid, ~~must~~ may be assessed against all lots within the assessment district in accordance with the ~~special~~ individual benefits conferred upon the property, and not in excess of such benefits. That portion of the total cost of a public improvement that is not assessed to individual lots in the district as the result of individual benefits shall be attributable to the community benefit and shall be paid by the city.

2. A lot that is subject to a special assessment may be divided into two or more lots for assessment purposes upon the request or consent of the property owner in order to separate existing building sites from those portions of the lot that are used for agricultural purposes or vacant land to be reserved for development purposes. If an owner of property subject to special assessment divides the property into two or more lots, and if the plan of division is approved by the council, the

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1 owner may discharge the lien upon any of the lots by payment of
2 the amount unpaid, calculated as determined by the council.
3 3. All of the following public improvements are presumed to
4 confer an individual benefit on a lot within a district:
5 *a.* A public improvement that benefits, serves, or that
6 is intended for use by only one lot, unless such public
7 improvement is replacing an existing public improvement of
8 acceptable or working quality and is required as a result of
9 work on or repair of another public improvement that does not
10 benefit, serve, or that is not intended for use by only that
11 lot.
12 *b.* A sidewalk upon a lot that is single-family residential
13 property located along the frontage of the lot not to exceed
14 four feet in width at a standard thickness.
15 *c.* A sidewalk upon a lot that is commercial property,
16 industrial property, multifamily residential property, or
17 property owned by a business entity as defined in section
18 501A.102, located along the street frontage of the lot not to
19 exceed six feet in width at a standard thickness.
20 *d.* Underground gas, water, heating, sanitary sewer, storm
21 sewer, and electrical connections and accessories located in a
22 public street right-of-way and that serve only the lot.
23 *e.* The portion of an area benefit which is proportionate
24 to a lot's forecasted use of the public improvement as a share
25 of the forecasted use of the public improvement by all lots in
26 the district.
27 4. All of the following public improvements are presumed to
28 confer a community benefit:
29 *a.* A public improvement or part of a public improvement that
30 is designed, constructed, or intended, due to additional size,
31 standards, facilities, or structures, for use by or to serve
32 property outside the district or the general public.
33 *b.* A sidewalk or recreational trail, or part thereof, that
34 is part of a community-wide public recreational trail system.
35 *c.* The portion of a sidewalk that exceeds the portion of

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the sidewalk that provides an area benefit or presumed to be an individual benefit under subsection 3, paragraph *"b"* or *"c"*.

d. Notwithstanding any provision of this division to the contrary, the planning, legal, administrative, engineering, and inspection costs for that portion of the public improvement that is a community benefit and all city employee salary costs associated with the public improvement.

5. *a.* Notwithstanding any other provision in this division to the contrary, each city undertaking the repair or construction of a public improvement that includes a street improvement paid for in whole or in part by a special assessment shall, prior to the preparation of the schedule under section 384.47, complete a vehicle traffic analysis and forecast for the location of the proposed street improvement that includes but is not limited to the following:

(1) A determination of the amount of vehicle traffic forecasted to be generated from each lot or part of a lot within the district for use in determining both the individual benefits and area benefits.

(2) A determination of both the vehicle traffic forecasted to be generated by existing sources outside of the district after completion of the street improvement and the vehicle traffic forecasted to be generated from land development projects and uses outside of the district that are or will be developed concurrently, in conjunction with, or following completion of the street improvement for use in determining the community benefit.

b. Those portions of the vehicle traffic analysis and forecast relating to the amount of vehicle traffic generated by each lot or part of a lot in the district after completion of the street improvement shall be based on the estimated development of such lots or parts of lots within ten years after completion of the street improvement. The estimate of the extent of development shall be made in accordance with development estimates and trends of similar property in the

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1 local area, the zoning and use restrictions imposed on or
2 proposed for the property, and the availability of necessary
3 infrastructure to develop the property. In addition to actual
4 vehicle traffic data available to the city, the vehicle traffic
5 analysis and forecast shall be completed using the most current
6 trip generation data from the institute of transportation
7 engineers for planned land uses or another generally recognized
8 organization.
9 *c.* The individual benefit accruing to each lot within
10 the district as the result of the street improvement shall
11 not exceed the percentage of the area benefit from the
12 street improvement that is proportionate to the lot's
13 forecasted amount of traffic generated as it bears to the
14 total forecasted amount of vehicle traffic generated in the
15 district. Additionally, in no case shall a lot or a part of a
16 lot be assessed for the improvements to a major road, including
17 but not limited to a road classified as an arterial road,
18 classified as a major collector road, or a road previously
19 under the jurisdiction of a county, if such lot or part of a lot
20 was previously assessed for improvements to another such major
21 road.
22 Sec. 13. Section 384.63, subsection 2, Code 2013, is amended
23 to read as follows:
24 2. The council shall, by resolution, provide that the
25 deficiencies for the lots ~~specially~~ individually benefited by a
26 public improvement shall be certified to the county treasurer,
27 who shall record them in the county system as "special
28 assessment deficiencies", and to the appropriate city official
29 charged with the responsibility of issuing building permits,
30 who shall notify the council when a private improvement is
31 subsequently constructed on any lot subject to a deficiency.
32 Certification to the county treasurer shall include a legal
33 description of each lot. The period of amortization for a
34 public improvement for which there are deficiencies shall
35 commence with the adoption of the resolution of necessity

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1 and extend for the same period for which installments of
2 assessments for the project are made payable. Deficiencies may
3 be assessed only during the period of amortization, which shall
4 also be certified to the county treasurer and the city official
5 charged with the responsibility of issuing building permits.
6 Certification to the county treasurer shall include a legal
7 description of each lot.
8 Sec. 14. APPLICABILITY. This Act applies to public
9 improvements undertaken on or after July 1, 2013.
10 EXPLANATION
11 This bill relates to special assessments imposed by cities
12 and counties on private property for the cost of a public
13 improvement.
14 The bill provides that Code chapter 384, division IV, as
15 amended in the bill, applies to cities with a population in
16 excess of 3,000. A city having a population of 3,000 or
17 less is authorized to continue to impose special assessments
18 pursuant to the requirements and procedures of Code chapter
19 384, division IV, Code 2013.
20 The bill establishes definitions of "community benefit",
21 "area benefit", and "individual benefit" under Code chapter
22 384, division IV. The bill also adds storm water management
23 intakes, sewers, and facilities and traffic-control devices,
24 fixtures, connections, and facilities to the definition of
25 "street improvement" under Code section 384.37.
26 The bill amends the definition of "district" in Code section
27 384.37 to mean the lots or parts of lots within boundaries of
28 a benefited area established by the council for the purpose
29 of the assessment of all or part of the cost of a public
30 improvement that is intended in whole or in part to principally
31 serve the benefited area and to provide an individual benefit
32 to and be accessible for use by such lots or parts of lots.
33 The bill provides that assessments to private property,
34 as allocated to each lot, shall not exceed that portion of
35 the total assessment that is proportionate to the individual

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1 benefit to the lot as compared to the total benefit of the
2 public improvement.
3 The bill requires that before a city initiates procedures
4 to determine the amount of benefit that will be conferred
5 upon private property as the result of a public improvement
6 for which a special assessment will be imposed and prior to
7 the adoption of a preliminary resolution related to a public
8 improvement, a city must adopt a master ordinance, after
9 specified notices and a hearing, setting forth the methodology
10 and procedure to be used by the city for all future special
11 assessments in determining the amount of individual benefit,
12 area benefit, and community benefit that will result from a
13 public improvement and a description of the manner in which the
14 cost of a public improvement will be allocated to each category
15 of benefit.
16 The bill requires that 30 days' notice of a preliminary
17 resolution be published prior to adoption of the preliminary
18 resolution related to a public improvement. The bill also
19 requires such notice to be sent to the owner of each lot which
20 the city council believes will be individually benefited by the
21 improvement. The bill specifies additional information that
22 must be included in the preliminary resolution.
23 The bill strikes the provision of Code section 384.54 that
24 designated the cost of all court proceedings to be a legitimate
25 item of expense in connection with a public improvement and
26 allowed such costs to be included within the final assessment
27 against any property specially benefited in the assessment
28 district.
29 The bill specifies that the total cost of a public
30 improvement, except for certain paving near railroad tracks
31 or improvements to be otherwise paid, may be assessed against
32 all lots within the assessment district in accordance with the
33 individual benefits conferred upon the property, and not in
34 excess of such benefits. The bill provides that the portion
35 of the total cost of a public improvement that is not assessed

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1 to individual lots as the result of individual benefits is
2 attributable to the community benefit and shall be paid by the
3 city.
4 The bill allows a lot that is subject to a special assessment
5 to be divided into two or more lots for assessment purposes
6 upon the request or consent of the property owner in order to
7 separate existing building sites from those portions of the lot
8 that are used for agricultural purposes or vacant land to be
9 reserved for development purposes.
10 The bill designates certain public improvements that are
11 presumed to confer an individual benefit and designates certain
12 public improvements that are presumed to confer a community
13 benefit. Under the bill, the planning, legal, administrative,
14 engineering, and inspection costs for that portion of the
15 public improvement that is a community benefit and all city
16 employee salary costs associated with the public improvement
17 are presumed to confer a community benefit.
18 The bill requires each city undertaking the repair or
19 construction of a public improvement that includes a street
20 improvement, as defined in the bill, and paid for in whole or
21 in part by a special assessment, to complete a vehicle traffic
22 analysis and forecast for the location of the proposed street
23 improvement in order to determine the individual benefits and
24 the area benefit and the community benefit.
25 The bill provides that those portions of the vehicle traffic
26 analysis and forecast relating to the amount of vehicle traffic
27 generated by each lot or part of a lot in the district after
28 completion of the street improvement shall be based on the
29 estimated development of such lots or parts of lots within 10
30 years after completion of the street improvement. The estimate
31 of the extent of development shall be made in accordance with
32 development estimates and trends of similar property in the
33 local area, the zoning and use restrictions imposed on or
34 proposed for the property, and the availability of necessary
35 infrastructure to develop the property.

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1 In addition to actual vehicle traffic data available
2 to the city, the bill requires that the vehicle traffic
3 analysis and forecast must be completed using the most current
4 trip generation data from the institute of transportation
5 engineers for planned land uses or another generally recognized
6 organization.
7 The bill specifies that the individual benefit accruing
8 to each lot within the district as the result of the street
9 improvement shall not exceed the percentage of the area benefit
10 from the street improvement that is proportionate to the lot's
11 forecasted amount of traffic generated as it bears to the total
12 forecasted amount of vehicle traffic generated in the district.
13 The bill also specifies that in no case shall a lot or a
14 part of a lot be assessed for the improvements to a major road,
15 including but not limited to a road classified as an arterial
16 road or a major collector road, or a road previously under the
17 jurisdiction of a county, if such lot or part of a lot was
18 previously assessed for improvements to another such major
19 road.
20 By operation of law, the bill modifies similar provisions
21 relating to the authority of a county to assess to property the
22 costs of a public improvement under Code chapter 331 and the
23 authority of a sanitary district under Code chapter 358.
24 This Act applies to public improvements undertaken on or
25 after July 1, 2013.

House File 589 - Introduced

HOUSE FILE 589
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 190)

A BILL FOR

1 An Act concerning the municipal fire and police retirement
2 system and including effective date and retroactive
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2278HV (1) 85
ec/sc

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1 Section 1. Section 400.8, subsection 1, Code 2013, is
2 amended to read as follows:
3 1. The commission, when necessary under the rules,
4 including minimum and maximum age limits, which shall be
5 prescribed and published in advance by the commission and
6 posted in the city hall, shall hold examinations for the
7 purpose of determining the qualifications of applicants
8 for positions under civil service, other than promotions,
9 which examinations shall be practical in character and shall
10 relate to matters which will fairly test the mental and
11 physical ability of the applicant to discharge the duties of
12 the position to which the applicant seeks appointment. The
13 physical examination of applicants for appointment to the
14 positions of police officer, police matron, or fire fighter
15 shall be held in accordance with medical protocols established
16 by the board of trustees of the fire and police retirement
17 system established by section 411.5 and shall be conducted
18 in accordance with the directives of the board of trustees.
19 However, the prohibitions of section 216.6, subsection 1,
20 paragraph *"d"*, regarding tests for the presence of the antibody
21 to the human immunodeficiency virus shall not apply to such
22 examinations. The board of trustees may change the medical
23 protocols at any time the board so determines. <u>In the event of</u>
24 <u>a conflict between the medical protocols established under this</u>
25 <u>section and the minimum entrance requirements of the Iowa law</u>
26 <u>enforcement academy under section 80B.11, the medical protocols</u>
27 <u>established under this section shall control.</u> The physical
28 examination of an applicant for the position of police officer,
29 police matron, or fire fighter shall be conducted after a
30 conditional offer of employment has been made to the applicant.
31 An applicant shall not be discriminated against on the basis
32 of height, weight, sex, or race in determining physical or
33 mental ability of the applicant. Reasonable rules relating to
34 strength, agility, and general health of applicants shall be
35 prescribed. The costs of the physical examination required

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1 under this subsection shall be paid from the trust and agency
2 fund of the city.
3 Sec. 2. Section 411.1, subsection 14, Code 2013, is amended
4 to read as follows:
5 14. *"Member in good standing"* means a member in service who
6 is not subject to removal by the employing city of the member
7 pursuant to section 400.18 or 400.19, or other comparable
8 process, and who is not the subject of an investigation that
9 could lead to such removal. ~~A~~ Except as specifically provided
10 pursuant to section 411.9, a person who is restored to active
11 service for purposes of applying for a pension under this
12 chapter is not a member in good standing.
13 Sec. 3. Section 411.1, Code 2013, is amended by adding the
14 following new subsection:
15 NEW SUBSECTION. 23. *"Vested member"* means a member who has
16 become eligible to receive monthly retirement benefits upon the
17 member's retirement as the result of either completing at least
18 four years of service or of attaining the age of fifty-five
19 while performing membership service.
20 Sec. 4. Section 411.5, subsection 12, paragraph e, Code
21 2013, is amended by striking the paragraph and inserting in
22 lieu thereof the following:
23 *e.* Notwithstanding any provision of this chapter to the
24 contrary, all benefits under this chapter shall commence no
25 later than the required beginning date specified under section
26 401(a)(9) of the federal Internal Revenue Code and shall comply
27 with the required minimum distribution provisions of that
28 section.
29 Sec. 5. Section 411.6, subsection 1, paragraph b, Code 2013,
30 is amended to read as follows:
31 *b.* Any vested member in service ~~who has been a member of~~
32 ~~the retirement system four or more years and~~ whose employment
33 is terminated ~~prior to the member's retirement~~, other than by
34 death or disability, prior to the member being credited with
35 twenty-two years of service shall, upon attaining retirement

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1 age for a vested member with four or more years of service
2 or upon application to the system for a vested member with
3 less than four years of service, receive a service retirement
4 allowance ~~of four~~ as calculated in the manner provided in this
5 paragraph. A vested member receiving a retirement allowance
6 pursuant to this paragraph shall receive a service retirement
7 allowance equal to one twenty-seconds of the retirement
8 allowance the member would receive ~~at retirement if the~~
9 ~~member's employment had not been terminated, and an additional~~
10 ~~one twenty-second of such retirement allowance for each~~
11 ~~additional year of service not exceeding~~ based on twenty-two
12 years of service, multiplied by the number of years of service
13 credited to the member. The amount of the retirement allowance
14 shall be calculated in the manner provided in this paragraph
15 using the average final compensation at the time of termination
16 of employment.
17 Sec. 6. Section 411.6, subsection 8, paragraph c,
18 subparagraph (3), Code 2013, is amended by striking the
19 subparagraph.
20 Sec. 7. Section 411.9, subsection 2, Code 2013, is amended
21 to read as follows:
22 2. In the case of a member's death occurring on or after
23 January 1, 2007, if the member dies while performing qualified
24 military service as defined in section 414(u) of the Internal
25 Revenue Code, the survivors of the member are entitled to any
26 additional benefits~~, other than benefit accruals relating to~~
27 ~~the period of qualified military service,~~ provided by the
28 system as if the member had resumed membership service and
29 had died as the natural and proximate result of an injury or
30 disease incurred in or aggravated by the actual performance of
31 duty at some definite time and place.
32 Sec. 8. Section 411.9, Code 2013, is amended by adding the
33 following new subsection:
34 NEW SUBSECTION. 2A. In the case of a member's disability
35 incurred while performing qualified military service as defined

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in section 414(u) of the Internal Revenue Code, the member shall be treated as a member in good standing, whether or not the member returns to membership service, and shall be permitted to file an application for an ordinary disability retirement benefit as provided in section 411.6.

Sec. 9. Section 411.9, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 2B. In the case of a member's death or disability occurring on or after January 1, 2007, if the member is unable to resume membership service as a result of death or disability incurred while performing qualified military service as defined in section 414(u) of the Internal Revenue Code, the member shall be treated as if the member had returned to membership service and the period of military service shall be treated as membership service.

Sec. 10. Section 411.23, subsection 1, Code 2013, is amended to read as follows:

1. Commencing July 1, 1990, if an active member, in service on or after that date, terminates service, other than by death or disability, the member may elect to withdraw the member's contributions under section 411.8, subsection 1, paragraphs *"f"* and *"h"*, together with interest thereon at a rate determined by the board of trustees. If the member is married at the time of the application for withdrawal, the application is subject to the consent of the member's spouse unless the amount to be withdrawn does not exceed the amount that may be withdrawn without consent as established by section 401(a) of the federal Internal Revenue Code. If a member withdraws contributions as provided in this section, the member shall be deemed to have waived all claims for other benefits from the system for the period of membership service for which the contributions are withdrawn.

Sec. 11. Section 411.36, subsection 1, paragraph a, subparagraph (3), Code 2013, is amended to read as follows:

(3) A city treasurer, city financial officer, ~~or~~ city clerk,

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1 or other city officer involved with the management of the
2 financial matters of the city from four participating cities,
3 one of whom is from a city having a population of less than
4 thirty thousand, and three of whom are from cities having a
5 population of thirty thousand or more. The members authorized
6 pursuant to this paragraph shall be appointed by the governing
7 body of the Iowa league of cities.
8 Sec. 12. EFFECTIVE UPON ENACTMENT. The following
9 provision or provisions of this Act, being deemed of immediate
10 importance, take effect upon enactment:
11 1. The section of this Act amending section 411.9,
12 subsection 2.
13 2. The section of this Act enacting section 411.9,
14 subsection 2B.
15 3. The section of this Act amending section 411.36,
16 subsection 1.
17 Sec. 13. RETROACTIVE APPLICABILITY. The following
18 provision or provisions of this Act apply retroactively to
19 January 1, 2007:
20 1. The section of this Act amending section 411.9,
21 subsection 2.
22 2. The section of this Act enacting section 411.9,
23 subsection 2B.
24 Sec. 14. RETROACTIVE APPLICABILITY. The following
25 provision or provisions of this Act apply retroactively to
26 appointments made on or after January 1, 2013:
27 1. The section of this Act amending section 411.36,
28 subsection 1.
29 EXPLANATION
30 This bill makes changes to the Municipal Fire and Police
31 Retirement System (MFPRSI).
32 Code section 400.8, concerning entrance examinations for
33 civil service employees, is amended to provide that if a
34 conflict exists between the medical protocols established by
35 the board of trustees of MFPRSI for police and fire fighters

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1 and the entrance requirements for the Iowa Law Enforcement
2 Academy, the medical protocols established by the MFPRSI board
3 shall control.
4 Code section 411.1 is amended to define a vested member of
5 MFPRSI as a member who is eligible to receive a retirement
6 benefit by completing at least four years of service or
7 attaining age 55 while performing membership service.
8 Code section 411.5, concerning the administration of MFPRSI,
9 is amended to provide that benefits paid under MFPRSI shall
10 comply with the required beginning date and required minimum
11 distribution provisions of the federal Internal Revenue Code.
12 Code section 411.6(1), concerning calculation of a service
13 retirement benefit, is amended to provide that a vested member
14 of MFPRSI with less than 22 years of membership service is
15 entitled to receive a service retirement allowance based on the
16 number of years of service credited to the member. Current
17 law provides this service retirement allowance only to those
18 members with at least four years of service.
19 Code section 411.6(8), concerning an ordinary death benefit
20 under MFPRSI, is amended by striking the provision granting
21 to the deceased member´s dependent parents, if there is no
22 surviving spouse or child, an option to elect as the death
23 benefit a monthly pension benefit in lieu of a lump sum
24 payment. The change does not eliminate the ability of a
25 deceased member´s parents to receive a lump sum ordinary death
26 benefit if otherwise eligible.
27 Code section 411.9, concerning military service, is amended
28 by adding two new subsections.
29 New Code section 411.9(2A) provides that if a member´s
30 disability was incurred while performing qualified military
31 service, the member shall be permitted to file an application
32 for an ordinary disability retirement regardless of whether the
33 member returned to membership service following the disability.
34 New Code section 411.9(2B) provides that if a member is
35 unable to return to membership service following the member´s

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1 death or disability occurring on or after January 1, 2007,
2 while performing qualified military service, the member shall
3 be treated as having returned to membership service and the
4 period of military service shall be treated as membership
5 service for purposes of Code chapter 411. Code section
6 411.9(2) is also amended to reflect that the period of military
7 service shall be counted as membership service for purposes of
8 providing death benefits to a member who dies while performing
9 qualified military service. The bill provides that both
10 changes take effect upon enactment and apply retroactively to
11 January 1, 2007.
12 Code section 411.23(1), concerning withdrawal of
13 contributions, is amended to provide that a member who
14 terminates service and elects to withdraw the member's
15 contributions to MFPRSI shall be subject to the consent of
16 the member's spouse if the amount to be withdrawn exceeds the
17 amount that may be withdrawn as established by the federal
18 Internal Revenue Code. Currently, the maximum amount that
19 may be withdrawn without consent as provided by the federal
20 Internal Revenue Code is $5,000.
21 Code section 411.36, concerning the board of trustees of the
22 MFPRSI, is amended to provide that the appointment of the city
23 representative of the board is not limited to individuals with
24 the title of city treasurer, city financial officer, or city
25 clerk, but instead allows the appointment of those specified
26 officers or any city officer involved with the management of
27 the financial matters of the city. The bill provides that this
28 change takes effect upon enactment and applies retroactively to
29 appointments to the board made on or after January 1, 2013.

House File 590 - Introduced

HOUSE FILE 590
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HF 415)

A BILL FOR

1 An Act relating to child abuse reporting, assessment
2 procedures, and placement on the central registry for
3 child abuse, and including effective date and applicability
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2372HV (4) 85
ad/nh

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1 Section 1. Section 232.68, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 4A. *"Differential response"* means an
4 assessment system in which there are two discrete pathways
5 to respond to accepted reports of child abuse, a child
6 abuse assessment and a family assessment. The child abuse
7 assessment pathway shall require a determination of abuse and a
8 determination of whether criteria for placement on the central
9 abuse registry are met. As used in this subsection and this
10 part:
11 *a. "Assessment"* means the process by which the department
12 responds to all accepted reports of alleged child abuse. An
13 *"assessment"* addresses child safety, family functioning,
14 culturally competent practice, and identifies the family
15 strengths and needs, and engages the family in services if
16 needed. The department's assessment process occurs either
17 through a child abuse assessment or a family assessment.
18 *b. "Child abuse assessment"* means an assessment process by
19 which the department responds to all accepted reports of child
20 abuse which allege imminent danger or impact child safety.
21 A *"child abuse assessment"* results in a disposition and a
22 determination of whether a case meets the definition of child
23 abuse and a determination of whether criteria for placement on
24 the registry are met.
25 *c. "Family assessment"* means an assessment process by which
26 the department responds to all accepted reports of child abuse
27 which do not allege imminent danger or impact child safety. A
28 *"family assessment"* does not include a determination of whether
29 a case meets the definition of child abuse and does not include
30 a determination of whether criteria for placement on the
31 registry are met.
32 Sec. 2. Section 232.70, subsection 5, Code 2013, is amended
33 to read as follows:
34 5. ~~Upon~~ Immediately upon receipt of a report, the department
35 shall ~~do all of the following:~~

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1 ~~*a.* Immediately, upon receipt of an oral report,~~ make
2 a determination as to whether the report constitutes an
3 allegation of child abuse as defined in section 232.68.
4 ~~*b.* Notify the appropriate county attorney of the receipt of~~
5 ~~the report.~~
6 Sec. 3. Section 232.71B, subsections 1, 3, 4, 10, 12, 13,
7 and 14, Code 2013, are amended to read as follows:
8 1. *Commencement of assessment — differential response —*
9 *purpose.*
10 *a.* If the department determines a report constitutes a child
11 abuse allegation, the department shall promptly commence ~~an~~
12 ~~appropriate~~ either a child abuse assessment within twenty-four
13 hours of receiving the report or a family assessment within
14 seventy-two hours of receiving the report.
15 (1) Upon acceptance of a report of child abuse, the
16 department shall commence a child abuse assessment when the
17 report alleges imminent danger or impacts a child's safety.
18 (2) Upon acceptance of a report of child abuse, the
19 department shall commence a family assessment when the report
20 does not allege imminent danger or impact child safety.
21 *b.* The primary purpose of either the child abuse assessment
22 or the family assessment shall be the protection of the child
23 named in the report. The secondary purpose of ~~the assessment~~
24 either type of assessment shall be to engage the child's family
25 in services to enhance family strengths and to address needs.
26 3. *Involvement of law enforcement.* The department shall
27 apply protocols, developed with the local child protection
28 assistance team established pursuant to section 915.35, to
29 prioritize the actions taken in response to a child abuse
30 ~~reports~~ assessment and ~~to~~ shall work jointly with child
31 protection assistance teams and law enforcement agencies in
32 performing assessment and investigative processes for child
33 abuse ~~reports~~ assessments in which a criminal act harming a
34 child is alleged. The county attorney and appropriate law
35 enforcement agencies shall also take any other lawful action

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which may be necessary or advisable for the protection of the child. If a report is determined not to constitute a child abuse allegation or if the child abuse report is accepted but assessed under the family assessment, but a criminal act harming a child is alleged, the department shall immediately refer the matter to the appropriate law enforcement agency.

4. *Assessment process.* ~~The~~

a. A child abuse assessment ~~is subject to~~ or family assessment shall include all of the following:

(1) A safety assessment and risk assessment. If at any time during a family assessment, a child is determined unsafe, it appears that the immediate safety or well-being of a child is endangered, it appears that the family may flee or the child may disappear, or the facts otherwise warrant, the department shall immediately commence a child abuse assessment.

(2) An evaluation of the home environment. If concerns regarding protection of children are identified by the child protection worker, the child protection worker shall evaluate the child named in the report and any other children in the same home as the parents or other persons responsible for their care.

b. In addition to the requirements of paragraph *"a"*, a child abuse assessment shall include the following:

~~*a.*~~ (1) Identification of the nature, extent, and cause of the injuries, if any, to the child named in the report.

~~*b.*~~ (2) Identification of the person or persons responsible for the alleged child abuse.

~~*c.*~~ (3) A description of the name, age, and condition of other children in the same home as the child named in the report.

~~*d.* An evaluation of the home environment. If concerns regarding protection of children are identified by the child protection worker, the child protection worker shall evaluate the child named in the report and any other children in the same home as the parents or other persons responsible for their~~

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1 ~~care.~~
2 ~~*e.*~~ (4) An interview of the person alleged to have committed
3 the child abuse, if the person's identity and location are
4 known. The offer of an interview shall be made to the person
5 prior to any consideration or determination being made that
6 the person committed the alleged abuse. The person shall be
7 informed of the complaint or allegation made regarding the
8 person. The person shall be informed in a manner that protects
9 the confidentiality rights of the individual who reported the
10 child abuse or provided information as part of the assessment
11 process. The purpose of the interview shall be to provide the
12 person with the opportunity to explain or rebut the allegations
13 of the child abuse report or other allegations made during
14 the assessment. The court may waive the requirement to offer
15 the interview only for good cause. The person offered an
16 interview, or the person's attorney on the person's behalf, may
17 decline the offer of an interview of the person.
18 ~~*f.* Unless otherwise prohibited under section 234.40~~
19 ~~or 280.21, the use of corporal punishment by the person~~
20 ~~responsible for the care of a child which does not result in~~
21 ~~a physical injury to the child shall not be considered child~~
22 ~~abuse.~~
23 10. *Multidisciplinary team.* In each county or multicounty
24 area in which more than fifty child abuse reports are made
25 per year, the department shall establish a multidisciplinary
26 team, as defined in section 235A.13, subsection 8. Upon the
27 department's request, a multidisciplinary team shall assist the
28 department in the assessment, diagnosis, and disposition of a
29 child abuse ~~report~~ assessment.
30 12. ~~*Assessment*~~ *Written assessment report.*
31 *a.* The department, upon completion of the child abuse
32 assessment or the family assessment, shall make a written
33 report of the assessment, in accordance with all of the
34 following:
35 ~~*a.*~~ (1) The written assessment report shall incorporate the

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information required by subsection 4, paragraph "a".

~~b.~~ (2) ~~The~~ A written child abuse assessment report shall be completed within twenty business days of the receipt of the child abuse report. A written family assessment report shall be completed within ten business days of the receipt of the child abuse report.

~~c. The written assessment shall include a description of the child's condition, identification of the injury or risk to which the child was exposed, the circumstances which led to the injury or risk to the child, and the identity of any person alleged to be responsible for the injury or risk to the child.~~

~~d.~~ (3) The written assessment report shall identify the strengths and needs of the child, and of the child's parent, home, and family.

~~e.~~ (4) The written assessment report shall identify services available from the department and informal and formal services and other support available in the community to address the strengths and needs identified in the assessment.

~~f.~~ (5) Upon completion of the assessment, the department shall consult with the child's family in offering services to the child and the child's family to address strengths and needs identified in the assessment.

b. In addition to the requirements of paragraph "a", a written child abuse assessment report shall include a description of the child's condition, identification of the injury or risk to which the child was exposed, the circumstances which led to the injury or risk to the child, and the identity of any person alleged to be responsible for the injury or risk to the child.

~~g.~~ c. ~~The~~ Following a child abuse assessment, the department shall notify each subject of the child abuse report, as identified in section 235A.15, subsection 2, paragraph "a", of the results of the child abuse assessment, of the subject's right, pursuant to section 235A.19, to correct the report data or disposition data which refers to the subject, and of the

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1 procedures to correct the data.
2 *d.* Following a family assessment, the department shall
3 notify the parent or guardian of each child listed in the
4 child abuse report of the completion of the family assessment
5 and review any service recommendations. For cases assessed
6 pursuant to a family assessment, a person named in a child
7 abuse report as responsible for the alleged child abuse shall
8 not have the opportunity for a contested case hearing pursuant
9 to chapter 17A.
10 ~~*h.*~~ *e.* If after completing the child abuse assessment
11 ~~process~~ the child protection worker determines, with the
12 concurrence of the worker's supervisor and the department's
13 area administrator, that a child abuse report is a spurious
14 report or that protective concerns are not present, the
15 portions of the written assessment report described under
16 ~~paragraphs "*d*" and "*e*"~~ paragraph "*a*", subparagraphs (3) and (4)
17 shall not be required.
18 13. *Court-ordered and voluntary services.* ~~The~~ In cases where
19 abuse has been determined founded during the course of a child
20 abuse assessment, the department shall provide or arrange for
21 and monitor services for abused children and their families on
22 a voluntary basis or under a final or intermediate order of the
23 juvenile court.
24 14. *County attorney — juvenile court.* The department
25 shall provide the juvenile court and the county attorney with
26 a copy of the portion of the written child abuse assessment
27 report pertaining to the child abuse report, the portion of
28 the written family assessment report pertaining to the child
29 abuse report for cases in which the department requests a child
30 in need of assistance petition, or other reports for cases in
31 which the department requests a child in need of assistance
32 petition. The juvenile court and the county attorney shall
33 notify the department of any action taken concerning an
34 assessment provided by the department.
35 Sec. 4. Section 232.71B, Code 2013, is amended by adding the

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following new subsections:

NEW SUBSECTION. 4A. *Child abuse determination.* Unless otherwise prohibited under section 234.40 or 280.21, the use of corporal punishment by the person responsible for the care of a child which does not result in a physical injury to the child shall not be considered child abuse.

NEW SUBSECTION. 16. *Rules.* The department shall adopt rules regarding the intake process, assessment process, assessment summaries, contact with juvenile court or the county attorney, involvement with law enforcement, case record retention, and dissemination of records for both child abuse assessments and family assessments.

Sec. 5. Section 232.71C, Code 2013, is amended to read as follows:

232.71C Court action following ~~child abuse~~ assessment — guardian ad litem.

1. If, upon completion of an assessment performed under section 232.71B, the department determines that the best interests of the child require juvenile court action, the department shall act appropriately to initiate the action. If at any time during the assessment process the department believes court action is necessary to safeguard a child, the department shall act appropriately to initiate the action. The county attorney shall assist the department as provided under section 232.90, subsection 2.

2. The department shall assist the juvenile court or district court during all stages of court proceedings involving an alleged child abuse case in accordance with the purposes of this chapter.

3. In every case involving child abuse which results in a child protective judicial proceeding, whether or not the proceeding arises under this chapter, a guardian ad litem shall be appointed by the court to represent the child in the proceedings. Before a guardian ad litem is appointed pursuant to this section, the court shall require the person responsible

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for the care of the child to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court determines that the person responsible for the care of the child is able to bear the cost of the guardian ad litem, the court shall so order. In cases where the person responsible for the care of the child is unable to bear the cost of the guardian ad litem, the expense shall be paid out of the county treasury.

Sec. 6. Section 232.71D, subsection 1, Code 2013, is amended to read as follows:

1. The requirements of this section shall apply to child abuse information relating to a report of child abuse and to ~~an~~ a child abuse assessment performed in accordance with section 232.71B.

Sec. 7. Section 232.71D, subsection 3, paragraph b, subparagraph (2), Code 2013, is amended to read as follows:

(2) The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse and the department has previously determined within the ~~eighteen-month~~ five-year period preceding the issuance of the department's report that the acts or omissions of the alleged perpetrator in a prior case met the definition of child abuse.

Sec. 8. Section 232.71D, subsection 6, paragraph a, Code 2013, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (03) Information pertaining to a child abuse report for which there was an assessment performed but no determination was made as to whether the definition of child abuse was met.

Sec. 9. Section 232.77, subsection 1, Code 2013, is amended to read as follows:

1. A person who is required to report a case of child abuse may take or cause to be taken, at public expense, photographs, X rays, or other physical examinations or tests of a child which would provide medical indication of allegations arising from ~~a child abuse~~ an assessment. A health practitioner may,

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if medically indicated, cause to be performed radiological examination, physical examination, or other medical tests of the child. A person who takes any photographs or X rays or performs physical examinations or other tests pursuant to this section shall notify the department that the photographs or X rays have been taken or the examinations or other tests have been performed. The person who made notification shall retain the photographs or X rays or examination or test findings for a reasonable time following the notification. Whenever the person is required to report under section 232.69, in that person's capacity as a member of the staff of a medical or other private or public institution, agency or facility, that person shall immediately notify the person in charge of the institution, agency, or facility or that person's designated delegate of the need for photographs or X rays or examinations or other tests.

Sec. 10. Section 232.141, subsection 6, Code 2013, is amended to read as follows:

6. If a child is given physical or mental examinations or treatment relating to ~~a child abuse~~ an assessment performed pursuant to section 232.71B with the consent of the child's parent, guardian, or legal custodian and no other provision of law otherwise requires payment for the costs of the examination and treatment, the costs shall be paid by the state. Reimbursement for costs of services described in this subsection is subject to subsection 5.

Sec. 11. Section 235A.13, subsection 10, paragraph f, Code 2013, is amended to read as follows:

f. A recording made of an interview conducted under chapter 232 in association with ~~a child abuse~~ an assessment.

Sec. 12. Section 235A.14, subsection 1, Code 2013, is amended to read as follows:

1. There is created within the state department of human services a central registry for certain child abuse information. The department shall organize and staff the

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1 registry and adopt rules for its operation.
2 Sec. 13. Section 235A.15, subsection 12, Code 2013, is
3 amended to read as follows:
4 12. If an individual who is the subject of a child abuse
5 report listed in subsection 2, paragraph *"a"*, or another
6 party involved in ~~a child abuse~~ an assessment under section
7 232.71B releases in a public forum or to the media information
8 concerning a case of child abuse including but not limited to
9 child abuse information which would otherwise be confidential,
10 the director of human services, or the director's designee, may
11 respond with relevant information concerning the case of child
12 abuse that was the subject of the release. Prior to releasing
13 the response, the director or the director's designee shall
14 consult with the child's parent or guardian, or the child's
15 guardian ad litem, and apply to the court under section 235A.24
16 requesting a review of the information proposed for release and
17 an order authorizing release of the information.
18 Sec. 14. Section 235A.18, subsection 1, paragraph a, Code
19 2013, is amended to read as follows:
20 *a.* (1) Report and disposition data relating to a particular
21 case of alleged child abuse shall be sealed ten years after
22 the initial placement of the data in the registry unless good
23 cause be shown why the data should remain open to authorized
24 access. If a subsequent report of an alleged case of child
25 abuse involving the child named in the initial data placed in
26 the registry as the victim of abuse or a person named in the
27 data as having abused a child is received by the department
28 within this ten-year period, or within the period in which
29 the person's name is in the central registry, the data shall
30 be sealed ten years after receipt of the subsequent report
31 unless good cause be shown why the data should remain open to
32 authorized access. ~~However, a person named in the initial data~~
33 ~~placed in the registry as having abused a child shall have the~~
34 ~~person's name removed from the registry if that person has~~
35 ~~not had a subsequent case of alleged abuse which resulted in~~

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1 ~~the person's name being placed in the registry as the person~~
2 ~~responsible for the abuse within the ten-year period.~~ Report
3 and disposition data shall be made available to the department
4 of justice if the department requests access to the alleged
5 child abuse records for purposes of review by the prosecutor's
6 review committee or commitment of sexually violent predators
7 under chapter 229A.
8 (2) Notwithstanding subparagraph (1), a person named in the
9 initial data placed in the registry as having abused a child
10 shall have the person's name removed from the registry after
11 ten years, if not previously removed from the registry pursuant
12 to the other provisions of this subsection, if that person has
13 not had a subsequent case of alleged abuse which resulted in
14 the person's name being placed in the registry as the person
15 responsible for the abuse within the ten-year period.
16 (3) (a) A person named in the initial data placed in the
17 registry as having abused a child shall have the person's name
18 removed from the registry after five years if the department
19 determined in the report and disposition data that the person
20 committed child abuse as defined in section 232.68, subsection
21 2, paragraph "a", subparagraph (1), (4), (6), or (7).
22 (b) Subparagraph division (a) shall not apply, and the
23 name of a person named in the initial data as having abused a
24 child shall remain in the registry as described in subparagraph
25 (1), if the department determined in the initial report and
26 disposition data the person committed child abuse as defined in
27 section 232.68, subsection 2, paragraph "a", subparagraph (1),
28 (4), (6), or (7) and the child abuse resulted in the child's
29 death or a serious injury.
30 Sec. 15. Section 235A.19, subsection 2, Code 2013, is
31 amended to read as follows:
32 2. At the time the notice of the results of ~~an~~ a child
33 abuse assessment performed in accordance with section 232.71B
34 is issued, the department shall provide notice to a person
35 named in the report as having abused a child of the right to

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a contested case hearing and shall provide notice to subjects other than the person named in the report as having abused a child of the right to intervene in a contested case proceeding, as provided in subsection 3.

Sec. 16. Section 235A.19, subsection 3, paragraph a, Code 2013, is amended to read as follows:

a. A subject of a child abuse report may file with the department within ninety days of the date of the notice of the results of ~~an~~ a child abuse assessment performed in accordance with section 232.71B, a written statement to the effect that report data and disposition data referring to the subject is in whole or in part erroneous, and may request a correction of that data or of the findings of the child abuse assessment report.

Sec. 17. Section 915.35, subsection 4, paragraph b, Code 2013, is amended to read as follows:

b. A child protection assistance team may also consult with or include juvenile court officers, medical and mental health professionals, physicians or other hospital-based health professionals, court-appointed special advocates, guardians ad litem, and members of a multidisciplinary team created by the department of human services for child abuse investigations. A child protection assistance team may work cooperatively with the early childhood Iowa area board established under chapter 256I. The child protection assistance team shall work with the department of human services in accordance with section 232.71B, subsection 3, in developing the protocols for prioritizing the actions taken in response to child abuse ~~reports~~ assessments and for law enforcement agencies working jointly with the department at the local level in processes for child abuse ~~reports~~ assessments. The department of justice may provide training and other assistance to support the activities of a child protection assistance team.

Sec. 18. DEPARTMENT OF HUMAN SERVICES REVIEW — DISCRETION FOR EARLY REMOVAL FROM REGISTRY.

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1 1. The department of human services, in conjunction with
2 the department of inspections and appeals, the office of the
3 attorney general, and other stakeholders as deemed appropriate
4 by the department of human services, shall review and make
5 recommendations regarding a process for the removal of the
6 name of a person named in the initial data placed in the
7 central child abuse registry as having abused a child, at the
8 discretion of the department of human services, prior to the
9 five-year period as provided in section 235A.18, subsection 1,
10 paragraph "a", subparagraph (3), subparagraph division (a), as
11 enacted in this Act, or the ten-year period pursuant to section
12 235A.18, subsection 1, paragraph "a", subparagraph (1) or (2),
13 as amended in this Act.
14 2. The review and recommendations shall include specific
15 criteria the department of human services shall consider and
16 additional criteria the department of human services may
17 consider in making a determination of whether to remove a
18 person from the registry, the application process or other
19 recommended action that would commence the department's
20 determination of whether to remove the person from the
21 registry, the appeal process necessary in order to ensure
22 adequate protection of a person's due process rights, and cost
23 projections for the recommendations.
24 3. The department of human services, shall, by December 1,
25 2013, submit a report of its review and recommendations to the
26 governor and the general assembly.
27 Sec. 19. RULES. The department of human services shall
28 adopt rules to implement this Act.
29 Sec. 20. EFFECTIVE UPON ENACTMENT. The following
30 provision or provisions of this Act, being deemed of immediate
31 importance, take effect upon enactment:
32 1. The section of this Act requiring the department of human
33 services to adopt rules.
34 Sec. 21. EFFECTIVE DATE AND IMPLEMENTATION. The following
35 provision or provisions of this Act take effect January

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1 1, 2014, except that the department of human services may
2 begin implementation prior to January 1, 2014, to the extent
3 necessary to transition to full implementation of these
4 provisions of this Act:
5 1. The sections of this Act amending sections 232.68,
6 232.70, 232.71B, 232.71C, 232.71D, 232.77, 232.141, 235A.13,
7 235A.14, 235A.15, 235A.18, 235A.19, and 915.35.
8 Sec. 22. APPLICABILITY.
9 1. The section of this Act amending section 232.71D,
10 subsection 3, relating to the placement of the names of the
11 child and the alleged perpetrator of the alleged child abuse
12 and any other child abuse information on the central registry
13 for child abuse information due to a prior case in which the
14 department determined the case met the definition of child
15 abuse, applies to cases in which the prior case which met the
16 definition of child abuse occurred on or after the effective
17 date of that section of this Act.
18 2. The section of this Act amending section 235A.18,
19 subsection 1, paragraph "a", relating to removal of the name
20 of a person named in the initial data placed in the central
21 registry for child abuse information as having abused a child,
22 shall apply to the name of an alleged perpetrator of the
23 alleged child abuse which is placed in the central registry
24 pursuant to section 232.71D on or after the effective date of
25 that section of this Act.
26 EXPLANATION
27 This bill relates to child abuse reporting, assessment
28 procedures, and placement on and removal from the central
29 registry for child abuse information.
30 MULTIPATH ASSESSMENT PROCESS. Current law provides that,
31 upon receipt of a child abuse report, the department of human
32 services (DHS) immediately determines whether the report
33 constitutes an allegation of child abuse which will lead to the
34 commencement of an assessment. The bill removes language that
35 requires DHS to notify the appropriate county attorney of the

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1 receipt of the report.
2 The bill establishes a new assessment process upon the
3 receipt of a child abuse report. The bill provides that an
4 assessment will be conducted as a child abuse assessment if
5 the child abuse report alleges imminent danger or impacts
6 the child's safety. A child abuse assessment results in a
7 disposition. DHS makes a determination of whether the alleged
8 child abuse meets the definition of child abuse and makes
9 a determination of whether the case meets the criteria for
10 placement on the central registry for child abuse information.
11 This type of assessment is the current procedure upon receipt
12 of a child abuse report.
13 The bill adds a family assessment as another type of
14 assessment process, which is to be conducted if the child
15 abuse report does not allege imminent danger and does not
16 impact a child's safety. DHS will not make a determination of
17 whether the alleged child abuse meets the definition of child
18 abuse pursuant to a family assessment. DHS also will not make
19 a determination of whether the case meets the criteria for
20 placement on the central registry for child abuse information
21 under this assessment process. However, the bill provides
22 that if, during a family assessment, it is determined a child
23 is unsafe, it appears the immediate safety or well-being of
24 a child is endangered, the family may flee, the child may
25 disappear, or if other facts so warrant, DHS shall immediately
26 commence a child abuse assessment.
27 Upon receipt of a child abuse report and acceptance that the
28 child abuse report alleges an incident of child abuse, the bill
29 requires DHS to commence either a child abuse assessment within
30 24 hours of receiving that report or a family assessment within
31 72 hours of receiving that report.
32 The bill provides that DHS is only required to apply the
33 current protocols, which are developed with the local child
34 protection assistance team, to prioritize actions and to work
35 with child protection assistance teams and law enforcement

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1 agencies in response to a child abuse assessment, not a family
2 assessment. However, the bill does require DHS to immediately
3 refer the matter to the appropriate law enforcement agency if a
4 child abuse report is assessed under the family assessment and
5 a criminal act harming a child is alleged.
6 The bill provides that a child abuse assessment shall be
7 conducted as provided under current law. The bill establishes
8 the process for the family assessment. Both a child abuse
9 assessment and a family assessment include a safety assessment,
10 a risk assessment, and an evaluation of the home environment.
11 A child abuse assessment also requires, pursuant to current
12 law, the identification of the nature, extent, and cause of
13 injuries to the child named in the report, the identification
14 of the person or persons responsible for the alleged child
15 abuse, a description of the name, age, and condition of other
16 children in the same home as the child named in the report,
17 and an interview of the person alleged to have committed the
18 child abuse. Both the child abuse assessment and the family
19 assessment may include a home visit, facility or school visit,
20 information request, protective disclosure, and physical
21 examination pursuant to Code section 232.71B.
22 The bill requires DHS to make a written assessment report for
23 both a child abuse assessment and the family assessment. The
24 written assessment reports must include information related to
25 the safety assessment and risk assessment, information related
26 to an evaluation of the home environment, identification of the
27 strengths and needs of the child, the child's parent, home, and
28 family, and an identification of services available from DHS
29 and other services available in the community. Upon completion
30 of the written assessment report for either the child abuse
31 assessment or a family assessment, DHS must consult with the
32 child's family to offer services to the child and the child's
33 family. The bill retains current requirements for written
34 child abuse assessment reports.
35 A written child abuse assessment report must be completed

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1 within 20 business days of the receipt of the child abuse
2 report and a written family assessment report must be completed
3 within 10 business days of the receipt of the child abuse
4 report.
5 The bill provides that after a family assessment, DHS must
6 provide notice to the parent or guardian of a child listed in
7 the child abuse report of the completion of the assessment
8 and review any service recommendations. Notice to a person
9 named in the initial child abuse report as responsible for the
10 alleged child abuse is not required after a family assessment,
11 as that person does not have the opportunity for a contested
12 case hearing since DHS did not make a determination of whether
13 child abuse occurred and the information arising from a family
14 assessment is not reported to the registry.
15 The bill provides that DHS must provide the juvenile court
16 and the county attorney with the portion of a written child
17 abuse assessment report pertaining to the child abuse report.
18 However, DHS only needs to provide such portion of the written
19 family assessment report in cases in which DHS is requesting a
20 child in need of assistance petition. DHS may request court
21 action following either a child abuse assessment or family
22 assessment.
23 The bill states that the requirements of section 232.71D,
24 relating to the central registry, apply to child abuse
25 information involving a report of child abuse and a child abuse
26 assessment, but not a family assessment.
27 The bill provides that the confidentiality of information
28 relating to an assessment in which no determination was made
29 as to whether the definition of child abuse was met shall be
30 maintained in accordance with Code section 217.30.
31 The bill requires DHS to adopt rules regarding the intake
32 process, assessment process, assessment summaries, contact
33 with juvenile court or the county attorney, involvement with
34 law enforcement, case record retention, and dissemination
35 of records for both child abuse assessments and family

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1 assessments.
2 The bill provides that the provisions relating to the
3 establishment of a multipath assessment process upon the
4 receipt of a child abuse report are effective January 1, 2014,
5 except that DHS may begin implementation prior to January 1,
6 2014, to reach full implementation by that date. The bill also
7 provides that DHS must adopt rules for implementation. That
8 provision is effective upon enactment.
9 CENTRAL CHILD ABUSE REGISTRY. Current law provides that
10 the names of the child and the alleged perpetrator of the
11 alleged child abuse and any other child abuse information shall
12 be placed in the central registry as a case of founded child
13 abuse if DHS determines the acts or omissions of the alleged
14 perpetrator meet the definition of child abuse and DHS has
15 determined within the preceding 18 months that the acts or
16 omissions of the alleged perpetrator in a prior case met the
17 definition of child abuse. The bill increases the amount of
18 time between the current offense and the previous offense, from
19 18 months to five years, for which a previous determination
20 of child abuse will result in placement on the registry.
21 This section of the bill is applicable to cases in which the
22 previous case that met the definition of child abuse occurred
23 on or after January 1, 2014.
24 The bill also provides for the removal of the name of a
25 person named in the central registry for child abuse as having
26 abused a child after five years rather than the 10 years
27 currently required if in the report and disposition data, DHS
28 determined the person committed one of the following types
29 of child abuse as defined in Code section 232.68: physical
30 injury, failure to provide critical care, the presence of an
31 illegal drug in the child's body, and the manufacture and
32 possession of a dangerous substance in the child's presence.
33 However, the name of such a person named in the initial data
34 placed on the registry as having abused a child shall not
35 be removed after five years if the child abuse resulted in

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1 a child's death or serious injury of the child. The bill
2 provides that the Code section regarding removal of the name of
3 a person from the registry after five years applies to report
4 and disposition data placed on the registry on or after January
5 1, 2014.
6 The bill requires DHS, in conjunction with the department of
7 inspections and appeals, the office of the attorney general,
8 and other stakeholders deemed appropriate by DHS, to review and
9 make recommendations regarding the process for the removal of
10 a person from the child abuse registry prior to the five-year
11 period as allowed under the bill, or the 10-year period
12 currently provided. The bill states that the review shall
13 include specific criteria that DHS must and could consider
14 in determining whether to remove a person from the registry,
15 the application process or other action which would commence
16 DHS's determination of whether to remove the person from the
17 registry, the appeal process necessary to ensure protection
18 of a person's due process rights, and cost projections for
19 recommendations. The bill requires DHS to submit the report of
20 the review and recommendations to the governor and the general
21 assembly by December 1, 2013.

House File 591 - Introduced

HOUSE FILE 591
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 175)

A BILL FOR

1 An Act relating to estates and trusts and including retroactive
2 and other applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1114HV (1) 85
rh/rj

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1 Section 1. NEW SECTION. **633.273A Disposition of failed**
2 **devise.**
3 Unless from the terms of the will the intent is clear and
4 explicit to the contrary, and except as provided in section
5 633.273:
6 1. A devise, other than a residuary devise, that fails for
7 any reason becomes a part of the residuary estate.
8 2. If the residuary estate is devised to two or more
9 persons, the share of a residuary devisee that fails for any
10 reason passes to the other residuary devisee or to the other
11 residuary devisees in proportion to the interest of each in the
12 remaining part of the residuary estate.
13 Sec. 2. Section 633.279, subsection 2, paragraph a, Code
14 2013, is amended by striking the paragraph and inserting in
15 lieu thereof the following:
16 *a.* An attested will may be made self-proved at the time of
17 its execution, or at any subsequent date, by the acknowledgment
18 thereof by the testator and the affidavits of the witnesses,
19 each made before a person authorized to administer oaths
20 and take acknowledgments under the laws of this state, and
21 evidenced by such person's certificate, under seal, attached
22 or annexed to the will, in form and content substantially as
23 follows:
24 Affidavit
25 State of.....)
26 County of.....) ss
27 We, the undersigned, ..., ... and ....., the
28 testator and the witnesses, respectively, whose names are
29 signed to the attached or foregoing instrument, being first
30 duly sworn, declare to the undersigned authority that at the
31 date of the instrument, we all knew the identity of each other;
32 the instrument was exhibited to the witnesses by the testator,
33 who declared it to be the testator's last will and testament
34 and was signed by the testator or by another at the direction
35 of the testator at ....., in the County of ....., State

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of ....., on the date shown in the instrument, and in the presence of each other as subscribing witnesses; that we, as witnesses, declare to the undersigned authority that in our presence the testator executed and acknowledged such will as the testator's will and that we, in the testator's presence, at the testator's request, and in the presence of each other, did subscribe our names thereto as attesting witnesses on the date of such will; and that the witnesses were sixteen years of age or older.

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

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

.....

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

Sec. 3. Section 633.290, Code 2013, is amended to read as follows:

633.290 ~~**Petition for probate of will**~~ **Petitions after death of testator.**

1. ~~At the time the will of a decedent is filed with the clerk, or thereafter,~~ After the death of the testator, any interested person may file a verified petition in the district court of the proper county for any of the following:

~~1.~~ *a.* To have the will admitted to probate~~;~~.

~~2.~~ *b.* For the appointment of the executor.

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1 *c.* To request a hearing before the will is admitted to
2 probate.
3 *d.* To request a hearing before the appointment of the
4 executor.
5 *e.* For the production of the purported will of the decedent
6 to be filed by the person believed by the petitioner to be in
7 possession of the will.
8 2. ~~A petition for probate may be combined with a petition~~
9 ~~for appointment of the executor, and any person interested~~
10 ~~in either the probate of a will or in the appointment of~~
11 ~~the executor, may petition for both~~ Petitions for any of the
12 reasons specified in subsection 1 may be combined.
13 Sec. 4. Section 633.295, Code 2013, is amended to read as
14 follows:
15 **633.295 Testimony of witnesses.**
16 The proof may be made by the oral or written testimony of
17 one or more of the subscribing witnesses to the will. If such
18 testimony is in writing, it shall be substantially in the
19 following form executed and sworn to after the death of the
20 decedent:
21 In the District Court of Iowa
22 In and for ..... County
23 In the Matter of the Estate of .....
24 ....., Deceased
25 Probate No. ....
26 Testimony of Subscribing
27 Witness on Probate of Will.
28 State of .....)
29 ..... County) ss
30 I, ..., being first duly sworn, state:
31 I reside in the County of ....., State of .....; I knew
32 the identity of the testator on the .... day of ..... (month),
33 ... (year), the date of the instrument, the original or exact
34 reproduction of which is attached hereto, now shown to me,
35 and purporting to be the last will and testament of the said

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1 ....., deceased; I am one of the subscribing witnesses
2 to said instrument; at the said date of said instrument, I
3 knew the identity of ....., the other subscribing witness;
4 that said instrument was exhibited to me and to the other
5 subscribing witness by the testator, who declared the same to
6 be the testator's last will and testament, and was signed by
7 the testator at ....., in the County of ....., State of
8 ....., on the date shown in said instrument, in the presence
9 of myself and the other subscribing witness; and the other
10 subscribing witness and I then and there, at the request of the
11 testator, in the presence of said testator and in the presence
12 of each other, subscribed our names thereto as witnesses.
13 .....
14 Name of witness
15 .....
16 Address
17 Subscribed and sworn to before me this ... day of .....
18 (month), ... (year)
19 .....
20 Notary Public in and for
21 (Stamp) the State of .....
22 Sec. 5. Section 633.356, subsection 3, paragraph c, Code
23 2013, is amended to read as follows:
24 *c.* That the gross value of the decedent's personal property
25 that would otherwise be distributed by will or intestate
26 succession does not exceed twenty-five thousand dollars and
27 there is no real property or the real property passes to
28 persons exempt from inheritance tax pursuant to section 450.9
29 as joint tenants with right of survivorship.
30 Sec. 6. Section 633.575, Code 2013, is amended by adding the
31 following new subsection:
32 NEW SUBSECTION. 7. If the court determines upon application
33 that it is appropriate or necessary, the court may order that
34 the attorney appointed pursuant to this section be given copies
35 of and access to the proposed ward's health information by

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1 describing with reasonable specificity the health information
2 to be disclosed or accessed, for the purpose of fulfilling the
3 attorney's responsibilities pursuant to this section.
4 Sec. 7. Section 633A.4504, subsection 3, Code 2013, is
5 amended to read as follows:
6 3. Any claim for breach of trust against a trustee who
7 has presented an accounting or report to a beneficiary more
8 than one year prior to July 1, ~~2011~~ 2000, shall be time barred
9 unless some exception stated in this section applies which
10 tolls the statute. Any claim arising under this section within
11 one year of July 1, ~~2011~~ 2000, shall be time barred after one
12 year unless an exception applies to toll the statute.
13 Sec. 8. Section 635.1, Code 2013, is amended to read as
14 follows:
15 **635.1 When applicable.**
16 When the gross value of the probate assets of a decedent
17 subject to the jurisdiction of this state does not exceed one
18 hundred thousand dollars, and upon a petition as provided in
19 section 635.2 of an authorized petitioner in accordance with
20 ~~section~~ sections 633.227~~,~~ and 633.228, or section 633.290,
21 subsection 1, paragraph *"a"* or *"b"*, the clerk shall issue
22 letters of appointment for administration to the proposed
23 personal representative named in the petition, if qualified to
24 serve pursuant to section 633.63 or upon court order pursuant
25 to section 633.64. Unless otherwise provided in this chapter,
26 the provisions of chapter 633 apply to an estate probated
27 pursuant to this chapter.
28 Sec. 9. APPLICABILITY.
29 1. The sections of this Act amending sections 633.273A,
30 633.279, and 633.295 apply to estates of decedents dying on or
31 after July 1, 2013.
32 2. The sections of this Act amending sections 633.290 and
33 635.1 apply to petitions filed on or after July 1, 2013.
34 3. The section of this Act amending section 633.575 applies
35 to all judicial proceedings held on or after July 1, 2013, in

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1 which an order for the appointment of a conservatorship is
2 sought or has been issued.
3 4. The section of this Act amending section 633A.4504
4 applies retroactively to all reports and accountings provided
5 by a trustee, unless an exception applies, to one year from
6 July 1, 2000.
7 EXPLANATION
8 PROBATE CODE.
9 DISPOSITION OF FAILED DEVISE. This bill creates new Code
10 section 633.273A. New subsection 1 codifies the common law
11 concept of lapse that applies in a situation where a devisee
12 (beneficiary) named in a will dies before the testator (person
13 who creates the will). In such a situation, the testator's
14 estate (property) passes to the testator's residuary estate
15 (any portion of the testator's estate not specifically devised
16 in a will). New subsection 2 reverses the common law doctrine
17 of "no residue of a residue" that addresses the situation
18 where a residuary (devisee) dies before the testator and the
19 testator's residuary estate passes as though the testator died
20 intestate (without a will). The bill provides that if the
21 residuary estate is devised to two or more devisees and one
22 devisee has died, then the entire residuary estate is passed to
23 the surviving residuary devisee or devisees. These provisions
24 apply except as provided in Code section 633.273 relating to
25 devises to certain relatives of the testator who survive the
26 testator (Iowa's anti-lapse statute) and unless the terms of
27 the will explicitly provide otherwise. This provision applies
28 to all decedents dying on or after July 1, 2013.
29 SELF-PROVING WILL AFFIDAVIT. The bill amends Code
30 section 633.279, subsection 2, relating to the execution of a
31 self-proving will which allows the testator and witnesses to
32 the will to submit a notarized affidavit. The bill amends the
33 language of the affidavit to make the language consistent with
34 the language of a formal will execution. A conforming change
35 is made to Code section 633.295 relating to the testimony of

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1 witnesses to the will. The amendments apply to estates of
2 decedents dying on or after July 1, 2013.
3 PETITIONS FILED AFTER DEATH OF TESTATOR. Current Code
4 section 633.290 provides that after a testator (person who
5 executed a will) dies, any interested person may file a
6 petition with the court to admit the will to probate or to have
7 an executor appointed. The bill expands the scope of this
8 Code section to also allow any interested person to file a
9 petition with the court to request a hearing before the will
10 is admitted to probate or before an executor is appointed, and
11 for the production of the decedent's purported will. Petitions
12 for any of the reasons specified may be combined. The bill
13 makes a conforming change to Code section 635.1, relating to
14 the administration of small estates. These provisions apply to
15 petitions filed or after July 1, 2013.
16 DISTRIBUTION OF PROPERTY BY AFFIDAVIT. The bill amends Code
17 section 633.356, subsection 3, relating to the distribution of
18 property by affidavit in certain situations where the gross
19 value of the decedent's personal property that would otherwise
20 be distributed does not exceed $25,000. The bill adds the
21 words "that would otherwise be distributed by will or intestate
22 succession" consistent with changes made to this Code section
23 in 2010 Iowa Acts, chapter 1137 (HF 2483).
24 CONSERVATORSHIP PROCEEDINGS —— APPOINTED ATTORNEY ACCESS
25 TO HEALTH INFORMATION. The bill provides that if the court
26 determines it would be in a ward's best interest to have legal
27 representation with respect to conservatorship proceedings, the
28 court may order that the attorney appointed be given copies
29 of and access to the proposed ward's health information by
30 describing with reasonable specificity the health information
31 to be disclosed or accessed, for the purpose of fulfilling the
32 attorney's responsibilities. This provision applies to all
33 judicial proceedings, in which an order for the appointment
34 of a conservatorship is sought or has been issued, held on or
35 after July 1, 2013.

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1 TRUST CODE — LIMITATION OF ACTION AGAINST TRUSTEE. Current
2 law in Code section 633A.4504 bars a lawsuit against a trustee
3 for breach of trust unless the lawsuit is filed within one
4 year after the beneficiary's receipt of the final accounting
5 or report of the trustee. This law was enacted as a transition
6 provision barring claims against trustees who provided reports
7 to beneficiaries before the trust code was enacted in 2000 to
8 provide that the statute-of-limitation period was one year from
9 July 1, 2000. In 2012 Iowa Acts chapter 1123 (HF 609), the
10 year was amended to July 1, 2011. The bill amends this date
11 retroactively applicable to July 1, 2000.

House File 592 - Introduced

HOUSE FILE 592
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 159)

A BILL FOR

1 An Act relating to payments from the indigent defense fund by
2 the state public defender.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1172HV (1) 85
jm/rj

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1 Section 1. Section 13B.4, subsection 4, paragraph d, Code
2 2013, is amended by striking the paragraph.
3 Sec. 2. Section 13B.4, subsection 8, Code 2013, is amended
4 to read as follows:
5 8. The state public defender shall adopt rules, as
6 necessary, pursuant to chapter 17A to interpret and administer
7 this chapter, ~~and~~ chapter 815, and sections 229A.6, 232.11,
8 232.89, 232.113, 232.126, 232.141, 232.179, 600A.6A, 600A.6B,
9 814.11, and 908.2A. The state public defender shall have the
10 discretion to interpret such rules.
11 Sec. 3. NEW SECTION. **13B.4A Judicial review of agency**
12 **action.**
13 1. Notwithstanding chapter 17A, a claimant for payment of
14 indigent defense costs may seek judicial review of the state
15 public defender's final agency action denying or reducing any
16 claim by filing a motion for judicial review in the court with
17 jurisdiction over the original appointment. This section is
18 the sole and exclusive method of seeking judicial review of the
19 state public defender's action on any claim for payment.
20 *a.* A claimant may only file the motion after the state
21 public defender has taken final agency action, as defined by
22 the state public defender, on the claim, and the claimant must
23 file the motion within twenty days of the final agency action.
24 *b.* Failure to seek judicial review within twenty days of
25 final agency action as defined by the state public defender
26 shall preclude any judicial review of the action taken by the
27 state public defender.
28 *c.* The motion must clearly and concisely set forth the
29 grounds for error and any other grounds the claimant intends
30 to rely upon when challenging the action of the state public
31 defender.
32 2. *a.* The court shall set the motion for hearing and
33 provide the state public defender with at least ten days'
34 notice of the hearing. The state public defender shall not
35 be required to file a resistance to the motion for judicial

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1 review.
2 *b.* The claimant or state public defender may participate
3 in the hearing by telephone. If the state public defender
4 participates by telephone, the state public defender shall be
5 responsible for initiating the telephone call and paying all
6 telephone charges incurred for the hearing.
7 3. The claimant shall have the burden to show by a
8 preponderance of the evidence any of the following, otherwise
9 the action of the state public defender shall be affirmed:
10 *a.* The action of the state public defender violates the
11 Constitution of the United States or the Constitution of the
12 State of Iowa, a statute, or an administrative rule adopted by
13 the state public defender.
14 *b.* The action of the state public defender is arbitrary,
15 capricious, or an abuse of discretion.
16 4. In a hearing on a motion for judicial review of an action
17 of the state public defender the following shall apply:
18 *a.* The state public defender´s interpretation of the rules
19 adopted by the state public defender or a statute, which the
20 state public defender is vested with discretion to interpret
21 pursuant to section 13B.4, subsection 8, is binding on the
22 court unless the interpretation is irrational, illogical, or a
23 wholly unjustifiable interpretation of the law.
24 *b.* Factual findings of the state public defender must be
25 accepted by the court unless not supported by substantial
26 evidence.
27 *c.* If the state public defender provides an administrative
28 procedure for review of an action on a claim, the court shall
29 not consider any grounds for error or any other grounds unless
30 raised with the state public defender prior to the final agency
31 action, and the court shall not admit new evidence that was
32 not presented to the state public defender prior to the final
33 agency action.
34 5. If the state public defender is not first notified and
35 given an opportunity to be heard, any court order entered after

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1 the state public defender has taken action on the claim, which
2 affects the claim, is void.
3 6. The decision of the court following a hearing on a motion
4 for judicial review is a final judgment appealable by either
5 the claimant or state public defender.
6 Sec. 4. NEW SECTION. **13B.4B Confidentiality of indigent**
7 **defense claim records.**
8 1. A claim for compensation and reimbursement for legal
9 assistance and supporting documents submitted to the state
10 public defender for payment of costs incurred in the legal
11 representation of an indigent person from the indigent defense
12 fund established in section 815.11 shall be kept confidential
13 by the state public defender except as otherwise provided in
14 subsection 2.
15 2. *a.* The claim and supporting documents may be released to
16 the client on whose behalf the costs were incurred.
17 *b.* Summary claims data may be released if the data contains
18 no information that is required to be kept confidential
19 pursuant to an attorney's obligations under the Iowa rules of
20 professional conduct. Such summary data may include:
21 (1) The name of the attorney or vendor who provided the
22 legal services.
23 (2) The name of the county in which legal services were
24 provided.
25 (3) The case number and name of the client unless the
26 information is a confidential juvenile record under section
27 232.147.
28 (4) The type of claim and the type of cases for which legal
29 services were provided.
30 (5) The number of hours and expenses claimed, and the total
31 amount paid.
32 *c.* The state public defender may in the state public
33 defender's sole discretion release claims and supporting
34 documents to the auditor of state, the Iowa supreme court
35 attorney disciplinary board, the grievance commission of the

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1 supreme court of Iowa, or to other state or local agencies to
2 the extent necessary to investigate fraud or other criminal
3 activity against the attorney or vendor submitting the claim.
4 *d.* The state public defender may release the claim and
5 supporting documents to the court with respect to a hearing
6 held under section 13B.4A.
7 Sec. 5. Section 13B.8, subsection 2, Code 2013, is amended
8 to read as follows:
9 2. The state public defender may appoint ~~and may, for~~
10 ~~cause, remove~~ the local public defender, assistant local
11 public defenders, clerks, investigators, secretaries, or other
12 employees. After completion of an employee's probationary
13 period, the state public defender shall only remove the
14 employee for cause. An employee of the state public defender
15 exempt from the merit system provisions of chapter 8A,
16 subchapter IV, shall serve a one-year probationary period from
17 the beginning date of employment. Each local public defender,
18 and any assistant local public defender, must be an attorney
19 admitted to the practice of law before the Iowa supreme court.
20 Sec. 6. NEW SECTION. **13B.12 Gideon fellowship program**
21 **established.**
22 The state public defender may establish a gideon fellowship
23 program for the entry level hiring and training of public
24 defender attorneys. The state public defender may appoint
25 up to four gideon fellows for a term of up to two years and
26 may assign each fellow to a local public defender office or
27 appellate defender office. Each fellow shall be a licensed
28 attorney admitted to practice law in this state prior to
29 commencement of the fellowship. An attorney hired as a fellow
30 shall be excluded from the provisions of chapter 20.
31 Sec. 7. Section 22.7, Code 2013, is amended by adding the
32 following new subsection:
33 NEW SUBSECTION. 10. A claim for compensation and
34 reimbursement for legal assistance and supporting documents
35 submitted to the state public defender for payment from

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the indigent defense fund established in section 815.11, as provided in section 13B.4B.

Sec. 8. Section 600A.6, subsection 2, Code 2013, is amended to read as follows:

2. *a.* Prior to the service of notice on the necessary parties, the juvenile court shall appoint a guardian ad litem for a minor child if the child does not have a guardian or if the interests of the guardian conflict with the interests of the child. Such guardian ad litem shall be a necessary party under subsection 1 ~~of this section~~.

b. A person who is appointed as a guardian ad litem for a minor child shall not also be the attorney for any party other than the minor child in any proceeding involving the minor child. The guardian ad litem may make an independent investigation of the interest of the child and may cause witnesses to appear before the court to provide testimony relevant to the best interest of the minor child.

c. The costs of the guardian ad litem shall be paid by the person filing the petition under section 600A.5, subsection 1. The costs are not payable from the indigent defense fund established in section 815.11.

Sec. 9. Section 600A.6B, Code 2013, is amended to read as follows:

600A.6B Payment of attorney fees.

1. A person filing a petition for termination of parental rights under this chapter ~~or the person on whose behalf the petition is filed~~ shall be responsible for the payment of reasonable attorney fees for counsel appointed pursuant to section 600A.6A unless the person filing the petition is a private child-placing agency ~~as defined in section 238.1~~ licensed under chapter 238, or ~~unless~~ the court determines that the person filing the petition ~~or the person on whose behalf the petition is filed~~ is indigent.

2. If the person filing the petition is a private child-placing agency ~~as defined in section 238.1~~ licensed

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1 under chapter 238 or if the person filing the petition ~~or the~~
2 ~~person on whose behalf the petition is filed~~ is indigent, the
3 ~~appointed attorney shall be paid reasonable attorney fees as~~
4 ~~determined by the state public defender~~ prospective parent on
5 whose behalf the petition is filed shall be responsible for
6 the payment of reasonable attorney fees for counsel appointed
7 pursuant to section 600A.6A unless the court determines that
8 the prospective parent on whose behalf the petition is filed
9 is indigent.
10 3. ~~The~~ If the prospective parent on whose behalf the
11 petition is filed is indigent, and if the person filing the
12 petition is indigent or a private child-placing agency licensed
13 under chapter 238, the appointed attorney shall be paid
14 reasonable attorney fees as determined by the state public
15 defender from the indigent defense fund established in section
16 815.11.
17 4. The state public defender shall review all the claims
18 submitted for payment under ~~this section~~ subsection 3 and shall
19 have the same authority with regard to the payment of these
20 claims as the state public defender has with regard to claims
21 submitted under chapters 13B and 815, including the authority
22 to adopt rules concerning the review and payment of claims
23 submitted.
24 Sec. 10. Section 814.11, subsections 2, 3, and 4, Code 2013,
25 are amended to read as follows:
26 2. *a.* If the appeal involves an indictable offense or
27 denial of postconviction relief, the appointment shall be made
28 to the state appellate defender unless the state appellate
29 defender notifies the court that the state appellate defender
30 is unable to handle the case.
31 *b.* If the state appellate defender is unable to handle
32 the case, the state public defender may transfer the case to
33 a local public defender office, nonprofit organization, or
34 private attorney designated by the state public defender to
35 handle such a case. The state appellate defender shall notify

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1 the supreme court of the transfer of a case, and upon such
2 notification the responsibility of the state appellate defender
3 in the case terminates.
4 *c.* If, after transfer of the case to a local public defender
5 office, nonprofit organization, or private attorney, the local
6 public defender office, nonprofit organization, or private
7 attorney withdraws from the case, the court shall appoint an
8 attorney who has a contract with the state public defender to
9 provide legal services in appellate cases.
10 3. *a.* In a juvenile case under chapter 232 or a proceeding
11 under chapter 600A, the trial attorney shall continue
12 representation throughout the appeal without an additional
13 appointment order unless the court grants the attorney
14 permission to withdraw from the case.
15 *b.* If the court grants the attorney permission to withdraw,
16 the court shall appoint the state public defender's designee
17 pursuant to section 13B.4.
18 *c.* If the state public defender has not made a designation
19 pursuant to section 13B.4 to handle the type of case or the
20 state public defender's designee is unable to handle the case,
21 the court shall appoint an attorney who has a contract with the
22 state public defender to provide legal services in appellate
23 cases.
24 4. *a.* In all other cases not specified in subsection 2 or
25 3, or except as otherwise provided in this section, the court
26 shall appoint the state public defender's designee pursuant to
27 section 13B.4.
28 *b.* If the state public defender has not made a designation
29 pursuant to section 13B.4 to handle these other types of cases
30 or the state public defender's designee is unable to handle
31 the case, the court shall appoint an attorney to represent
32 an indigent person who has a contract with the state public
33 defender to provide legal services in appellate cases.
34 Sec. 11. NEW SECTION. **815.1 Costs incurred by a privately**
35 **retained attorney representing an indigent person.**

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1 1. The court shall not authorize the payment of state
2 funds for the costs incurred in the legal representation of a
3 person represented by a privately retained attorney unless the
4 requirements of this section are satisfied.
5 2. An application for the payment of state funds for the
6 costs incurred in the legal representation of an indigent
7 person that is submitted by the privately retained attorney
8 shall be filed with the court in the county in which the case
9 was filed and include the following:
10 *a.* A copy of the attorney's fee agreement for the
11 representation.
12 *b.* An itemized accounting of all compensation paid to the
13 attorney including the amount of any retainer.
14 *c.* The amount of compensation earned by the attorney.
15 *d.* Information on any expected additional costs to be paid
16 or owed by the represented person to the attorney for the
17 representation.
18 *e.* A signed financial affidavit completed by the represented
19 person.
20 3. The attorney shall submit a copy of the application and
21 all attached documents to the state public defender.
22 4. The court shall not grant the application and authorize
23 all or a portion of the payment to be made from state funds
24 unless the court determines, after reviewing the application
25 and supporting documents, that all of the following apply:
26 *a.* The represented person is indigent and unable to pay for
27 the costs sought to be paid by the attorney.
28 *b.* The costs are reasonable and necessary for the
29 representation of the person in a case for which counsel could
30 have been appointed under section 815.10.
31 *c.* The moneys paid or to be paid to the attorney by or on
32 behalf of the represented person are insufficient to pay all or
33 a portion of the costs sought to be paid from state funds.
34 (1) In determining whether the moneys paid or to be paid to
35 the attorney are insufficient for purposes of this paragraph

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1 "c", the court shall add the hours previously worked to the
2 hours expected to be worked to finish the case and multiply
3 that sum by the hourly rate of compensation specified under
4 section 815.7.
5 (2) If the product calculated in subparagraph (1) is
6 greater than the moneys paid or to be paid to the attorney by
7 or on behalf of the represented person, the moneys shall be
8 considered insufficient to pay all or a portion of the costs
9 sought to be paid from state funds.
10 (3) If the private attorney is retained on a flat fee
11 agreement, and a precise record of hours worked is not
12 available, the privately retained attorney shall provide the
13 court a reasonable estimate of the time expended to allow the
14 court to make the calculation pursuant to this paragraph "c".
15 5. This section applies to payments to witnesses under
16 section 815.4, evaluators, investigators, and certified
17 shorthand reporters, and for other costs incurred in the legal
18 representation.
19 6. This section shall not be construed to restrict payment
20 of costs on behalf of an indigent person represented on a pro
21 bono basis.
22 EXPLANATION
23 This bill relates to payments from the indigent defense fund
24 by the state public defender.
25 Under the bill, an indigent defense claimant may seek
26 judicial review of the final agency action of the state
27 public defender denying or reducing an indigent defense claim
28 by filing a motion for judicial review in the court with
29 jurisdiction over the original court appointment.
30 The bill requires the motion to be filed within 20 days after
31 the final agency action. The bill also requires the motion
32 to clearly and concisely set forth the grounds for error the
33 claimant intends to rely upon when challenging the final agency
34 action of the state public defender.
35 The bill requires the motion to be set for a hearing and that

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1 the state public defender be provided at least 10 days' notice
2 of the hearing. The bill does not require the state public
3 defender to file a resistance to the motion. The claimant or
4 state public defender may appear at the hearing by telephone,
5 however, if the state public defender appears by telephone, the
6 state public defender shall be responsible for initiating and
7 paying all telephone charges incurred during the hearing.
8 The bill specifies that if the state public defender is not
9 first notified and given an opportunity to be heard on a motion
10 to review a claim for payment, any court order entered after
11 the state public defender has taken action on the claim, which
12 affects the claim, is void.
13 The bill requires the claimant to prove by a preponderance of
14 the evidence that the final agency action of the state public
15 defender violated the constitutions of the United States or the
16 State of Iowa, a statute, or an administrative rule, or that
17 the final agency action was arbitrary, capricious, or an abuse
18 of discretion.
19 Under the bill, if the state public defender provides an
20 administrative procedure for review of an action on a claim,
21 the court, during judicial review, shall not consider any
22 grounds for error unless raised with the state public defender
23 prior to the final agency action, and the court is prohibited
24 from admitting new evidence that was not previously presented
25 to the state public defender.
26 The bill specifies the state public defender may adopt rules
27 to interpret and administer Code sections 229A.6 (sexually
28 violent predators), 232.11 (juvenile delinquency), 232.89
29 (child in need of assistance), 232.113 (termination of parental
30 rights in juvenile court), 232.126 (appointment of guardian
31 ad litem for family in need of assistance), 232.141 (juvenile
32 court expenses and costs), 232.179 (appointment of counsel and
33 guardian ad litem for voluntary foster care placement), 600A.6A
34 (termination of parental rights), 600A.6B (payment of attorney
35 fees for termination of parental rights), 814.11 (indigent's

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1 right to counsel), and 908.2A (appointment of an attorney for
2 violations of probation or parole).
3 The bill specifies that indigent defense claims and
4 supporting documents are confidential documents under Code
5 section 22.7 but allows the state public defender to release
6 the confidential information under certain circumstances. The
7 state public defender may release the claim and supporting
8 documents to the indigent person who was the client in the
9 case. The bill specifies that summary claims data may be
10 released including the name of the attorney or vendor providing
11 services, the county in which legal services were provided, the
12 case number and name of the client unless the information is a
13 confidential juvenile record, the type of claim and case, the
14 number of hours and costs claimed, and the amount paid to the
15 claimant.
16 The bill also allows the state public defender to provide
17 indigent defense claims and supporting documents to the auditor
18 of state, the Iowa supreme court attorney disciplinary board,
19 or grievance commission, or to other state or local agencies
20 for the purpose of investigating fraud or criminal activity.
21 After completion of an employee's probationary period, the
22 bill specifies that the state public defender may only remove
23 the employee for cause. The bill specifies that an employee of
24 the state public defender not covered by the merit system under
25 Code chapter 8A shall serve a one-year probationary period from
26 the beginning date of employment.
27 The bill establishes the gideon fellowship program for the
28 entry level hiring and training of attorneys within the office
29 of the state public defender. Under the bill, the state public
30 defender may hire up to four gideon fellows to serve under the
31 program as a public or appellate defender for up to two years.
32 The bill requires the fellows to be licensed attorneys in this
33 state and excludes the fellows from Code chapter 20 relating to
34 public collective bargaining.
35 The bill specifies that costs incurred by a guardian ad

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1 litem in a proceeding under Code chapter 600A (termination
2 of parental rights) shall be paid by the person filing the
3 petition under Code section 600A.5(1).
4 The bill provides that a child-placing agency licensed under
5 Code chapter 238 may file a petition to terminate parental
6 rights under Code chapter 600A. Current law specifies a
7 child-placing agency as defined in Code section 238.1 may file
8 such a petition.
9 The bill specifies that if a person filing a petition
10 to terminate parental rights under Code chapter 600A is a
11 child-placing agency licensed under Code chapter 238 or if the
12 person filing the petition is indigent, the prospective parent
13 on whose behalf the petition is filed shall be responsible for
14 the payment of reasonable attorney fees in the case, unless the
15 court determines the prospective parent on whose behalf the
16 petition is filed is indigent.
17 If a prospective parent on whose behalf a petition is filed
18 is indigent, and if the person filing the petition is indigent
19 or a child-placing agency licensed under Code chapter 238 files
20 the petition, the bill requires the appointed attorney in the
21 case to be paid reasonable attorney fees from the indigent
22 defense fund established in Code section 815.11.
23 In an appeal involving an indictable offense or denial
24 of postconviction relief, the bill specifies that if the
25 state appellate defender is unable to handle the case, the
26 state public defender may transfer the case to a local public
27 defender office, nonprofit organization, or private attorney
28 designated by the state public defender to handle such a
29 case. If after the transfer of the appeal, the attorney or
30 organization withdraws from the case, the court shall appoint
31 an attorney who has a contract with the state public defender
32 to provide such services in appellate cases.
33 In an appeal in a juvenile or termination of parental rights
34 case under Code chapter 600A, the bill specifies that if the
35 court grants permission for an attorney to withdraw from the

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1 appeal, the court shall appoint the state public defender's
2 designee pursuant to Code section 13B.4. If the state public
3 defender has not made a designation pursuant to Code section
4 13B.4 to handle the type of case or the designee is unable to
5 handle the case, the bill requires the court to appoint an
6 attorney who has a contract with the state public defender to
7 provide legal services in appellate cases.
8 In all other cases not involving an indictable offense,
9 juvenile case, or termination of parental rights under Code
10 chapter 600A, the bill specifies that the court shall appoint
11 the state public defender's designee on an appeal. If the
12 state public defender has not made a designation pursuant
13 to Code section 13B.4 to handle these types of cases or the
14 designee is unable to handle the case, the bill requires the
15 court to appoint an attorney who has a contract with the state
16 public defender to provide legal services in appellate cases.
17 The bill establishes a process for payment of state funds
18 to a privately retained attorney for the costs incurred in the
19 legal representation of a person who is later determined to be
20 indigent.
21 Under the bill, the privately retained attorney shall
22 file an application for the payment of state funds with the
23 court. The bill requires the application to include a copy of
24 the attorney's fee agreement, an itemized accounting of all
25 compensation paid to the attorney including the amount of any
26 retainer, information on any expected additional expense paid
27 or owed to the attorney in the case, and a signed financial
28 affidavit completed by the represented person.
29 The bill requires a copy of the application to be submitted
30 to the state public defender.
31 The bill prohibits the payment of state funds to a privately
32 retained attorney unless the court determines that the
33 represented person is indigent and unable to pay for the
34 expenses sought to be paid by the attorney, the expense of the
35 attorney is reasonable and necessary for the representation of

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1 an indigent person for which counsel could have been appointed,
2 and the moneys paid or to be paid by or on behalf of the
3 represented person to the private attorney are insufficient to
4 pay all or a portion of the expenses sought to be paid from
5 state funds. In determining whether the moneys paid or to be
6 paid to the attorney are insufficient, the bill requires the
7 court to add the hours previously worked to the hours expected
8 to be worked to finish the case and to multiply that sum by the
9 hourly rate of compensation specified under Code section 815.7.
10 If this calculation is greater than the moneys paid or to be
11 paid by or on behalf of the represented person to the attorney,
12 the bill specifies the moneys shall be considered insufficient
13 to pay all or a portion of the expenses sought to be paid
14 from state funds, and the court may authorize the payment of
15 state funds to the extent the moneys paid or to be paid to the
16 attorney are insufficient to pay the expenses as calculated
17 by the court. If the private attorney is retained on a flat
18 fee agreement, and a precise record of hours worked is not
19 available, the bill requires the privately retained attorney to
20 provide the court a reasonable estimate of the time expended to
21 allow the court to determine whether state funds must be paid
22 to the privately retained attorney.
23 This process of the payment of state funds established in
24 the bill also applies to payments to witnesses, evaluators,
25 investigators, and certified shorthand reporters, and for other
26 costs incurred in the legal representation. However, nothing
27 in the bill should be construed to restrict payment of expenses
28 from state funds on behalf on an indigent person represented by
29 an attorney on a pro bono basis.

House File 593 - Introduced

HOUSE FILE 593
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HSB 196)

A BILL FOR

1 An Act relating to state and school antiharassment and
2 antibullying policies.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2471HV (2) 85
je/nh

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Section 1. Section 280.28, Code 2013, is amended to read as follows:

280.28 Harassment and bullying prohibited — policy — immunity.

1. *Purpose — findings — policy.* The state of Iowa is committed to providing all students with a safe and civil school environment in which all members of the school community are treated with dignity and respect. The general assembly finds that a safe and civil school environment is necessary for students to learn and achieve at high academic levels. Harassing and bullying behavior can seriously disrupt the ability of school employees to maintain a safe and civil environment, and the ability of students to learn and succeed. Therefore, it is the policy of the state of Iowa that school employees, volunteers, and students in Iowa schools shall not engage in harassing or bullying behavior.

2. *Definitions.* For purposes of this section, unless the context otherwise requires:

a. "Bullying" means any electronic, written, verbal, or physical act or conduct toward a student which is based on any reason other than any actual or perceived trait or characteristic of the student and which creates an objectively hostile school environment that meets one or more of the following conditions:

(1) Places the student in reasonable fear of harm to the student's person or property.

(2) Has a substantially detrimental effect on the student's physical or mental health.

(3) Has the effect of substantially interfering with a student's academic performance.

(4) Has the effect of substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by a school.

~~a.~~ *b. "Electronic"* means any communication involving the transmission of information by wire, radio, optical cable,

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electromagnetic, or other similar means. *"Electronic"* includes but is not limited to communication via electronic mail, internet-based communications, pager service, cell phones, ~~and~~ electronic text messaging, social networking internet sites, and any other form of communication using electronic means.

~~*b.*~~ *c.* *"Harassment"* ~~and *"bullying"* shall be construed to mean~~ means any electronic, written, verbal, or physical act or conduct toward a student which is based on any actual or perceived trait or characteristic of the student and which creates an objectively hostile school environment that meets one or more of the following conditions:

(1) Places the student in reasonable fear of harm to the student's person or property.

(2) Has a substantially detrimental effect on the student's physical or mental health.

(3) Has the effect of substantially interfering with a student's academic performance.

(4) Has the effect of substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by a school.

~~*c.*~~ *d.* *"Trait or characteristic of the student"* includes but is not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, ~~or~~ familial status, or any other distinguishing characteristic. This listing of traits and characteristics is not exhaustive. This paragraph shall be construed broadly to achieve the purposes of this section.

~~*d.*~~ *e.* *"Volunteer"* means an individual who has regular, significant contact with students.

3. *Policy.* On or before September 1, 2007, the board of directors of a school district and the authorities in charge of each accredited nonpublic school shall adopt a policy declaring harassment and bullying in schools, on school property, and at

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any school function, or school-sponsored activity regardless of its location, in a manner consistent with this section, as against state and school policy. The board and the authorities shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

a. A statement declaring harassment and bullying to be against state and school policy. The statement shall include but not be limited to the following provisions:

(1) School employees, volunteers, and students ~~in school, on school property, or at any school function or school-sponsored activity~~ shall not engage in harassing and bullying behavior in any of the following locations or circumstances:

(a) In school.

(b) On school property.

(c) In any vehicle which is owned, leased, provided, or hired by the school.

(d) At any school function or school-sponsored activity.

(e) While using any property or equipment which is owned, leased, or provided by the school.

(f) While attending or engaged in school activities.

(g) In any other location or circumstance if the act or conduct at issue directly affects the good order, efficient management, and welfare of the school.

(2) School employees, volunteers, and students shall not engage in reprisal, retaliation, or false accusation against a victim, witness, or an individual who has reliable information about such an ~~act~~ incident of harassment or bullying or against an individual who has reported an incident of harassment or bullying under a policy adopted pursuant to this section.

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1 *b.* A definition of harassment and bullying as set forth in
2 this section.
3 *c.* A description of the type of behavior expected from
4 school employees, volunteers, parents or guardians, and
5 students relative to prevention measures, reporting, and
6 investigation of harassment or bullying.
7 *d.* The consequences and appropriate remedial action for a
8 person who violates the antiharassment and antibullying policy.
9 *e.* A procedure for reporting an ~~act~~ incident of harassment
10 or bullying, including the identification by job title of the
11 school official responsible for ensuring that the policy is
12 implemented, and the identification of the person or persons
13 responsible for receiving reports of incidents of harassment
14 or bullying.
15 *f.* A procedure for the prompt investigation of ~~complaints~~
16 reports, either identifying the school superintendent or the
17 superintendent's designee as the individual responsible for
18 conducting the investigation, including a statement that
19 investigators will consider the totality of circumstances
20 presented in determining whether conduct objectively
21 constitutes harassment or bullying under this section.
22 *g.* A statement of the manner in which the policy and the
23 process for reporting incidents of harassment or bullying will
24 be publicized.
25 4. *Programs encouraged.* The board of directors of a school
26 district and the authorities in charge of each accredited
27 nonpublic school are encouraged to establish evidence-based
28 programs designed to eliminate harassment and bullying in
29 schools. To the extent that funds are available for these
30 purposes, school districts and accredited nonpublic schools
31 shall do the following:
32 *a.* Provide training on antiharassment and antibullying
33 policies to school employees and volunteers who have
34 significant contact with students.
35 *b.* Develop a process to provide school employees,

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volunteers, and students with the skills and knowledge to help reduce incidents of harassment and bullying.

5. *Immunity.*

a. A school employee, volunteer, or student, or a student's parent or guardian who promptly, reasonably, and in good faith reports an incident of harassment or bullying, in compliance with the procedures in the policy adopted pursuant to this section, to the appropriate school official designated by the school district or accredited nonpublic school, shall be immune from civil or criminal liability relating to such report and to participation in any administrative or judicial proceeding resulting from or relating to the report.

b. A school employee who promptly, reasonably, and in good faith makes an effort to follow the procedures in the policy adopted pursuant to this section upon the school's receipt of a report of an incident of harassment or bullying, or who determines not to investigate or take further action regarding a report of an incident of harassment or bullying that allegedly occurred outside the locations or circumstances provided in subsection 3, paragraph *"a"*, subparagraph (1), shall be immune from civil or criminal liability relating to such effort or determination and to participation in any administrative or judicial proceeding resulting from or relating to the effort or determination.

6. *Collection requirement.* The board of directors of a school district and the authorities in charge of each nonpublic school shall develop and maintain a system to collect harassment and bullying incidence data.

7. *Integration of policy and reporting.* The board of directors of a school district and the authorities in charge of each nonpublic school shall integrate its antiharassment and antibullying policy into the comprehensive school improvement plan required under section 256.7, subsection 21, and shall report ~~data collected under subsection 6, as specified by the department, to~~ the following information to the local community

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1 and the department:
2 *a.* Data collected under subsection 6, as specified by the
3 department.
4 *b.* The process used for reporting incidents of harassment
5 or bullying, including the means of accessing the policy and
6 online and other methods for such reporting.
7 *c.* Antiharassment and antibullying training provided to or
8 performed by school employees, volunteers, or students during
9 each school year.
10 8. *Existing remedies not affected.* This section shall not
11 be construed to preclude a victim from seeking administrative
12 or legal remedies under any applicable provision of law.
13 This section shall not be construed to limit or alter the
14 responsibility of a school district or accredited nonpublic
15 school to comply with other state or federal education or civil
16 rights laws that protect against harassment or discrimination.
17 9. *Rulemaking authority.* The department of education may
18 adopt rules under chapter 17A necessary to implement this
19 section.
20 10. *Rule of construction.* This section shall not be
21 construed to prohibit a school district or accredited nonpublic
22 school from responding to or addressing an act or conduct that
23 would constitute *"harassment"* or *"bullying"* as defined in this
24 section but for the fact that the act or conduct occurred
25 outside the locations or circumstances provided in subsection
26 3, paragraph *"a"*, subparagraph (1).
27 EXPLANATION
28 This bill makes various changes relating to state and school
29 antiharassment and antibullying policies.
30 Under current law, "harassment" and "bullying" are defined
31 as any electronic, written, verbal, or physical act or conduct
32 toward a student which is based on any actual or perceived
33 trait or characteristic of the student and which creates an
34 objectively hostile school environment that meets certain
35 conditions. The bill distinguishes these two terms. The bill

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1 defines "harassment" as any electronic, written, verbal, or
2 physical act or conduct toward a student which is based on any
3 actual or perceived trait or characteristic of the student and
4 which creates an objectively hostile school environment that
5 meets certain conditions. The bill defines "bullying" as any
6 electronic, written, verbal, or physical act or conduct toward
7 a student which is based on any reason other than any actual
8 or perceived trait or characteristic of the student and which
9 creates an objectively hostile school environment that meets
10 certain conditions.
11 Under current law, "trait or characteristic of the student"
12 is defined to include but not be limited to age, color,
13 creed, national origin, race, religion, marital status, sex,
14 sexual orientation, gender identity, physical attributes,
15 physical or mental ability or disability, ancestry, political
16 party preference, political belief, socioeconomic status, or
17 familial status. The bill applies the definition to any other
18 distinguishing characteristic of a student. The bill provides
19 that the definition is not exhaustive and must be construed
20 broadly to achieve the purposes of the bill.
21 The bill adds social networking internet sites and any other
22 form of communication using electronic means to the definition
23 of "electronic".
24 Under current law, school antiharassment and antibullying
25 policies must prohibit harassment and bullying in school, on
26 school property, and at any school function or school-sponsored
27 activity. The bill adds presence in any vehicle owned,
28 leased, provided, or hired by the school; during the use of
29 any property or equipment owned, leased, or provided by the
30 school; while attending or engaged in school activities; and
31 in any other location or circumstance if the act or conduct at
32 issue directly affects the good order, efficient management,
33 and welfare of the school to this list.
34 The bill requires school antiharassment and antibullying
35 policies to prohibit reprisal, retaliation, or false accusation

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against an individual who has reported an incident of harassment or bullying under the bill. The bill provides that school antiharassment and antibullying policies must require the process for reporting incidents of harassment or bullying to be publicized.

The bill provides that a school employee who promptly, reasonably, and in good faith makes an effort to follow the procedures in the school's antiharassment and antibullying policy upon the school's receipt of a report of an incident of harassment or bullying, or who determines not to investigate or take further action on a report of an incident of harassment or bullying that allegedly occurred outside the locations or circumstances covered by the policy, is immune from any related civil or criminal liability and from participation in any related administrative or judicial proceeding.

The bill expands the information relating to harassment and bullying that schools are required to report to the department of education. The bill authorizes the department to adopt rules necessary to implement the bill.

The bill is not to be construed to limit or alter the responsibility of a school to comply with other state or federal education or civil rights laws that protect against harassment or discrimination.

The bill is not to be construed to prohibit a school from responding to or addressing an act or conduct that would constitute "harassment" or "bullying" as defined in the bill but for the fact that the act or conduct occurred outside the locations or circumstances covered by the school's antiharassment and antibullying policy.

House File 594 - Introduced

HOUSE FILE 594
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HSB 213)

A BILL FOR

1 An Act relating to education of students in residential
2 placement settings.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2503HV (1) 85
je/rj

H.F. 594

1 Section 1. EDUCATION OF STUDENTS IN RESIDENTIAL
2 SETTINGS. It is the intent of the general assembly to
3 enact legislation relating to the education of students in
4 residential placement settings.
5 EXPLANATION
6 This bill specifies that it is the intent of the general
7 assembly to enact legislation relating to the education of
8 students in residential placement settings.

House File 595 - Introduced

HOUSE FILE 595
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO HF 309)

A BILL FOR

1 An Act relating to the definition of resident for purposes of
2 tuition and fees at community colleges and institutions of
3 higher learning governed by the state board of regents.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2309HV (2) 85
kh/sc

H.F. 595

1 Section 1. Section 260C.14, subsection 14, Code 2013, is
2 amended by adding the following new paragraphs:
3 NEW PARAGRAPH. *c.* Adopt rules to classify as a resident,
4 for purposes of tuition and mandatory fees, a person who meets
5 the following criteria:
6 (1) Attended an accredited school in this state for at least
7 four consecutive years as of the date the person graduated from
8 an accredited Iowa high school, or was placed under private
9 instruction in accordance with chapter 299A for at least four
10 consecutive years immediately prior to the fiscal year in which
11 the person enrolled in a community college.
12 (2) While a resident of this state in a previous year,
13 was enrolled in, and classified as a resident for purposes of
14 tuition and mandatory fees by, an Iowa community college or an
15 institution of higher learning governed by the state board of
16 regents.
17 NEW PARAGRAPH. *d.* Adopt rules establishing the criteria
18 and procedures by which a person demonstrates residency for
19 purposes of tuition and mandatory fees.
20 Sec. 2. Section 262.9, subsection 17, Code 2013, is amended
21 by adding the following new paragraphs:
22 NEW PARAGRAPH. *c.* Adopt rules to classify as a resident,
23 for purposes of undergraduate and graduate tuition and
24 mandatory fees, a person who meets the following criteria:
25 (1) Attended an accredited school in this state for at least
26 four consecutive years as of the date the person graduated from
27 an accredited Iowa high school, or was placed under private
28 instruction in accordance with chapter 299A for at least four
29 consecutive years immediately prior to the fiscal year in
30 which the person enrolled in an institution of higher learning
31 governed by the state board.
32 (2) While a resident of this state in a previous year,
33 was enrolled in, and classified as a resident for purposes of
34 tuition and mandatory fees by, an Iowa community college or an
35 institution of higher learning governed by the state board.

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1 NEW PARAGRAPH. *d.* Adopt rules establishing the criteria
2 and procedures by which a person demonstrates residency for
3 purposes of tuition and mandatory fees.
4 EXPLANATION
5 This bill requires community colleges and the state board
6 of regents to classify as a resident for purposes of tuition
7 and mandatory fees a person who either attended an accredited
8 school in this state for at least four consecutive years as
9 of the date the person graduated from an accredited Iowa high
10 school or was placed under private instruction in accordance
11 with Code chapter 299A for at least four years prior to
12 the fiscal year in which the person enrolled in a public
13 postsecondary education institution, and, while a resident of
14 this state in a previous year, was enrolled in, and classified
15 as a resident for purposes of tuition and mandatory fees by,
16 an Iowa community college or an institution of higher learning
17 governed by the state board of regents.
18 The bill also requires the community colleges and the state
19 board of regents to adopt rules establishing the criteria
20 and procedures by which a person demonstrates residency for
21 purposes of tuition and mandatory fees.

House File 596 - Introduced

HOUSE FILE 596
BY COMMITTEE ON VETERANS
AFFAIRS

(SUCCESSOR TO HSB 102)

A BILL FOR

1 An Act relating to county commissions of veteran affairs.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1669HV (3) 85
aw/sc

H.F. 596

Section 1. Section 35B.4, Code 2013, is amended to read as follows:

35B.4 Appointment — vacancies.

1. Members of the commission of veteran affairs shall be appointed by the board of supervisors, as recommended by the current commission members and the executive director or administrator, to staggered three-year terms at the regular meeting in June. However, a member shall serve until a successor has been appointed and qualifies. The board may remove an appointee at any time for neglect of duty or maladministration. A vacancy on the commission shall be filled for the unexpired portion of the regular term in the same manner as regular appointments are made.

2. If the board of supervisors increases the commission of veteran affairs membership to five members, the initial terms of the two new members shall be two and three years respectively. However, the new members shall serve until their successors are appointed and qualify.

Sec. 2. Section 35B.6, subsection 1, paragraphs a and c, Code 2013, are amended to read as follows:

a. The members of the commission shall qualify by taking the usual oath of office~~, and give bond in the sum of five hundred dollars each, conditioned for the faithful discharge of their duties with sureties to be approved by the county auditor~~. The commission shall organize by the selection of one of their members as chairperson and one as secretary. The commission, subject to the approval of the board of supervisors, shall employ an executive director or administrator ~~and~~ who shall have the power to employ other necessary employees ~~when needed~~ to carry out the provisions of this chapter, including administrative or clerical assistants, but no member of the commission shall be so employed. ~~The compensation of such employees shall be fixed by the board of supervisors.~~ The state department of veterans affairs shall recognize the executive director or administrator as a county veterans

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1 service officer of a veterans' service organization recognized
2 pursuant to 38 C.F.R. § 14.628(c) for the purposes of assisting
3 veterans and their dependents in obtaining federal benefits.
4 The commission shall recommend the annual compensation of
5 the executive director or administrator to the board of
6 supervisors. The board of supervisors shall consider the
7 recommendation and shall determine and approve the annual
8 compensation of the executive director or administrator. The
9 executive director must possess the same qualifications as
10 provided in section 35B.3 for commission members. However,
11 this qualification requirement shall not apply to a person
12 employed as an executive director prior to July 1, 1989.
13 *c.* Upon the employment of an executive director or
14 administrator, the executive director or administrator shall
15 complete a course of certification training provided by the
16 department of veterans affairs pursuant to section 35A.5.
17 If an executive director or administrator fails to obtain
18 certification within one year of being employed, the executive
19 director or administrator shall be removed from office. ~~A~~
20 ~~commissioner or other commission employee may also complete~~
21 ~~the course of certification training.~~ The department shall
22 issue the executive director~~,~~ or administrator~~, commissioner,~~
23 ~~or employee~~ a certificate of training after completion of the
24 certification training course. To maintain certification, the
25 executive director~~,~~ or administrator~~, commissioner, or employee~~
26 shall satisfy the continuing education requirements established
27 by the national association of county ~~veteran~~ veterans service
28 officers. Failure of an executive director or administrator
29 to maintain certification shall be cause for removal from
30 office. The expenses of training the executive director or
31 administrator shall be paid from the appropriation authorized
32 in section 35B.14.
33 Sec. 3. Section 35B.6, subsection 1, paragraph d, Code 2013,
34 is amended by adding the following new subparagraph:
35 NEW SUBPARAGRAPH. (3) Complete and submit all forms

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1 required for federal, state, and county benefits.
2 Sec. 4. Section 35B.6, subsection 2, Code 2013, is amended
3 to read as follows:
4 2. *a.* Two or more boards of supervisors may agree,
5 pursuant to chapter 28E, to share the services of an executive
6 director or administrator. The agreement shall provide for the
7 establishment of a commission of veteran affairs office in each
8 of the counties participating in the agreement.
9 *b.* Neither a county board of supervisors nor a county
10 commission of veterans affairs shall place the administration
11 of the duties of the county commission of veteran affairs
12 under any other agency of any county, or publish the names of
13 the veterans or their families who receive benefits under the
14 provisions of this chapter.
15 Sec. 5. Section 35B.6, subsection 3, Code 2013, is amended
16 by striking the subsection.
17 Sec. 6. Section 35B.6, subsection 4, paragraph a, Code 2013,
18 is amended to read as follows:
19 *a.* Each county commission of veteran affairs shall maintain
20 an office in a public building owned, operated, or leased by
21 the county.
22 Sec. 7. Section 35B.7, Code 2013, is amended to read as
23 follows:
24 **35B.7 Meetings — report — budget.**
25 The commission shall meet monthly and at other times as
26 necessary. At the monthly meeting it shall determine who are
27 entitled to county benefits and the probable amount required to
28 be expended. The commission shall meet annually to prepare an
29 estimated budget for all expenditures to be made in the next
30 fiscal year and certify the budget to the board of supervisors.
31 The board may approve or reduce the budget for valid reasons
32 shown and entered of record and the board's decision is final.
33 Sec. 8. Section 35B.10, Code 2013, is amended to read as
34 follows:
35 **35B.10 Disbursements — inspection of records.**

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1. All claims certified by the commission shall be ~~reviewed~~ approved by the board of supervisors and the county auditor shall issue warrants in payment of the claims. All applications, investigation reports, and case records are privileged communications and ~~shall be held~~ confidential, subject to use and inspection only by persons authorized by law in connection with their official duties relating to financial audits and the administration of this chapter or as authorized by order of a district court. A person may sign a release to authorize the examination of that person's applications, reports, or records.

2. ~~However, the~~ The county commission of veteran affairs shall prepare and file in the office of the county auditor on or before the thirtieth day of each January, April, July, and October a report showing the case numbers of all recipients receiving assistance under this chapter, together with the amount paid to each during the preceding quarter. Each report so filed shall be ~~securely fixed in~~ maintained as a permanent record ~~book~~ to be used only for such reports made under this chapter.

~~The record book shall be and the same is hereby declared to be a public record, open to public inspection at all times during the regular office hours of the county auditor. Each person who desires to examine said records, other than in pursuance of official duties as hereinbefore provided, shall sign a written request to examine the same, which shall contain an agreement on the part of the signer that the signer will not utilize any information gained therefrom for commercial or political purposes.~~

3. It shall be unlawful for any person, body, association, firm, corporation or any other agency to solicit, disclose, receive, make use of or to authorize, knowingly permit, participate in or acquiesce in the use of any lists, names or other information obtained from the reports above provided for, for commercial or political purposes, and a violation of this

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provision shall constitute a serious misdemeanor.

Sec. 9. Section 35B.14, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 3. The commission is responsible for the interment in a suitable cemetery of the body of any veteran, as defined in section 35.1, or the spouse, surviving spouse, or child of the person, if the person has died without leaving sufficient means to defray the funeral expenses. The commission may pay the expenses in a sum not exceeding an amount established by the board of supervisors.

NEW SUBSECTION. 4. Burial expenses shall be paid by the county in which the person died. If the person is a resident of a different county at the time of death, the county of residence shall reimburse the county where the person died for the cost of burial. In either case, the board of supervisors of the respective counties shall audit and pay the account from the funds provided for in this chapter in the manner as other claims are audited and paid.

Sec. 10. Section 35B.16, Code 2013, is amended to read as follows:

35B.16 Markers for graves.

The county commission of veteran affairs may furnish a suitable and appropriate ~~metal~~ marker for the grave of each veteran, as defined in section 35.1, who is buried within the limits of the county. The marker shall be placed at the individual's grave to permanently mark and designate the grave for memorial purposes. The expenses shall be paid from any funds raised as provided in this chapter.

Sec. 11. Section 35B.17, Code 2013, is amended to read as follows:

35B.17 Maintenance of graves.

1. The county boards of supervisors shall each year appropriate and pay to the owners of, or to the public board or officers having control of cemeteries within the state in which any such deceased service person is buried, a sum sufficient

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to pay for the care and maintenance of the lots on which they are buried in all cases in which provision for such care is not otherwise made, or may conclude their responsibility by paying a mutually agreed to fee for perpetual care when the cemetery authority has established a perpetual care fund for the cemetery, to be paid either as a lump sum, or in not to exceed five installments in a manner agreed to by the parties.

2. Payment under subsection 1 shall be made at the rate charged for like care and maintenance of other lots of similar size in the same cemetery, upon the affidavit of the superintendent or other person in charge of such cemetery, that the same has not been otherwise paid or provided for.

Sec. 12. Section 35B.19, Code 2013, is amended to read as follows:

35B.19 Burial records.

The ~~county commission of veteran affairs~~ executive director or administrator shall be charged with securing the information requested by the department of veterans affairs of every person having a military service record and buried in ~~that~~ the county. Such information shall be secured from the ~~undertaker~~ funeral director in charge of the burial or cremation and shall be transmitted by the ~~undertaker~~ funeral director to the ~~commission of~~ county veteran affairs office of the county where burial or disposition of cremated remains is made. This information shall be recorded alphabetically and by description of location in the cemetery where the veteran is buried or the place of disposition of the cremated remains of the veteran. This recording shall conform to the directives of the department of veterans affairs and shall be ~~kept in~~ maintained as a ~~book~~ permanent record by the ~~county commission~~ executive director or administrator.

Sec. 13. Section 64.11, Code 2013, is amended to read as follows:

64.11 Expense of bonds paid by county.

If a county treasurer, county attorney, recorder, auditor,

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sheriff, medical examiner, ~~member of the veterans affairs commission,~~ member of the board of supervisors, engineer, steward, or matron elects to furnish a bond with an association or incorporation as surety as provided in this chapter, the reasonable cost of the bond shall be paid by the county where the bond is filed.

Sec. 14. Section 331.381, subsection 6, Code 2013, is amended to read as follows:

6. Audit and pay the burial expense for indigent veterans, as provided in section ~~35B.15~~ 35B.14, subsection 4.

Sec. 15. Section 331.502, subsection 13, Code 2013, is amended by striking the subsection.

Sec. 16. Section 331.502, subsection 14, Code 2013, is amended to read as follows:

14. ~~Issue warrants and maintain a book containing~~ Maintain a permanent record of persons receiving veteran assistance as provided in section 35B.10.

Sec. 17. REPEAL. Sections 35B.8, 35B.9, 35B.12, 35B.13, 35B.15, and 35B.18, Code 2013, are repealed.

EXPLANATION

This bill relates to the duties and responsibilities of the county commissions of veteran affairs.

The bill requires that the members of a county commission of veteran affairs be appointed by the board of supervisors upon the recommendation of the current members of the commission and the executive director or administrator. The bill removes a requirement that members of the commission give a bond of $500 and makes conforming changes to Code sections 64.11 and 331.502.

The bill requires that the state department of veterans affairs shall recognize the executive director or administrator as a county veterans service officer of a veterans' service organization recognized by the federal secretary of veterans affairs for purposes of assisting veterans and their dependents in obtaining federal benefits.

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1 The bill requires that the annual compensation of an
2 executive director or administrator be recommended by the
3 county commission to the county board of supervisors which
4 shall determine and approve the compensation. Current
5 law requires that the county board of supervisors fix the
6 compensation for the executive director or administrator and
7 other necessary employees. The bill also provides that the
8 executive director or administrator shall have the power to
9 employ necessary staff.
10 The bill strikes language allowing a county commissioner
11 and certain commission employees to complete a course of
12 certification training provided by the department of veterans
13 affairs.
14 The bill requires that the duties of the executive director,
15 administrator, and employees shall include the submission of
16 all forms required for federal, state, and county benefits.
17 The bill states that the county commission of veterans affairs
18 shall not be placed under any other agency of the county. The
19 bill also removes language requiring a commission to appoint
20 a deputy county auditor as an administrative assistant to
21 the commission. The bill requires that a commission office
22 be located in a public building. The bill also specifies
23 that the commission shall only need to determine eligibility
24 of individuals for county benefits at monthly meetings of
25 the commission and repeals requirements that the commission
26 submit certain information relating to benefits to the board
27 of supervisors.
28 The bill removes certain recording, accounting system, and
29 filing requirements and makes certain conforming amendments
30 to Code section 331.502. The bill provides that certain
31 applications, reports, and records shall be subject to use or
32 inspection as authorized by order of a district court. The
33 bill permits the examination of an individual's applications,
34 reports, and records only upon the individual's authorization.
35 The bill provides that certain filings be made to a permanent

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record and removes the requirement that such records be maintained in a book. The bill repeals Code section 35.8, which required the state auditor to prepare sample accounting systems and case records for use by county commissions of veteran affairs.

The bill also makes certain changes to provisions related to the provision of grave markers for veterans and the filing and maintenance of certain burial records and amends language referring to undertakers so that such language instead refers to funeral directors.

The bill repeals Code section 35B.12, relating to confidentiality of benefit information, but the substance of the Code section is transferred to Code section 35B.6, subsection 2.

The bill repeals Code section 35B.13, relating to burial expenses, but the substance of the Code section is transferred to Code section 35B.14, subsection 3.

The bill repeals Code section 35B.15, relating to audit and payment of burial expenses, but the substance of the Code section is transferred to Code section 35B.14, subsection 4.

The bill repeals Code section 35B.18, relating to care and maintenance of gravesites, but the substance of the Code section is transferred to Code section 35B.17, subsection 2.

House Resolution 26 - Introduced

HOUSE RESOLUTION NO. 26
BY KELLEY

1 A Resolution in support of green schools.
2 WHEREAS, economic growth in the twenty-first century
3 will be enhanced by establishing policies that promote
4 the potential of our buildings and our children to
5 achieve a healthier, safer, more efficient, resilient,
6 and prosperous future; and
7 WHEREAS, deteriorating school infrastructure and
8 poor indoor environmental quality threaten the health,
9 well-being, and achievement of staff and students; and
10 WHEREAS, healthy, high-performance schools, or
11 "green schools", create an indoor environment that is
12 conducive to learning while saving energy, resources,
13 and money; and
14 WHEREAS, children in green schools are healthier
15 and more productive because green schools incorporate
16 natural day lighting, thermal comfort, and classroom
17 design, all of which have been shown to improve
18 children's well-being and ability to learn; and
19 WHEREAS, the benefits of superior indoor air
20 quality have been linked to lower asthma rates, fewer
21 allergies, reduced absenteeism, and increased teacher
22 retention rates; and
23 WHEREAS, green schools use an average of 30 to
24 50 percent less energy compared to conventional
25 schools; and
26 WHEREAS, programs such as the leadership in energy
27 and environmental design green building rating system
28 can optimize building performance, resolve operational

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1 inefficiencies, and dramatically reduce utility
2 costs in new school construction and existing school
3 renovation; and
4 WHEREAS, green schools provide an educational
5 experience that transcends the classroom by creating
6 a host of opportunities for curriculum innovation and
7 hands-on project-based learning in which the building
8 itself becomes an interactive teaching tool; and
9 WHEREAS, green school construction and renovation
10 projects are readily able to be completed at no
11 higher cost than conventional school construction and
12 renovation; and
13 WHEREAS, existing schools can become greener
14 through low-cost or no-cost operations and maintenance
15 improvements, such as implementing water efficiency
16 measures, green cleaning programs, smarter purchasing
17 practices, recycling and waste reduction initiatives,
18 and energy management plans that can save a school
19 district millions of dollars a year in direct operating
20 expenses; and
21 WHEREAS, the benefits of green schools transcend
22 political boundaries; NOW THEREFORE,
23 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, That
24 the House of Representatives supports the establishment
25 of policies that promote green schools and establishes
26 a goal of every child being provided an opportunity
27 to attend green primary and secondary schools in this
28 state.

House Resolution 27 - Introduced

HOUSE RESOLUTION NO. 27
BY WESSEL-KROESCHELL

1 A Resolution honoring the women of the 2012 Iowa State
2 University Cross Country Team.
3 WHEREAS, the 2012 Iowa State University Women's
4 Cross Country Team placed 11th at the NCAA Championship
5 meet, led by individual champion Betsy Saina and
6 All-American Meaghan Nelson; and
7 WHEREAS, led by first-place finisher Betsy Saina,
8 with Meaghan Nelson coming in second, the team won a
9 second straight Big 12 Conference Women's Cross Country
10 Championship team title; and
11 WHEREAS, Iowa State's top five finishers at the Big
12 12 championship placed among the top 15 athletes in a
13 field of 87 runners, and also included freshman Crystal
14 Nelson coming in eighth, junior Samantha Bluske coming
15 in ninth, and sophomore Katy Moen finishing 14th; and
16 WHEREAS, the Cyclones also won a second straight
17 NCAA Midwest Regional title, where in a field of 211
18 runners Betsy Saina was the individual champion and one
19 of six Cyclones to earn All-Region honors with a top 30
20 finish; and
21 WHEREAS, other Cyclones who earned All-Region honors
22 include Meaghan Nelson (fifth), Crystal Nelson (17th),
23 and Samantha Bluske (18th); and
24 WHEREAS, Betsy Saina earned the Honda Award as the
25 nation's top collegiate cross country student-athlete
26 and Meaghan Nelson was named the Big 12 Conference's
27 top cross country scholar-athlete; and
28 WHEREAS, eleven Iowa State team members were named

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to the first team of the Big 12 All-Academic squad including Meaghan Nelson, who made the squad for the third straight year, while six Cyclones made the premier team for the second season — Maddy Becker, Morgan Casey, Maggie Gannon, Katy Moen, Bethany Olson, and Taylor Petersen, and making their initial appearance on the women's first team were Emily Meese, Colleen Riley, Andrea Toppin, and Erin Valenti, with Samantha Bluske making the second team; and

WHEREAS, Iowa State head coach Corey Ihmels was named the Big 12 Coach of the Year for the second straight season with the aid of associate head coach Travis Hartke and assistant coach Sara Vergote; NOW THEREFORE,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, That on behalf of all Iowans the House of Representatives congratulates the women of the 2012 Iowa State University Cross Country Team for an outstanding 2012 season, with undoubtedly many more to come.

House Resolution 28 - Introduced

HOUSE RESOLUTION NO. 28
BY GARRETT

1 A Resolution designating March 2013 as Iowa Women's
2 History Month.
3 WHEREAS, Iowa women of every race, class, and
4 ethnic background have made historic contributions
5 to the growth and strength of our state and nation
6 in countless recorded and unrecorded ways, including
7 through the struggle for women's rights; and
8 WHEREAS, Iowa women have played and continue to
9 play a critical economic, cultural, and social role by
10 constituting a significant portion of the labor force
11 working inside and outside of the home; and
12 WHEREAS, Iowa women were particularly important in
13 the establishment of early charitable, philanthropic,
14 and cultural institutions in our state and nation; and
15 WHEREAS, Iowa women and men amended the Iowa
16 Constitution to read that "All men and women are, by
17 nature, free and equal, and have certain inalienable
18 rights..."; and
19 WHEREAS, Iowa women have been leaders in
20 agriculture, business, and industry, as well as in the
21 abolitionist movement, the emancipation movement, the
22 labor movement, the civil rights movement, and the
23 woman suffrage movement, which create a more fair and
24 just society for all; and
25 WHEREAS, despite these contributions, and those of
26 women throughout the world, the role of women has been
27 undervalued, in the literature, teaching, and study of
28 history; NOW THEREFORE,

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1 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, That
2 the House of Representatives designates the month of
3 March 2013 as Iowa Women's History Month and invites
4 the citizens of Iowa to continue to uncover the roles
5 women have played throughout history.

House Study Bill 219 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON APPROPRIATIONS BILL BY HOUSE APPROPRIATIONS SUBCOMMITTEE ON ADMINISTRATION AND REGULATION)

A BILL FOR

1 An Act relating to and making appropriations to certain state
2 departments, agencies, funds, and certain other entities,
3 providing for regulatory authority, and other properly
4 related matters.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1000HB (2) 85
ec/tm

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1 Section 1. DEPARTMENT OF ADMINISTRATIVE SERVICES.
2 1. There is appropriated from the general fund of the state
3 to the department of administrative services for the fiscal
4 year beginning July 1, 2013, and ending June 30, 2014, the
5 following amounts, or so much thereof as is necessary, to be
6 used for the purposes designated, and for not more than the
7 following full-time equivalent positions:
8 a. For salaries, support, maintenance, and miscellaneous
9 purposes:
10 ..... $ 4,020,322
11 ..... FTEs 73.49
12 b. For the payment of utility costs:
13 ..... $ 2,676,460
14 ..... FTEs 1.00
15 Notwithstanding section 8.33, any excess moneys appropriated
16 for utility costs in this lettered paragraph shall not revert
17 to the general fund of the state at the end of the fiscal year
18 but shall remain available for expenditure for the purposes of
19 this lettered paragraph during the succeeding fiscal year.
20 c. For Terrace Hill operations:
21 ..... $ 499,025
22 ..... FTEs 7.00
23 2. Members of the general assembly serving as members of
24 the deferred compensation advisory board shall be entitled
25 to receive per diem and necessary travel and actual expenses
26 pursuant to section 2.10, subsection 5, while carrying out
27 their official duties as members of the board.
28 3. Any moneys and premiums collected by the department
29 for workers' compensation shall be segregated into a separate
30 workers' compensation fund in the state treasury to be used
31 for payment of state employees' workers' compensation claims
32 and administrative costs. Notwithstanding section 8.33,
33 unencumbered or unobligated moneys remaining in this workers'
34 compensation fund at the end of the fiscal year shall not
35 revert but shall be available for expenditure for purposes of

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1 the fund for subsequent fiscal years.
2 Sec. 2. REVOLVING FUNDS. There is appropriated to the
3 department of administrative services for the fiscal year
4 beginning July 1, 2013, and ending June 30, 2014, from the
5 revolving funds designated in chapter 8A and from internal
6 service funds created by the department such amounts as the
7 department deems necessary for the operation of the department
8 consistent with the requirements of chapter 8A.
9 Sec. 3. FUNDING FOR IOWACCESS.
10 1. Notwithstanding section 321A.3, subsection 1, for
11 the fiscal year beginning July 1, 2013, and ending June
12 30, 2014, the first $750,000 collected by the department of
13 transportation and transferred to the treasurer of state with
14 respect to the fees for transactions involving the furnishing
15 of a certified abstract of a vehicle operating record under
16 section 321A.3, subsection 1, shall be transferred to the
17 IowAccess revolving fund for the purposes of developing,
18 implementing, maintaining, and expanding electronic access to
19 government records as provided by law.
20 2. All fees collected with respect to transactions
21 involving IowAccess shall be deposited in the IowAccess
22 revolving fund and shall be used only for the support of
23 IowAccess projects.
24 Sec. 4. STATE EMPLOYEE HEALTH INSURANCE ADMINISTRATION
25 CHARGE. For the fiscal year beginning July 1, 2013, and ending
26 June 30, 2014, the monthly per contract administrative charge
27 which may be assessed by the department of administrative
28 services shall be $2 per contract on all health insurance plans
29 administered by the department.
30 Sec. 5. AUDITOR OF STATE.
31 1. There is appropriated from the general fund of the
32 state to the office of the auditor of state for the fiscal
33 year beginning July 1, 2013, and ending June 30, 2014, subject
34 to subsection 3 of this section, the following amount, or so
35 much thereof as is necessary, to be used for the purposes

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1 designated, and for not more than the following full-time
2 equivalent positions:
3 For salaries, support, maintenance, and miscellaneous
4 purposes:
5 ..... $ 914,506
6 ..... FTEs 103.00
7 2. The auditor of state may retain additional full-time
8 equivalent positions as is reasonable and necessary to
9 perform governmental subdivision audits which are reimbursable
10 pursuant to section 11.20 or 11.21, to perform audits which are
11 requested by and reimbursable from the federal government, and
12 to perform work requested by and reimbursable from departments
13 or agencies pursuant to section 11.5A or 11.5B. The auditor
14 of state shall notify the department of management, the
15 legislative fiscal committee, and the legislative services
16 agency of the additional full-time equivalent positions
17 retained.
18 Sec. 6. IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD. There
19 is appropriated from the general fund of the state to the
20 Iowa ethics and campaign disclosure board for the fiscal year
21 beginning July 1, 2013, and ending June 30, 2014, the following
22 amount, or so much thereof as is necessary, for the purposes
23 designated:
24 For salaries, support, maintenance, and miscellaneous
25 purposes, and for not more than the following full-time
26 equivalent positions:
27 ..... $ 490,335
28 ..... FTEs 5.00
29 Sec. 7. DEPARTMENT OF COMMERCE.
30 1. There is appropriated from the general fund of the
31 state to the department of commerce for the fiscal year
32 beginning July 1, 2013, and ending June 30, 2014, the following
33 amounts, or so much thereof as is necessary, for the purposes
34 designated:
35 a. ALCOHOLIC BEVERAGES DIVISION

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1 For salaries, support, maintenance, and miscellaneous
2 purposes, and for not more than the following full-time
3 equivalent positions:
4 ..... $ 1,220,391
5 ..... FTEs 15.00
6 b. PROFESSIONAL LICENSING AND REGULATION BUREAU
7 For salaries, support, maintenance, and miscellaneous
8 purposes, and for not more than the following full-time
9 equivalent positions:
10 ..... $ 601,537
11 ..... FTEs 12.00
12 2. There is appropriated from the department of commerce
13 revolving fund created in section 546.12 to the department of
14 commerce for the fiscal year beginning July 1, 2013, and ending
15 June 30, 2014, the following amounts, or so much thereof as is
16 necessary, for the purposes designated:
17 a. BANKING DIVISION
18 For salaries, support, maintenance, and miscellaneous
19 purposes, and for not more than the following full-time
20 equivalent positions:
21 ..... $ 9,167,235
22 ..... FTEs 70.50
23 b. CREDIT UNION DIVISION
24 For salaries, support, maintenance, and miscellaneous
25 purposes, and for not more than the following full-time
26 equivalent positions:
27 ..... $ 1,794,256
28 ..... FTEs 14.00
29 c. INSURANCE DIVISION
30 (1) For salaries, support, maintenance, and miscellaneous
31 purposes, and for not more than the following full-time
32 equivalent positions:
33 ..... $ 5,032,989
34 ..... FTEs 99.50
35 (2) The insurance division may reallocate authorized

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1 full-time equivalent positions as necessary to respond to
2 accreditation recommendations or requirements.
3 (3) The insurance division expenditures for examination
4 purposes may exceed the projected receipts, refunds, and
5 reimbursements, estimated pursuant to section 505.7, subsection
6 7, including the expenditures for retention of additional
7 personnel, if the expenditures are fully reimbursable and the
8 division first does both of the following:
9 (a) Notifies the department of management, the legislative
10 services agency, and the legislative fiscal committee of the
11 need for the expenditures.
12 (b) Files with each of the entities named in subparagraph
13 division (a) the legislative and regulatory justification for
14 the expenditures, along with an estimate of the expenditures.
15 d. UTILITIES DIVISION
16 (1) For salaries, support, maintenance, and miscellaneous
17 purposes, and for not more than the following full-time
18 equivalent positions:
19 ..... $ 8,179,405
20 ..... FTEs 79.00
21 (2) The utilities division may expend additional moneys,
22 including moneys for additional personnel, if those additional
23 expenditures are actual expenses which exceed the moneys
24 budgeted for utility regulation and the expenditures are fully
25 reimbursable. Before the division expends or encumbers an
26 amount in excess of the moneys budgeted for regulation, the
27 division shall first do both of the following:
28 (a) Notify the department of management, the legislative
29 services agency, and the legislative fiscal committee of the
30 need for the expenditures.
31 (b) File with each of the entities named in subparagraph
32 division (a) the legislative and regulatory justification for
33 the expenditures, along with an estimate of the expenditures.
34 3. CHARGES. Each division and the office of consumer
35 advocate shall include in its charges assessed or revenues

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1 generated an amount sufficient to cover the amount stated
2 in its appropriation and any state-assessed indirect costs
3 determined by the department of administrative services.
4 Sec. 8. DEPARTMENT OF COMMERCE — PROFESSIONAL LICENSING
5 AND REGULATION BUREAU. There is appropriated from the housing
6 trust fund created pursuant to section 16.181, to the bureau of
7 professional licensing and regulation of the banking division
8 of the department of commerce for the fiscal year beginning
9 July 1, 2013, and ending June 30, 2014, the following amount,
10 or so much thereof as is necessary, to be used for the purposes
11 designated:
12 For salaries, support, maintenance, and miscellaneous
13 purposes:
14 ..... $ 62,317
15 Sec. 9. IOWA TELECOMMUNICATIONS AND TECHNOLOGY
16 COMMISSION — REGIONAL TELECOMMUNICATIONS COUNCILS. There is
17 appropriated from the general fund of the state to the Iowa
18 telecommunications and technology commission for the fiscal
19 year beginning July 1, 2013, and ending June 30, 2014, the
20 following amounts, or so much thereof as is necessary, to be
21 used for the purposes designated:
22 For state aid for regional telecommunications councils:
23 ..... $ 992,913
24 The regional telecommunications councils established
25 in section 8D.5 shall use the moneys appropriated in
26 this section to provide technical assistance for network
27 classrooms, planning and troubleshooting for local area
28 networks, scheduling of video sites, and other related support
29 activities.
30 Sec. 10. GOVERNOR AND LIEUTENANT GOVERNOR. There is
31 appropriated from the general fund of the state to the offices
32 of the governor and the lieutenant governor for the fiscal year
33 beginning July 1, 2013, and ending June 30, 2014, the following
34 amounts, or so much thereof as is necessary, to be used for the
35 purposes designated:

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1 For salaries, support, maintenance, and miscellaneous
2 purposes:
3 ..... $ 2,196,455
4 ..... FTEs 20.00
5 Sec. 11. GOVERNOR´S OFFICE OF DRUG CONTROL POLICY. There
6 is appropriated from the general fund of the state to the
7 governor´s office of drug control policy for the fiscal year
8 beginning July 1, 2013, and ending June 30, 2014, the following
9 amount, or so much thereof as is necessary, to be used for the
10 purposes designated:
11 For salaries, support, maintenance, and miscellaneous
12 purposes, including statewide coordination of the drug abuse
13 resistance education (D.A.R.E.) programs or similar programs,
14 and for not more than the following full-time equivalent
15 positions:
16 ..... $ 241,134
17 ..... FTEs 4.00
18 Sec. 12. DEPARTMENT OF HUMAN RIGHTS. There is appropriated
19 from the general fund of the state to the department of human
20 rights for the fiscal year beginning July 1, 2013, and ending
21 June 30, 2014, the following amounts, or so much thereof as is
22 necessary, to be used for the purposes designated:
23 1. CENTRAL ADMINISTRATION DIVISION
24 For salaries, support, maintenance, and miscellaneous
25 purposes, and for not more than the following full-time
26 equivalent positions:
27 ..... $ 224,184
28 ..... FTEs 5.35
29 2. COMMUNITY ADVOCACY AND SERVICES DIVISION
30 For salaries, support, maintenance, and miscellaneous
31 purposes, and for not more than the following full-time
32 equivalent positions:
33 ..... $ 1,028,077
34 ..... FTEs 9.38
35 Sec. 13. DEPARTMENT OF INSPECTIONS AND APPEALS. There

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1 is appropriated from the general fund of the state to the
2 department of inspections and appeals for the fiscal year
3 beginning July 1, 2013, and ending June 30, 2014, the following
4 amounts, or so much thereof as is necessary, for the purposes
5 designated:
6 1. ADMINISTRATION DIVISION
7 For salaries, support, maintenance, and miscellaneous
8 purposes, and for not more than the following full-time
9 equivalent positions:
10 ..... $ 545,242
11 ..... FTEs 13.65
12 2. ADMINISTRATIVE HEARINGS DIVISION
13 For salaries, support, maintenance, and miscellaneous
14 purposes, and for not more than the following full-time
15 equivalent positions:
16 ..... $ 678,942
17 ..... FTEs 23.00
18 3. INVESTIGATIONS DIVISION
19 For salaries, support, maintenance, and miscellaneous
20 purposes, and for not more than the following full-time
21 equivalent positions:
22 ..... $ 2,573,089
23 ..... FTEs 61.50
24 4. HEALTH FACILITIES DIVISION
25 a. For salaries, support, maintenance, and miscellaneous
26 purposes, and for not more than the following full-time
27 equivalent positions:
28 ..... $ 5,092,033
29 ..... FTEs 113.00
30 b. The department shall, in coordination with the health
31 facilities division, make the following information available
32 to the public as part of the department's development efforts
33 to revise the department's internet website:
34 (1) The number of inspections conducted by the division
35 annually by type of service provider and type of inspection.

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1 (2) The total annual operations budget for the division,
2 including general fund appropriations and federal contract
3 dollars received by type of service provider inspected.
4 (3) The total number of full-time equivalent positions in
5 the division, to include the number of full-time equivalent
6 positions serving in a supervisory capacity, and serving as
7 surveyors, inspectors, or monitors in the field by type of
8 service provider inspected.
9 (4) Identification of state and federal survey trends,
10 cited regulations, the scope and severity of deficiencies
11 identified, and federal and state fines assessed and collected
12 concerning nursing and assisted living facilities and programs.
13 c. It is the intent of the general assembly that the
14 department and division continuously solicit input from
15 facilities regulated by the division to assess and improve
16 the division's level of collaboration and to identify new
17 opportunities for cooperation.
18 5. EMPLOYMENT APPEAL BOARD
19 a. For salaries, support, maintenance, and miscellaneous
20 purposes, and for not more than the following full-time
21 equivalent positions:
22 ..... $ 42,215
23 ..... FTEs 11.00
24 b. The employment appeal board shall be reimbursed by
25 the labor services division of the department of workforce
26 development for all costs associated with hearings conducted
27 under chapter 91C, related to contractor registration. The
28 board may expend, in addition to the amount appropriated under
29 this subsection, additional amounts as are directly billable
30 to the labor services division under this subsection and to
31 retain the additional full-time equivalent positions as needed
32 to conduct hearings required pursuant to chapter 91C.
33 6. CHILD ADVOCACY BOARD
34 a. For foster care review and the court appointed special
35 advocate program, including salaries, support, maintenance, and

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1 miscellaneous purposes, and for not more than the following
2 full-time equivalent positions:
3 ..... $ 2,680,590
4 ..... FTEs 32.25
5 b. The department of human services, in coordination with
6 the child advocacy board and the department of inspections and
7 appeals, shall submit an application for funding available
8 pursuant to Tit. IV-E of the federal Social Security Act for
9 claims for child advocacy board administrative review costs.
10 c. The court appointed special advocate program shall
11 investigate and develop opportunities for expanding
12 fund-raising for the program.
13 d. Administrative costs charged by the department of
14 inspections and appeals for items funded under this subsection
15 shall not exceed 4 percent of the amount appropriated in this
16 subsection.
17 7. FOOD AND CONSUMER SAFETY
18 For salaries, support, maintenance, and miscellaneous
19 purposes, and for not more than the following full-time
20 equivalent positions:
21 ..... $ 1,279,331
22 ..... FTEs 23.25
23 Sec. 14. DEPARTMENT OF INSPECTIONS AND APPEALS —— MUNICIPAL
24 CORPORATION FOOD INSPECTIONS. For the fiscal year beginning
25 July 1, 2013, and ending June 30, 2014, the department of
26 inspections and appeals shall retain any license fees generated
27 during the fiscal year as a result of actions under section
28 137F.3A occurring during the period beginning July 1, 2009,
29 and ending June 30, 2014, for the purpose of enforcing the
30 provisions of chapters 137C, 137D, and 137F.
31 Sec. 15. RACING AND GAMING COMMISSION.
32 1. RACETRACK REGULATION
33 There is appropriated from the gaming regulatory revolving
34 fund established in section 99F.20 to the racing and gaming
35 commission of the department of inspections and appeals for the

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1 fiscal year beginning July 1, 2013, and ending June 30, 2014,
2 the following amount, or so much thereof as is necessary, to be
3 used for the purposes designated:
4 For salaries, support, maintenance, and miscellaneous
5 purposes for the regulation of pari-mutuel racetracks, and for
6 not more than the following full-time equivalent positions:
7 ..... $ 3,068,492
8 ..... FTEs 32.03
9 2. EXCURSION BOAT AND GAMBLING STRUCTURE REGULATION
10 There is appropriated from the gaming regulatory revolving
11 fund established in section 99F.20 to the racing and gaming
12 commission of the department of inspections and appeals for the
13 fiscal year beginning July 1, 2013, and ending June 30, 2014,
14 the following amount, or so much thereof as is necessary, to be
15 used for the purposes designated:
16 a. For salaries, support, maintenance, and miscellaneous
17 purposes for administration and enforcement of the excursion
18 boat gambling and gambling structure laws, and for not more
19 than the following full-time equivalent positions:
20 ..... $ 3,045,719
21 ..... FTEs 40.72
22 b. For costs associated with conducting a socioeconomic
23 study on the impact of gambling on Iowans if the study is
24 required by law:
25 ..... $ 125,000
26 Sec. 16. ROAD USE TAX FUND APPROPRIATION — DEPARTMENT OF
27 INSPECTIONS AND APPEALS. There is appropriated from the road
28 use tax fund created in section 312.1 to the administrative
29 hearings division of the department of inspections and appeals
30 for the fiscal year beginning July 1, 2013, and ending June 30,
31 2014, the following amount, or so much thereof as is necessary,
32 for the purposes designated:
33 For salaries, support, maintenance, and miscellaneous
34 purposes:
35 ..... $ 1,623,897

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1 Sec. 17. DEPARTMENT OF MANAGEMENT.
2 1. There is appropriated from the general fund of the state
3 to the department of management for the fiscal year beginning
4 July 1, 2013, and ending June 30, 2014, the following amounts,
5 or so much thereof as is necessary, to be used for the purposes
6 designated:
7 For salaries, support, maintenance, and miscellaneous
8 purposes, and for not more than the following full-time
9 equivalent positions:
10 ..... $ 2,550,220
11 ..... FTEs 21.00
12 2. Of the moneys appropriated in this section, the
13 department shall use a portion for enterprise resource
14 planning, providing for a salary model administrator,
15 conducting performance audits, and for the department's LEAN
16 process.
17 Sec. 18. ROAD USE TAX APPROPRIATION — DEPARTMENT OF
18 MANAGEMENT. There is appropriated from the road use tax fund
19 created in section 312.1 to the department of management for
20 the fiscal year beginning July 1, 2013, and ending June 30,
21 2014, the following amount, or so much thereof as is necessary,
22 to be used for the purposes designated:
23 For salaries, support, maintenance, and miscellaneous
24 purposes:
25 ..... $ 56,000
26 Sec. 19. IOWA PUBLIC INFORMATION BOARD. There is
27 appropriated from the general fund of the state to the Iowa
28 public information board for the fiscal year beginning July
29 1, 2013, and ending June 30, 2014, the following amounts, or
30 so much thereof as is necessary, to be used for the purposes
31 designated:
32 For salaries, support, maintenance, and miscellaneous
33 purposes and for not more than the following full-time
34 equivalent positions:
35 ..... $ 100,000

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1 ..... FTEs 1.00
2 Sec. 20. DEPARTMENT OF REVENUE.
3 1. There is appropriated from the general fund of the state
4 to the department of revenue for the fiscal year beginning July
5 1, 2013, and ending June 30, 2014, the following amounts, or
6 so much thereof as is necessary, to be used for the purposes
7 designated:
8 For salaries, support, maintenance, and miscellaneous
9 purposes, and for not more than the following full-time
10 equivalent positions:
11 ..... $ 17,880,839
12 ..... FTEs 242.24
13 2. Of the funds appropriated pursuant to this section,
14 $400,000 shall be used to pay the direct costs of compliance
15 related to the collection and distribution of local sales and
16 services taxes imposed pursuant to chapters 423B and 423E.
17 3. The director of revenue shall prepare and issue a state
18 appraisal manual and the revisions to the state appraisal
19 manual as provided in section 421.17, subsection 17, without
20 cost to a city or county.
21 Sec. 21. MOTOR VEHICLE FUEL TAX APPROPRIATION. There is
22 appropriated from the motor fuel tax fund created by section
23 452A.77 to the department of revenue for the fiscal year
24 beginning July 1, 2013, and ending June 30, 2014, the following
25 amount, or so much thereof as is necessary, to be used for the
26 purposes designated:
27 For salaries, support, maintenance, miscellaneous purposes,
28 and for administration and enforcement of the provisions of
29 chapter 452A and the motor vehicle use tax program:
30 ..... $ 1,305,775
31 Sec. 22. SECRETARY OF STATE.
32 1. There is appropriated from the general fund of the state
33 to the office of the secretary of state for the fiscal year
34 beginning July 1, 2013, and ending June 30, 2014, the following
35 amounts, or so much thereof as is necessary, to be used for the

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1 purposes designated:
2 For salaries, support, maintenance, and miscellaneous
3 purposes, and for not more than the following full-time
4 equivalent positions:
5 ..... $ 2,896,699
6 ..... FTEs 29.00
7 2. The state department or state agency which provides
8 data processing services to support voter registration file
9 maintenance and storage shall provide those services without
10 charge.
11 Sec. 23. SECRETARY OF STATE FILING FEES REFUND.
12 Notwithstanding the obligation to collect fees pursuant to the
13 provisions of section 489.117, subsection 1, paragraphs "a" and
14 "o", section 490.122, subsection 1, paragraphs "a" and "s",
15 and section 504.113, subsection 1, paragraphs "a", "c", "d",
16 "j", "k", "l", and "m", for the fiscal year beginning July 1,
17 2013, the secretary of state may refund these fees to the filer
18 pursuant to rules established by the secretary of state. The
19 decision of the secretary of state not to issue a refund under
20 rules established by the secretary of state is final and not
21 subject to review pursuant to chapter 17A.
22 Sec. 24. TREASURER OF STATE.
23 1. There is appropriated from the general fund of the
24 state to the office of treasurer of state for the fiscal year
25 beginning July 1, 2013, and ending June 30, 2014, the following
26 amount, or so much thereof as is necessary, to be used for the
27 purposes designated:
28 For salaries, support, maintenance, and miscellaneous
29 purposes, and for not more than the following full-time
30 equivalent positions:
31 ..... $ 1,084,392
32 ..... FTEs 28.80
33 2. The office of treasurer of state shall supply clerical,
34 secretarial, and other administrative support for the executive
35 council.

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1 Sec. 25. ROAD USE TAX APPROPRIATION — OFFICE OF TREASURER
2 OF STATE. There is appropriated from the road use tax fund
3 created in section 312.1 to the office of treasurer of state
4 for the fiscal year beginning July 1, 2013, and ending June 30,
5 2014, the following amount, or so much thereof as is necessary,
6 to be used for the purposes designated:
7 For enterprise resource management costs related to the
8 distribution of road use tax funds:
9 ..... $ 93,148
10 Sec. 26. IPERS — GENERAL OFFICE. There is appropriated
11 from the Iowa public employees' retirement system fund to the
12 Iowa public employees' retirement system for the fiscal year
13 beginning July 1, 2013, and ending June 30, 2014, the following
14 amount, or so much thereof as is necessary, to be used for the
15 purposes designated:
16 For salaries, support, maintenance, and other operational
17 purposes to pay the costs of the Iowa public employees'
18 retirement system, and for not more than the following
19 full-time equivalent positions:
20 ..... $ 17,686,968
21 ..... FTEs 90.13
22 Sec. 27. INTEGRATED INFORMATION FOR IOWA SYSTEM. There
23 is appropriated from the general fund of the state to the
24 following departments and agencies for the fiscal year
25 beginning July 1, 2013, and ending June 30, 2014, the following
26 amounts, or so much thereof as is necessary, to be used
27 for the payment of services provided by the department of
28 administrative services related to the integrated information
29 for Iowa system:
30 1. Department of aging:
31 ..... $ 5,687
32 2. Department of agriculture and land stewardship:
33 ..... $ 24,164
34 3. Department for the blind:
35 ..... $ 6,543

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1 4. Iowa state civil rights commission:
2 ..... $ 2,178
3 5. College student aid commission:
4 ..... $ 17,166
5 6. Department of corrections:
6 ..... $ 12,228
7 7. Department of corrections for the Fort Madison
8 correctional facility:
9 ..... $ 28,799
10 8. Department of corrections for the Anamosa correctional
11 facility:
12 ..... $ 22,967
13 9. Department of corrections for the Oakdale correctional
14 facility:
15 ..... $ 57,645
16 10. Department of corrections for the Newton correctional
17 facility:
18 ..... $ 18,818
19 11. Department of corrections for the Mount Pleasant
20 correctional facility:
21 ..... $ 20,708
22 12. Department of corrections for the Rockwell City
23 correctional facility:
24 ..... $ 7,205
25 13. Department of corrections for the Clarinda correctional
26 facility:
27 ..... $ 17,703
28 14. Department of corrections for the Mitchellville
29 correctional facility:
30 ..... $ 13,431
31 15. Department of corrections for the Fort Dodge
32 correctional facility:
33 ..... $ 18,416
34 16. Department of cultural affairs:
35 ..... $ 5,069

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1 17. Economic development authority:
2 ..... $ 47,407
3 18. Department of education:
4 ..... $ 215,235
5 19. Department of education for the vocational
6 rehabilitation services division:
7 ..... $ 33,032
8 20. Department of education for the public broadcasting
9 division:
10 ..... $ 7,537
11 21. Department of human services for payments associated
12 with administration:
13 ..... $ 24,831
14 22. Department of human services for payments associated
15 with assistance payments:
16 ..... $ 581,192
17 23. Department of human services for the civil commitment
18 unit for sexual offenders:
19 ..... $ 8,599
20 24. Department of human services for payments associated
21 with field operations:
22 ..... $ 189,899
23 25. Department of human services for the state resource
24 center at Glenwood:
25 ..... $ 74,650
26 26. Department of human services for the state resource
27 center at Woodward:
28 ..... $ 65,728
29 27. Department of human services for the Iowa juvenile home
30 at Toledo:
31 ..... $ 7,766
32 28. Department of human services for the state training
33 school at Eldora:
34 ..... $ 11,233
35 29. Department of human services for the Cherokee mental

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1 health institute:
2 ..... $ 10,273
3 30. Department of human services for the Clarinda mental
4 health institute:
5 ..... $ 5,821
6 31. Department of human services for the Independence
7 mental health institute:
8 ..... $ 15,304
9 32. Department of human services for the Mount Pleasant
10 mental health institute:
11 ..... $ 7,375
12 33. Office of the state public defender:
13 ..... $ 20,061
14 34. Iowa law enforcement academy:
15 ..... $ 1,516
16 35. Department of justice:
17 ..... $ 21,975
18 36. Department of natural resources:
19 ..... $ 95,607
20 37. Board of parole:
21 ..... $ 748
22 38. Department of public defense:
23 ..... $ 27,436
24 39. Department of public defense for the homeland security
25 and emergency management division or its successor:
26 ..... $ 55,346
27 40. Public employment relations board:
28 ..... $ 526
29 41. Department of public health:
30 ..... $ 51,018
31 42. Department of public safety:
32 ..... $ 87,295
33 43. State board of regents:
34 ..... $ 29,709
35 44. Department of veterans affairs:

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1 ..... $ 2,443
2 45. Department of veterans affairs for the Iowa veterans
3 home:
4 ..... $ 69,282
5 46. Department of workforce development:
6 ..... $ 274,819
7 47. Judicial branch:
8 ..... $ 137,380
9 48. Iowa general assembly:
10 ..... $ 26,548
11 EXPLANATION
12 This bill relates to and appropriates moneys to various
13 state departments, agencies, and funds for the fiscal year
14 beginning July 1, 2013, and ending June 30, 2014. The bill
15 makes appropriations to state departments and agencies
16 including the department of administrative services,
17 auditor of state, Iowa ethics and campaign disclosure board,
18 department of commerce, Iowa telecommunications and technology
19 commission, offices of governor and lieutenant governor, the
20 governor´s office of drug control policy, department of human
21 rights, department of inspections and appeals, department
22 of management, department of revenue, secretary of state,
23 treasurer of state, and Iowa public employees´ retirement
24 system.

House Study Bill 220 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON APPROPRIATIONS BILL BY HOUSE APPROPRIATIONS SUBCOMMITTEE ON EDUCATION)

(SUCCESSOR TO LSB 1003HA)

A BILL FOR

1 An Act relating to the funding of, the operation of, and
2 appropriation of moneys to the college student aid
3 commission, the department for the blind, the department of
4 education, and the state board of regents, and providing for
5 related matters.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1003HB (1) 85
kh/tm

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1 DEPARTMENT FOR THE BLIND
2 Section 1. ADMINISTRATION. There is appropriated from the
3 general fund of the state to the department for the blind for
4 the fiscal year beginning July 1, 2013, and ending June 30,
5 2014, the following amount, or so much thereof as is necessary,
6 to be used for the purposes designated:
7 1. For salaries, support, maintenance, miscellaneous
8 purposes, and for not more than the following full-time
9 equivalent positions:
10 ..... $ 1,891,815
11 ..... FTEs 88.00
12 2. For costs associated with universal access to audio
13 information over the phone on demand for blind and print
14 handicapped Iowans:
15 ..... $ 50,000
16 COLLEGE STUDENT AID COMMISSION
17 Sec. 2. There is appropriated from the general fund of the
18 state to the college student aid commission for the fiscal year
19 beginning July 1, 2013, and ending June 30, 2014, the following
20 amounts, or so much thereof as is necessary, to be used for the
21 purposes designated:
22 1. GENERAL ADMINISTRATION
23 For salaries, support, maintenance, miscellaneous purposes,
24 and for not more than the following full-time equivalent
25 positions:
26 ..... $ 232,943
27 ..... FTEs 3.95
28 2. STUDENT AID PROGRAMS
29 For payments to students for the Iowa grant program
30 established in section 261.93:
31 ..... $ 717,956
32 3. HEALTH CARE PROFESSIONAL RECRUITMENT PROGRAM
33 For the loan repayment program for health care professionals
34 established pursuant to section 261.19:
35 ..... $ 400,973

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1 4. NATIONAL GUARD EDUCATIONAL ASSISTANCE PROGRAM
2 For purposes of providing national guard educational
3 assistance under the program established in section 261.86:
4 ..... $ 5,100,233
5 5. TEACHER SHORTAGE LOAN FORGIVENESS PROGRAM
6 For the teacher shortage loan forgiveness program
7 established in section 261.112:
8 ..... $ 392,452
9 6. ALL IOWA OPPORTUNITY FOSTER CARE GRANT PROGRAM
10 For purposes of the all Iowa opportunity foster care grant
11 program established pursuant to section 261.6:
12 ..... $ 554,057
13 7. ALL IOWA OPPORTUNITY SCHOLARSHIP PROGRAM
14 a. For purposes of the all Iowa opportunity scholarship
15 program established pursuant to section 261.87:
16 ..... $ 2,200,000
17 b. If the moneys appropriated by the general assembly to the
18 college student aid commission for fiscal year 2013-2014 for
19 purposes of the all Iowa opportunity scholarship program exceed
20 $500,000, "eligible institution" as defined in section 261.87,
21 shall, during fiscal year 2013-2014, include accredited private
22 institutions as defined in section 261.9, subsection 1.
23 8. REGISTERED NURSE AND NURSE EDUCATOR LOAN FORGIVENESS
24 PROGRAM
25 For purposes of the registered nurse and nurse educator loan
26 forgiveness program established pursuant to section 261.23:
27 ..... $ 80,852
28 9. BARBER AND COSMETOLOGY ARTS AND SCIENCES TUITION GRANT
29 PROGRAM
30 For purposes of the barber and cosmetology arts and sciences
31 tuition grant program established pursuant to section 261.18:
32 ..... $ 36,938
33 10. SKILLED WORKFORCE SHORTAGE TUITION GRANTS
34 For purposes of providing skilled workforce shortage tuition
35 grants in accordance with section 261.130:

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1 ..... $ 5,000,000
2 Notwithstanding section 8.33, moneys appropriated in this
3 subsection that remain unencumbered or unobligated at the close
4 of the fiscal year shall not revert but shall remain available
5 for expenditure for the purposes designated until the close of
6 the fiscal year that begins July 1, 2014.
7 11. RURAL IOWA PRIMARY CARE LOAN REPAYMENT PROGRAM
8 For purposes of the rural Iowa primary care loan repayment
9 program established pursuant to section 261.113:
10 ..... $ 2,000,000
11 Sec. 3. IOWA TUITION AND VOCATIONAL-TECHNICAL TUITION GRANT
12 APPROPRIATIONS FOR FY 2013-2014. Notwithstanding the standing
13 appropriations in the following designated sections for the
14 fiscal year beginning July 1, 2013, and ending June 30, 2014,
15 the amounts appropriated from the general fund of the state to
16 the college student aid commission pursuant to these sections
17 for the following designated purposes shall not exceed the
18 following amounts:
19 1. For Iowa tuition grants under section 261.25, subsection
20 1:
21 ..... $ 46,513,448
22 2. For tuition grants for students attending for-profit
23 accredited private institutions located in Iowa under section
24 261.25, subsection 2:
25 ..... $ 2,500,000
26 Sec. 4. CHIROPRACTIC LOAN FUNDS. Notwithstanding section
27 261.72, the moneys deposited in the chiropractic loan
28 revolving fund created pursuant to section 261.72 may be used
29 for purposes of the chiropractic loan forgiveness program
30 established in section 261.73.
31 Sec. 5. WORK-STUDY APPROPRIATION FOR FY 2013-2014.
32 Notwithstanding section 261.85, for the fiscal year beginning
33 July 1, 2013, and ending June 30, 2014, the amount appropriated
34 from the general fund of the state to the college student aid
35 commission for the work-study program under section 261.85

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1 shall be zero.
2 DEPARTMENT OF EDUCATION
3 Sec. 6. There is appropriated from the general fund of
4 the state to the department of education for the fiscal year
5 beginning July 1, 2013, and ending June 30, 2014, the following
6 amounts, or so much thereof as is necessary, to be used for the
7 purposes designated:
8 1. GENERAL ADMINISTRATION
9 For salaries, support, maintenance, miscellaneous purposes,
10 and for not more than the following full-time equivalent
11 positions:
12 ..... $ 6,088,812
13 ..... FTEs 81.67
14 2. VOCATIONAL EDUCATION ADMINISTRATION
15 For salaries, support, maintenance, miscellaneous purposes,
16 and for not more than the following full-time equivalent
17 positions:
18 ..... $ 598,197
19 ..... FTEs 11.50
20 3. VOCATIONAL REHABILITATION SERVICES DIVISION
21 a. For salaries, support, maintenance, miscellaneous
22 purposes, and for not more than the following full-time
23 equivalent positions:
24 ..... $ 5,113,168
25 ..... FTEs 255.00
26 For purposes of optimizing the job placement of individuals
27 with disabilities, the division shall make its best efforts
28 to work with community rehabilitation program providers for
29 job placement and retention services for individuals with
30 significant disabilities and most significant disabilities. By
31 January 15, 2014, the division shall submit a written report to
32 the general assembly on the division's outreach efforts with
33 community rehabilitation program providers.
34 b. For matching funds for programs to enable persons
35 with severe physical or mental disabilities to function more

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1 independently, including salaries and support, and for not more
2 than the following full-time equivalent position:
3 ..... $ 39,128
4 ..... FTEs 1.00
5 c. For the entrepreneurs with disabilities program
6 established pursuant to section 259.4, subsection 9:
7 ..... $ 145,535
8 d. For costs associated with centers for independent
9 living:
10 ..... $ 40,294
11 4. STATE LIBRARY
12 a. For salaries, support, maintenance, miscellaneous
13 purposes, and for not more than the following full-time
14 equivalent positions:
15 ..... $ 2,715,063
16 ..... FTEs 29.00
17 b. For the enrich Iowa program established under section
18 256.57:
19 ..... $ 2,174,228
20 5. PUBLIC BROADCASTING DIVISION
21 For salaries, support, maintenance, capital expenditures,
22 miscellaneous purposes, and for not more than the following
23 full-time equivalent positions:
24 ..... $ 7,443,096
25 ..... FTEs 82.00
26 6. VOCATIONAL EDUCATION TO SECONDARY SCHOOLS
27 For reimbursement for vocational education expenditures made
28 by secondary schools:
29 ..... $ 2,630,134
30 Moneys appropriated in this subsection shall be used
31 to reimburse school districts for vocational education
32 expenditures made by secondary schools to meet the standards
33 set in sections 256.11, 258.4, and 260C.14.
34 7. SCHOOL FOOD SERVICE
35 For use as state matching funds for federal programs that

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1 shall be disbursed according to federal regulations, including
2 salaries, support, maintenance, miscellaneous purposes, and for
3 not more than the following full-time equivalent positions:
4 ..... $ 2,176,797
5 ..... FTEs 20.58
6 8. EARLY CHILDHOOD IOWA FUND — GENERAL AID
7 For deposit in the school ready children grants account of
8 the early childhood Iowa fund created in section 256I.11:
9 ..... $ 5,386,113
10 a. From the moneys deposited in the school ready children
11 grants account for the fiscal year beginning July 1, 2013, and
12 ending June 30, 2014, not more than $265,950 is allocated for
13 the early childhood Iowa office and other technical assistance
14 activities. The early childhood Iowa state board shall direct
15 staff to work with the early childhood stakeholders alliance
16 created in section 256I.12 to inventory technical assistance
17 needs. Moneys allocated under this lettered paragraph may be
18 used by the early childhood Iowa state board for the purpose of
19 skills development and support for ongoing training of staff.
20 However, except as otherwise provided in this subsection,
21 moneys shall not be used for additional staff or for the
22 reimbursement of staff.
23 b. As a condition of receiving moneys appropriated in
24 this subsection, each early childhood Iowa area board shall
25 report to the early childhood Iowa state board progress on
26 each of the local indicators approved by the area board. Each
27 early childhood Iowa area board must also submit an annual
28 budget for the area's comprehensive school ready children
29 grant developed for providing services for children from birth
30 through five years of age, and provide other information
31 specified by the early childhood Iowa state board, including
32 budget amendments as needed. The early childhood Iowa state
33 board shall establish a submission deadline for the annual
34 budget and any budget amendments that allow a reasonable period
35 of time for preparation by the early childhood Iowa area boards

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1 and for review and approval or request for modification of
2 the materials by the early childhood Iowa state board. In
3 addition, each early childhood Iowa area board must continue to
4 comply with reporting provisions and other requirements adopted
5 by the early childhood Iowa state board in implementing section
6 256I.9.
7 c. Of the amount appropriated in this subsection for
8 deposit in the school ready children grants account of the
9 early childhood Iowa fund, $2,318,018 shall be used for efforts
10 to improve the quality of early care, health, and education
11 programs. Moneys allocated pursuant to this paragraph may be
12 used for additional staff and for the reimbursement of staff.
13 The early childhood Iowa state board may reserve a portion
14 of the allocation, not to exceed $88,650, for the technical
15 assistance expenses of the early childhood Iowa state office,
16 including the reimbursement of staff, and shall distribute
17 the remainder to early childhood Iowa areas for local quality
18 improvement efforts through a methodology identified by the
19 early childhood Iowa state board to make the most productive
20 use of the funding, which may include use of the distribution
21 formula, grants, or other means.
22 d. Of the amount appropriated in this subsection for
23 deposit in the school ready children grants account of
24 the early childhood Iowa fund, $825,030 shall be used for
25 support of professional development and training activities
26 for persons working in early care, health, and education by
27 the early childhood Iowa state board in collaboration with
28 the professional development component group of the early
29 childhood Iowa stakeholders alliance maintained pursuant to
30 section 256I.12, subsection 7, paragraph "b", and the early
31 childhood Iowa area boards. Expenditures shall be limited to
32 professional development and training activities agreed upon by
33 the parties participating in the collaboration.
34 9. EARLY CHILDHOOD IOWA FUND — PRESCHOOL TUITION
35 ASSISTANCE

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1 a. For deposit in the school ready children grants account
2 of the early childhood Iowa fund created in section 256I.11:
3 ..... $ 5,428,877
4 b. The amount appropriated in this subsection shall be
5 used for early care, health, and education programs to assist
6 low-income parents with tuition for preschool and other
7 supportive services for children ages three, four, and five
8 who are not attending kindergarten in order to increase the
9 basic family income eligibility requirement to not more than
10 200 percent of the federal poverty level. In addition, if
11 sufficient funding is available after addressing the needs of
12 those who meet the basic income eligibility requirement, an
13 early childhood Iowa area board may provide for eligibility
14 for those with a family income in excess of the basic income
15 eligibility requirement through use of a sliding scale or other
16 copayment provisions.
17 10. EARLY CHILDHOOD IOWA FUND —— FAMILY SUPPORT AND PARENT
18 EDUCATION
19 a. For deposit in the school ready children grants account
20 of the early childhood Iowa fund created in section 256I.11:
21 ..... $ 12,364,434
22 b. The amount appropriated in this subsection shall be
23 used for family support services and parent education programs
24 targeted to families expecting a child or with newborn and
25 infant children through age five and shall be distributed using
26 the distribution formula approved by the early childhood Iowa
27 state board and shall be used by an early childhood Iowa area
28 board only for family support services and parent education
29 programs targeted to families expecting a child or with newborn
30 and infant children through age five.
31 11. BIRTH TO AGE THREE SERVICES
32 For expansion of the federal Individuals with Disabilities
33 Education Improvement Act of 2004, Pub. L. No. 108-446, as
34 amended to January 1, 2013, birth through age three services
35 due to increased numbers of children qualifying for those

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1 services:
2 ..... $ 1,721,400
3 From the moneys appropriated in this subsection, $383,769
4 shall be allocated to the child health specialty clinic at the
5 state university of Iowa to provide additional support for
6 infants and toddlers who are born prematurely, drug-exposed, or
7 medically fragile.
8 12. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS
9 To provide moneys for costs of providing textbooks to each
10 resident pupil who attends a nonpublic school as authorized by
11 section 301.1:
12 ..... $ 560,214
13 Funding under this subsection is limited to $20 per pupil and
14 shall not exceed the comparable services offered to resident
15 public school pupils.
16 13. CORE CURRICULUM AND CAREER INFORMATION AND
17 DECISION-MAKING SYSTEM
18 For purposes of implementing the statewide core curriculum
19 for school districts and accredited nonpublic schools and a
20 state-designated career information and decision-making system:
21 ..... $ 1,000,000
22 14. STUDENT ACHIEVEMENT AND TEACHER QUALITY PROGRAM
23 For purposes of the student achievement and teacher quality
24 program established pursuant to chapter 284, and for not more
25 than the following full-time equivalent positions:
26 ..... $ 4,785,000
27 ..... FTEs 2.00
28 15. JOBS FOR AMERICA´S GRADUATES
29 For school districts to provide direct services to the
30 most at-risk senior high school students enrolled in school
31 districts through direct intervention by a jobs for America´s
32 graduates specialist:
33 ..... $ 540,000
34 16. EDUCATION REFORM
35 For implementation of the education reform provisions

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1 pursuant to 2013 Iowa Acts, House File 215, section 89,
2 amending section 284.13, subsection 1, new paragraph "0e", if
3 enacted:
4 ..... $ 5,000,000
5 17. MIDWESTERN HIGHER EDUCATION COMPACT
6 For distribution to the midwestern higher education compact
7 to pay Iowa's member state annual obligation:
8 ..... $ 100,000
9 Notwithstanding section 8.33, moneys appropriated for
10 distribution to the midwestern higher education compact
11 pursuant to this subsection that remain unencumbered or
12 unobligated at the close of the fiscal year shall not revert
13 but shall remain available for expenditure for the purpose
14 designated until the close of the succeeding fiscal year.
15 18. COMMUNITY COLLEGES
16 a. For general state financial aid to merged areas as
17 defined in section 260C.2 in accordance with chapters 258 and
18 260C:
19 ..... $187,274,647
20 Notwithstanding the allocation formula in section 260C.18C,
21 the funds appropriated in this subsection shall be allocated
22 as follows:
23 (1) Merged Area I..... $ 9,274,078
24 (2) Merged Area II..... $ 9,568,357
25 (3) Merged Area III..... $ 8,832,386
26 (4) Merged Area IV..... $ 4,341,129
27 (5) Merged Area V..... $ 10,488,707
28 (6) Merged Area VI..... $ 8,457,686
29 (7) Merged Area VII..... $ 12,761,965
30 (8) Merged Area IX..... $ 16,053,076
31 (9) Merged Area X..... $ 29,107,109
32 (10) Merged Area XI..... $ 30,531,328
33 (11) Merged Area XII..... $ 10,455,792
34 (12) Merged Area XIII..... $ 11,118,855
35 (13) Merged Area XIV..... $ 4,419,508

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1 (14) Merged Area XV..... $ 13,859,256
2 (15) Merged Area XVI..... $ 8,005,415
3 b. For distribution to community colleges to supplement
4 faculty salaries:
5 ..... $ 500,000
6 c. For deposit in the workforce training and economic
7 development funds created pursuant to section 260C.18A:
8 ..... $ 8,000,000
9 d. For deposit in the gap tuition assistance fund
10 established pursuant to section 260I.2, subsection 2:
11 ..... $ 2,000,000
12 STATE BOARD OF REGENTS
13 Sec. 7. There is appropriated from the general fund of
14 the state to the state board of regents for the fiscal year
15 beginning July 1, 2013, and ending June 30, 2014, the following
16 amounts, or so much thereof as is necessary, to be used for the
17 purposes designated:
18 1. OFFICE OF STATE BOARD OF REGENTS
19 a. For salaries, support, maintenance, miscellaneous
20 purposes, and for not more than the following full-time
21 equivalent positions:
22 ..... $ 1,065,005
23 ..... FTEs 15.00
24 The state board of regents shall submit a monthly financial
25 report in a format agreed upon by the state board of regents
26 office and the legislative services agency. The report
27 submitted in December 2013 shall include the five-year
28 graduation rates for the regents universities.
29 b. For moneys to be allocated to the southwest Iowa graduate
30 studies center:
31 ..... $ 182,734
32 c. For moneys to be allocated to the siouxland interstate
33 metropolitan planning council for the tristate graduate center
34 under section 262.9, subsection 22:
35 ..... $ 66,601

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1 d. For moneys to be allocated to the quad-cities graduate
2 studies center:
3 ..... $ 34,513
4 The board may transfer moneys appropriated under paragraph
5 "b", "c", or "d", of this subsection to any of the other
6 centers specified in paragraph "b", "c", or "d", if the board
7 notifies, in writing, the general assembly and the legislative
8 services agency of the amount, the date, and the purpose of the
9 transfer.
10 e. For moneys to be distributed to Iowa public radio for
11 public radio operations:
12 ..... $ 391,568
13 2. STATE UNIVERSITY OF IOWA
14 a. General university, including lakeside laboratory
15 For salaries, support, maintenance, equipment, miscellaneous
16 purposes, and for not more than the following full-time
17 equivalent positions:
18 ..... $222,041,351
19 ..... FTEs 5,058.55
20 b. Oakdale campus
21 For salaries, support, maintenance, miscellaneous purposes,
22 and for not more than the following full-time equivalent
23 positions:
24 ..... $ 2,186,558
25 ..... FTEs 38.25
26 c. State hygienic laboratory
27 For salaries, support, maintenance, miscellaneous purposes,
28 and for not more than the following full-time equivalent
29 positions:
30 ..... $ 3,536,716
31 ..... FTEs 102.50
32 d. Family practice program
33 For allocation by the dean of the college of medicine, with
34 approval of the advisory board, to qualified participants
35 to carry out the provisions of chapter 148D for the family

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1 practice program, including salaries and support, and for not
2 more than the following full-time equivalent positions:
3 ..... $ 1,788,265
4 ..... FTEs 190.40
5 e. Child health care services
6 For specialized child health care services, including
7 childhood cancer diagnostic and treatment network programs,
8 rural comprehensive care for hemophilia patients, and the
9 Iowa high-risk infant follow-up program, including salaries
10 and support, and for not more than the following full-time
11 equivalent positions:
12 ..... $ 659,456
13 ..... FTEs 57.97
14 f. Statewide cancer registry
15 For the statewide cancer registry, and for not more than the
16 following full-time equivalent positions:
17 ..... $ 149,051
18 ..... FTEs 2.10
19 g. Substance abuse consortium
20 For moneys to be allocated to the Iowa consortium for
21 substance abuse research and evaluation, and for not more than
22 the following full-time equivalent position:
23 ..... $ 55,529
24 ..... FTEs 1.00
25 h. Center for biocatalysis
26 For the center for biocatalysis, and for not more than the
27 following full-time equivalent positions:
28 ..... $ 723,727
29 ..... FTEs 6.28
30 i. Primary health care initiative
31 For the primary health care initiative in the college
32 of medicine, and for not more than the following full-time
33 equivalent positions:
34 ..... $ 648,930
35 ..... FTEs 5.89

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1 From the moneys appropriated in this lettered paragraph,
2 $254,889 shall be allocated to the department of family
3 practice at the state university of Iowa college of medicine
4 for family practice faculty and support staff.
5 j. Birth defects registry
6 For the birth defects registry, and for not more than the
7 following full-time equivalent position:
8 ..... $ 38,288
9 ..... FTEs 1.00
10 k. Larned A. Waterman Iowa nonprofit resource center
11 For the Larned A. Waterman Iowa nonprofit resource center,
12 and for not more than the following full-time equivalent
13 positions:
14 ..... $ 162,539
15 ..... FTEs 2.75
16 l. Iowa online advanced placement academy science,
17 technology, engineering, and mathematics initiative
18 For the establishment of the Iowa online advanced placement
19 academy science, technology, engineering, and mathematics
20 initiative:
21 ..... $ 481,849
22 m. For the Iowa flood center for use by the university's
23 college of engineering pursuant to section 466C.1:
24 ..... $ 1,500,000
25 3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY
26 a. General university
27 For salaries, support, maintenance, equipment, miscellaneous
28 purposes, and for not more than the following full-time
29 equivalent positions:
30 ..... $173,986,353
31 ..... FTEs 3,647.42
32 b. Agricultural experiment station
33 For the agricultural experiment station salaries, support,
34 maintenance, miscellaneous purposes, and for not more than the
35 following full-time equivalent positions:

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1 ..... $ 28,111,877
2 ..... FTEs 546.98
3 c. Cooperative extension service in agriculture and home
4 economics
5 For the cooperative extension service in agriculture and
6 home economics salaries, support, maintenance, miscellaneous
7 purposes, and for not more than the following full-time
8 equivalent positions:
9 ..... $ 17,936,722
10 ..... FTEs 383.34
11 d. Leopold center
12 For agricultural research grants at Iowa state university of
13 science and technology under section 266.39B, and for not more
14 than the following full-time equivalent positions:
15 ..... $ 397,417
16 ..... FTEs 11.25
17 e. Livestock disease research
18 For deposit in and the use of the livestock disease research
19 fund under section 267.8:
20 ..... $ 172,844
21 4. UNIVERSITY OF NORTHERN IOWA
22 a. General university
23 For salaries, support, maintenance, equipment, miscellaneous
24 purposes, and for not more than the following full-time
25 equivalent positions:
26 ..... $ 87,222,819
27 ..... FTEs 1,447.50
28 b. Recycling and reuse center
29 For purposes of the recycling and reuse center, and for not
30 more than the following full-time equivalent positions:
31 ..... $ 175,256
32 ..... FTEs 3.00
33 c. Science, technology, engineering, and mathematics (STEM)
34 collaborative initiative
35 For purposes of the science, technology, engineering,

H.F. _____

1 and mathematics (STEM) collaborative initiative established
2 pursuant to section 268.7, and for not more than the following
3 full-time equivalent positions:
4 ..... $ 4,700,000
5 ..... FTEs 6.20
6 (1) From the moneys appropriated in this lettered
7 paragraph, up to $282,000 shall be allocated for salaries,
8 staffing, and institutional support. The remainder of the
9 moneys appropriated in this lettered paragraph shall be
10 expended only to support activities directly related to
11 recruitment of kindergarten through grade 12 mathematics and
12 science teachers and for ongoing mathematics and science
13 programming for students enrolled in kindergarten through grade
14 12.
15 (2) The university of northern Iowa shall work with the
16 community colleges to develop STEM professional development
17 programs for community college instructors and STEM curriculum
18 development.
19 d. Real estate education program
20 For purposes of the real estate education program, and for
21 not more than the following full-time equivalent position:
22 ..... $ 125,302
23 ..... FTEs 1.00
24 5. STATE SCHOOL FOR THE DEAF
25 For salaries, support, maintenance, miscellaneous purposes,
26 and for not more than the following full-time equivalent
27 positions:
28 ..... $ 8,853,563
29 ..... FTEs 126.60
30 6. IOWA BRAILLE AND SIGHT SAVING SCHOOL
31 For salaries, support, maintenance, miscellaneous purposes,
32 and for not more than the following full-time equivalent
33 positions:
34 ..... $ 3,691,310
35 ..... FTEs 62.87

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1 7. TUITION AND TRANSPORTATION COSTS
2 For payment to local school boards for the tuition and
3 transportation costs of students residing in the Iowa braille
4 and sight saving school and the state school for the deaf
5 pursuant to section 262.43 and for payment of certain clothing,
6 prescription, and transportation costs for students at these
7 schools pursuant to section 270.5:
8 ..... $ 11,763
9 8. LICENSED CLASSROOM TEACHERS
10 For distribution at the Iowa braille and sight saving school
11 and the Iowa school for the deaf based upon the average yearly
12 enrollment at each school as determined by the state board of
13 regents:
14 ..... $ 82,049
15 Sec. 8. ENERGY COST-SAVINGS PROJECTS — FINANCING. For
16 the fiscal year beginning July 1, 2013, and ending June 30,
17 2014, the state board of regents may use notes, bonds, or
18 other evidences of indebtedness issued under section 262.48 to
19 finance projects that will result in energy cost savings in an
20 amount that will cause the state board to recover the cost of
21 the projects within an average of six years.
22 Sec. 9. PRESCRIPTION DRUG COSTS. Notwithstanding section
23 270.7, the department of administrative services shall pay
24 the state school for the deaf and the Iowa braille and sight
25 saving school the moneys collected from the counties during the
26 fiscal year beginning July 1, 2013, for expenses relating to
27 prescription drug costs for students attending the state school
28 for the deaf and the Iowa braille and sight saving school.
29 Sec. 10. Section 284.13, subsection 1, paragraphs a, b, c,
30 and d, Code 2013, are amended to read as follows:
31 *a.* For the fiscal year beginning July 1, ~~2012~~ 2013, and
32 ending June 30, ~~2013~~ 2014, to the department of education, the
33 amount of five hundred eighty-five thousand dollars for the
34 issuance of national board certification awards in accordance
35 with section 256.44. Of the amount allocated under this

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1 paragraph, not less than eighty-five thousand dollars shall
2 be used to administer the ambassador to education position in
3 accordance with section 256.45.
4 *b.* For the fiscal year beginning July 1, ~~2012~~ 2013, and
5 ending June 30, ~~2013~~ 2014, an amount up to two million four
6 hundred sixty-three thousand five hundred ninety dollars
7 for first-year and second-year beginning teachers, to the
8 department of education for distribution to school districts
9 and area education agencies for purposes of the beginning
10 teacher mentoring and induction programs. A school district or
11 area education agency shall receive one thousand three hundred
12 dollars per beginning teacher participating in the program.
13 If the funds appropriated for the program are insufficient to
14 pay mentors, school districts, and area education agencies
15 as provided in this paragraph, the department shall prorate
16 the amount distributed to school districts and area education
17 agencies based upon the amount appropriated. Moneys received
18 by a school district or area education agency pursuant to
19 this paragraph shall be expended to provide each mentor with
20 an award of five hundred dollars per semester, at a minimum,
21 for participation in the school district's or area education
22 agency's beginning teacher mentoring and induction program;
23 to implement the plan; and to pay any applicable costs of the
24 employer's share of contributions to federal social security
25 and the Iowa public employees' retirement system or a pension
26 and annuity retirement system established under chapter 294,
27 for such amounts paid by the district or area education agency.
28 *c.* For the fiscal year beginning July 1, ~~2012~~ 2013,
29 and ending June 30, ~~2013~~ 2014, up to six hundred thousand
30 dollars to the department for purposes of implementing the
31 professional development program requirements of section 284.6,
32 assistance in developing model evidence for teacher quality
33 committees established pursuant to section 284.4, subsection
34 1, paragraph "*c*", and the evaluator training program in section
35 284.10. A portion of the funds allocated to the department for

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1 purposes of this paragraph may be used by the department for
2 administrative purposes and for not more than four full-time
3 equivalent positions.
4 *d.* For the fiscal year beginning July 1, ~~2012~~ 2013, and
5 ending June 30, ~~2013~~ 2014, an amount up to one million one
6 hundred thirty-six thousand four hundred ten dollars to
7 the department for the establishment of teacher development
8 academies in accordance with section 284.6, subsection 10. A
9 portion of the funds allocated to the department for purposes
10 of this paragraph may be used for administrative purposes.
11 EXPLANATION
12 This bill appropriates moneys for fiscal year 2013-2014
13 from the general fund of the state to the college student aid
14 commission, the department for the blind, the department of
15 education, and the state board of regents and its institutions.
16 The bill appropriates to the department for the blind for its
17 administration.
18 The bill includes appropriations to the college student
19 aid commission for general administrative purposes, student
20 aid programs, the loan repayment program for health care
21 professionals, the national guard educational assistance
22 program, the teacher shortage loan forgiveness program, the all
23 Iowa opportunity foster care grant and scholarship programs,
24 the registered nurse and nurse educator loan forgiveness
25 program, the barber and cosmetology arts and sciences tuition
26 grant program, for skilled workforce shortage tuition grants,
27 and for the rural Iowa primary care loan repayment program.
28 The bill modifies the standing appropriations for Iowa
29 tuition grants for students attending nonprofit and for-profit
30 institutions. The bill notwithstands the $2.75 million
31 standing appropriation for the Iowa work-study program and
32 provides that the amount appropriated for fiscal year 2013-2014
33 is zero.
34 The bill appropriates moneys to the department of education
35 for purposes of the department's general administration,

H.F. _____

1 vocational education administration, division of vocational
2 rehabilitation services including independent living and
3 the entrepreneurs with disabilities program and independent
4 living centers, state library for general administration and
5 the enrich Iowa program, library service area system, public
6 broadcasting division, vocational education to secondary
7 schools, school food service, early childhood Iowa fund,
8 expansion of the federal Individuals with Disabilities
9 Education Improvement Act birth through age three services,
10 textbooks for nonpublic school pupils, the core curriculum and
11 career information and decision-making system, the student
12 achievement and teacher quality program, jobs for America's
13 graduates specialists, education reform if HF 215 is enacted,
14 distribution to the midwestern higher education compact to pay
15 Iowa's member state annual obligation, and community colleges.
16 The bill updates Code provisions that provide for the
17 allocation of the funds appropriated for purposes of the
18 student achievement and teacher quality program.
19 The bill appropriates moneys to the state board of regents
20 for the board office, universities' general operating budgets;
21 the southwest Iowa graduate studies center; the siouxland
22 interstate metropolitan planning council; the quad-cities
23 graduate studies center; Iowa public radio; the state
24 university of Iowa; Iowa state university of science and
25 technology; the university of northern Iowa; and for the Iowa
26 school for the deaf and the Iowa braille and sight saving
27 school, including tuition and transportation costs for students
28 residing in the schools and licensed classroom teachers.
29 The bill allows the state board of regents to use
30 indebtedness to finance certain projects resulting in energy
31 savings.
32 The bill also requires the department of administrative
33 services to pay the state school for the deaf and the Iowa
34 braille and sight saving school moneys collected from counties
35 for expenses related to prescription drug costs for students

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1 attending the schools.

Senate File 298

S-3018

1 Amend Senate File 298 as follows:
2 1. Page 1, after line 14 by inserting:
3 <Sec. ___. Section 709.8, Code 2013, is amended by
4 adding the following new subsection:
5 NEW SUBSECTION. 2A. Cause the touching of the
6 person's genitals to any part of the body of a child.
7 Sec. ___. Section 709.8, unnumbered paragraph 2,
8 Code 2013, is amended to read as follows:
9 Any person who violates a provision of this section
10 involving an act included in subsection 1 ~~or 2~~ through
11 2A shall, upon conviction, be guilty of a class "C"
12 felony. Any person who violates a provision of this
13 section involving an act included in subsection 3 or
14 4 shall, upon conviction, be guilty of a class "D"
15 felony.>
16 2. Title page, line 1, by striking <expanding> and
17 inserting <relating to>
18 3. Title page, line 2, after <code> by inserting <,
19 lascivious acts with a child,>
20 4. By renumbering as necessary.

ROBERT M. HOGG

Senate File 339

S-3019

1 Amend Senate File 339 as follows:
2 1. Page 1, by striking lines 12 and 13 and
3 inserting <further use ~~on a specified date~~. School
4 buses and vehicles>

_____
TOD BOWMAN

Senate File 347

S-3020

1 Amend Senate File 347 as follows:
2 1. Page 3, after line 33 by inserting:
3 <Sec. ___. EFFECTIVE UPON ENACTMENT. This Act,
4 being deemed of immediate importance, takes effect upon
5 enactment.
6 Sec. ___. APPLICABILITY. This Act applies
7 retroactively to persons for whom a record check was
8 requested not more than sixty calendar days prior to
9 the effective date of this Act.>
10 2. Title page, line 2, after <students> by
11 inserting <and including effective date and
12 applicability provisions>
13 3. By renumbering as necessary.

_____
WILLIAM A. DOTZLER

Senate File 337

S-3021

1 Amend Senate File 337 as follows:
2 1. Page 1, by striking lines 1 through 9.
3 2. Page 1, line 16, after <renewal.> by
4 inserting <In coordination with the department of
5 education, the department of public health, and
6 stakeholders, including but not limited to mental
7 health professionals, school administrators, school
8 nurses, and guidance counselors, the board shall select
9 qualified programs for such training.>
10 3. By renumbering as necessary.

_____
TOD BOWMAN

Senate File 304

S-3022

1 Amend Senate File 304 as follows:
2 1. Page 2, line 13, by striking <2015 through 2017>
3 and inserting <2017 through 2019>
4 2. Page 2, line 15, by striking <2018> and
5 inserting <2020>
6 3. Page 2, line 16, by striking <2019> and
7 inserting <2021>
8 4. Page 2, line 22, by striking <2016> and
9 inserting <2018>
10 5. Page 3, after line 18 by inserting:
11 <j. One member who is a fire chief appointed by the
12 Iowa fire chiefs association.>
13 6. Page 3, after line 22 by inserting:
14 <3A. It is the intent of the general assembly
15 in establishing this task force that the task force
16 develop a coordinated plan amongst all public safety
17 disciplines that would oversee the construction of a
18 consolidated fire and police public safety training
19 facility, provide for the establishment of a governance
20 board for the public safety disciplines and the
21 consolidated facility, and to establish a consistent
22 and steady funding mechanism to defray public safety
23 training costs on an ongoing basis.>
24 7. Page 3, line 24, after <public> by inserting
25 <and shall include an emphasis on receiving input from
26 fire service, law enforcement, and emergency medical
27 services personnel>
28 8. Page 4, line 10, after <board.> by inserting
29 <Board duties would include overseeing the construction
30 and maintenance of a consolidated fire and police
31 public safety training facility.>
32 9. By renumbering as necessary.

STEVE SODDERS

Senate File 426 - Introduced

SENATE FILE 426
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1225)

A BILL FOR

1 An Act relating to real estate broker and real estate
2 salesperson licensing fees and allocations from those fees,
3 and making an appropriation.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 2164SV (5) 85
rn/sc

S.F. 426

Section 1. Section 543B.14, Code 2013, is amended to read as follows:

543B.14 Fees and expenses — funds.

All fees and charges collected by the real estate commission under this chapter shall be paid into the general fund of the state, except that ~~fifty~~ twenty-five dollars from each real estate salesperson's license fee and each broker's license fee ~~shall be paid into the Iowa real estate education fund created in section 543B.54~~ shall be appropriated to the professional licensing and regulation bureau of the banking division of the department of commerce for the purpose of hiring and compensating a real estate education director and regulatory compliance personnel. All expenses incurred by the commission under this chapter, including compensation of staff assigned to the commission, shall be paid from funds appropriated for those purposes~~, except for expenses incurred and compensation paid for the real estate education director, which shall be paid out of the real estate education fund~~.

Sec. 2. Section 546.10, subsection 3, paragraph b, Code 2013, is amended to read as follows:

b. Notwithstanding subsection 5, eighty-five percent of the funds received annually resulting from an increase in licensing fees implemented on or after April 1, 2002, by a licensing board or commission listed in subsection 1, is appropriated to the professional licensing and regulation bureau to be allocated to the board or commission for the fiscal year beginning July 1, 2002, and succeeding fiscal years, for purposes related to the duties of the board or commission, including but not limited to additional full-time equivalent positions. In addition, notwithstanding subsection 5, twenty-five dollars from each real estate salesperson's license fee and each broker's license fee received pursuant to section 543B.14 is appropriated to the professional licensing and regulation bureau for the purpose of hiring and compensating a real estate education director and regulatory compliance

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1 personnel. The director of the department of administrative
2 services shall draw warrants upon the treasurer of state from
3 the funds appropriated as provided in this section and shall
4 make the funds available to the professional licensing and
5 regulation bureau on a monthly basis during each fiscal year.
6 Sec. 3. REPEAL. Section 543B.54, Code 2013, is repealed.
7 Sec. 4. REAL ESTATE EDUCATION FUND —— REMAINING FUNDS
8 TRANSFER. Any funds remaining in the real estate education
9 fund on June 30, 2013, shall not revert to the general fund
10 of the state but shall be appropriated to the professional
11 licensing and regulation bureau of the banking division of the
12 department of commerce. Funds appropriated pursuant to this
13 section shall be used for the public purpose of providing a
14 grant to a nonprofit foundation affiliated with a statewide
15 association of real estate professionals to provide real
16 estate education programs, scholarship assistance, housing
17 assistance programs, or to otherwise further the mission of the
18 foundation.
19 EXPLANATION
20 This bill relates to real estate broker and real estate
21 salesperson licensing fees and allocations from those fees.
22 The bill reduces an allocation of $50 that is currently
23 mandated from each real estate broker and real estate
24 salesperson licensing fee for deposit into the Iowa real estate
25 education fund created in Code section 543B.54 to provide
26 grants to educational institutions to provide real estate
27 education programs and to hire and compensate a real estate
28 education director and regulatory compliance personnel. The
29 bill reduces the allocation to $25, and directs the allocation
30 to be appropriated to the professional licensing and regulation
31 bureau of the banking division of the department of commerce
32 for the purpose of hiring and compensating a real estate
33 education director and regulatory compliance personnel.
34 The bill also repeals Code section 543B.54, modifies related
35 provisions, and provides that any funds remaining in the Iowa

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1 real estate education fund on June 30, 2013, shall not revert
2 to the general fund of the state but shall be appropriated
3 to the professional licensing and regulation bureau for the
4 public purpose of providing a grant to a nonprofit foundation
5 affiliated with a statewide association of real estate
6 professionals for purposes specified in the bill.

Senate File 427 - Introduced

SENATE FILE 427
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1190)

(COMPANION TO 1690HV BY
COMMITTEE ON STATE GOVERNMENT)

A BILL FOR

1 An Act relating to the licensing of plumbing, mechanical,
2 HVAC-refrigeration, sheet metal, or hydronic professionals,
3 including transition provisions, including effective date
4 provisions, and making penalties applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1690SV (8) 85
jr/sc

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1 Section 1. Section 91C.1, Code 2013, is amended by adding
2 the following new subsection:
3 NEW SUBSECTION. 3. The labor services division of the Iowa
4 department of workforce development and the Iowa department of
5 public health will work with stakeholders to develop a plan to
6 combine the contractor registration and contractor licensing
7 application process for contractors licensed under chapter 105,
8 to be implemented in time for licensing renewals due July 1,
9 2017. The department of public health shall transfer to the
10 labor services division a portion of each contractor license
11 fee equal to three times the current contractor registration
12 fee. Effective July 1, 2017, a contractor licensed under
13 chapter 105 shall register as a contractor under this chapter
14 in conjunction with the contractor licensing process. At no
15 cost to the labor services division, the department of public
16 health shall collect both the registration and licensing
17 applications as part of one combined application. The
18 labor commissioner shall design the contractor registration
19 application form to exclude from the division of labor's
20 contractor registration application process those contractors
21 who are also covered by chapter 105. The labor commissioner
22 is authorized to adopt rules as needed to accomplish a merger
23 of the application systems including transitional registration
24 periods and fees.
25 Sec. 2. Section 105.2, subsections 1, 3, 6, 9, 10, 11, 12,
26 and 17, Code 2013, are amended to read as follows:
27 1. *"Apprentice"* means any person, other than a helper,
28 journeyperson, or master, who, as a principal occupation,
29 is engaged in working as an employee of a plumbing, ~~HVAC,~~
30 ~~refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or
31 hydronic systems contractor under the direct supervision of
32 either a master or a journeyperson and is progressing toward
33 completion of an apprenticeship training program registered by
34 the office of apprenticeship of the United States department of
35 labor while learning and assisting in the design, installation,

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1 and repair of plumbing, HVAC, refrigeration, sheet metal, or
2 hydronic systems, as applicable.
3 3. *"Contractor"* means a person or entity that provides
4 plumbing, mechanical, HVAC, refrigeration, sheet metal, or
5 hydronic systems services on a contractual basis and who is
6 paid a predetermined amount under that contract for rendering
7 those services.
8 6. *"Helper"* means a person engaged in general manual
9 labor activities who provides assistance to an apprentice,
10 journeyperson, or master while under the direct supervision of
11 a journeyperson or master.
12 9. *"Journeyperson"* means any person, other than a master,
13 who, as a principal occupation, is engaged as an employee of,
14 or otherwise working under the direction of, a master in the
15 design, installation, and repair of plumbing, mechanical, HVAC,
16 refrigeration, sheet metal, or hydronic systems, as applicable.
17 10. *"Master"* means any person who works in the planning
18 or superintending of the design, installation, or repair of
19 plumbing, mechanical, HVAC, refrigeration, sheet metal, or
20 hydronic systems and is otherwise lawfully qualified to conduct
21 the business of plumbing, mechanical, HVAC, refrigeration,
22 sheet metal, or hydronic systems, and who is familiar with the
23 laws and rules governing the same.
24 11. *"Mechanical professional"* means a person engaged in the
25 HVAC, refrigeration, sheet metal, or hydronic industry.
26 12. *"Mechanical systems"* means HVAC, refrigeration, sheet
27 metal, and hydronic systems.
28 17. *"Routine maintenance"* means the maintenance, repair,
29 or replacement of existing fixtures or parts of plumbing,
30 mechanical, HVAC, refrigeration, sheet metal, or hydronic
31 systems in which no changes in original design are made.
32 Fixtures or parts do not include smoke and fire dampers, or
33 water, gas, or steam piping permanent repairs except for traps
34 or strainers. *"Routine maintenance"* shall include emergency
35 repairs, and the board shall define the term *"emergency repairs"*

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to include the repair of water pipes to prevent imminent damage to property. *"Routine maintenance"* does not include the replacement of furnaces, boilers, cooling appliances, or water heaters more than one hundred gallons in size.

Sec. 3. Section 105.2, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 18. *"Sheet metal"* means heating, ventilation, air conditioning, pollution control, fume hood systems and related ducted systems or installation of equipment associated with any component of a sheet metal system. *"Sheet metal"* excludes refrigeration and electrical lines and all natural gas, propane, liquid propane, or other gas lines associated with any component of a sheet metal system.

Sec. 4. Section 105.3, subsection 7, Code 2013, is amended to read as follows:

7. The board may maintain a membership in any national organization of state boards for the professions of plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic professionals, with all membership fees to be paid from funds appropriated to the board.

Sec. 5. Section 105.4, subsection 1, Code 2013, is amended to read as follows:

1. The board shall establish by rule a plumbing installation code governing the installation of plumbing in this state. The board shall adopt the most current version of the uniform plumbing code and the international mechanical code, as the state plumbing code and the state mechanical code, to govern the installation of plumbing and mechanical systems in this state. The board shall adopt the current version of each code within six months of its being released. However, the board and local jurisdictions may adopt standards that are more restrictive. Local jurisdictions shall have until December 31, 2015, to comply with the state plumbing code and state mechanical code.

Sec. 6. Section 105.5, Code 2013, is amended by adding the

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following new subsection:

NEW SUBSECTION. 4. The board shall adopt an industry standardized examination for each license type. If a standardized examination is not available for a specified license type, the board shall work with the appropriate testing vendor to create an examination for the specified license type.

Sec. 7. Section 105.9, subsections 6, 7, 8, and 10, Code 2013, are amended by striking the subsections.

Sec. 8. Section 105.9, Code 2013, is amended by adding the following new subsection:

NEW SUBSECTION. 11. *a.* Licenses issued under this chapter on or after July 1, 2014, shall expire on the same renewal date every three years, beginning with June 30, 2017.

b. New licenses issued after the July 1 beginning of each three-year renewal cycle shall be prorated using a one-sixth deduction for each six-month period of the renewal cycle.

Sec. 9. Section 105.10, subsections 1 and 2, Code 2013, are amended to read as follows:

1. Except as provided in section 105.11, a person shall not operate as a contractor or install or repair plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems without obtaining a license issued by the board, or install or repair medical gas piping systems without obtaining a valid certification approved by the board.

2. Except as provided in section 105.11, a person shall not engage in the business of designing, installing, or repairing plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems unless at all times a licensed master, who shall be responsible for the proper designing, installing, and repairing of the HVAC, refrigeration, sheet metal, or hydronic system, is employed by the person and is actively in charge of the plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic work of the person. An individual who performs such work pursuant to a business operated as a sole proprietorship shall be a licensed master in the applicable discipline.

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1 Sec. 10. Section 105.10, subsection 3, Code 2013, is amended
2 by striking the subsection and inserting in lieu thereof the
3 following:
4 3. An individual holding a master mechanical license shall
5 not be required to get an HVAC-refrigeration, sheet metal, or
6 hydronic license in order to design, install, or repair the
7 work defined in this chapter as mechanical, HVAC-refrigeration,
8 sheet metal, or hydronic work. An individual holding a
9 journey mechanical license shall not be required to get an
10 HVAC-refrigeration, sheet metal, or hydronic license in order
11 to install and repair the work defined in this chapter as
12 mechanical, HVAC-refrigeration, sheet metal, or hydronic work.
13 An individual holding a master or journey mechanical license
14 shall also not be required to obtain a special, restricted
15 license that is designated as a sublicense of the mechanical,
16 HVAC-refrigeration, sheet metal, or hydronic licenses.
17 Sec. 11. Section 105.10, subsection 5, Code 2013, is amended
18 by striking the subsection.
19 Sec. 12. Section 105.11, subsections 1, 7, and 10, Code
20 2013, are amended to read as follows:
21 1. Apply to a person licensed as an engineer pursuant to
22 chapter 542B, licensed as a manufactured home retailer or
23 certified as a manufactured home installer pursuant to chapter
24 103A, registered as an architect pursuant to chapter 544A, or
25 licensed as a landscape architect pursuant to chapter 544B
26 who provides consultations or develops plans or other work
27 concerning plumbing, HVAC, refrigeration, sheet metal, or
28 hydronic work and who is exclusively engaged in the practice of
29 the person's profession.
30 7. Require a helper engaged in general manual labor
31 activities while providing assistance to an apprentice,
32 journeyperson, or master to obtain a plumbing, ~~HVAC,~~
33 ~~refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal,
34 or hydronic license. Experience as a helper shall not be
35 considered as practical experience for a journeyperson license.

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10. Apply to the employees of manufacturers, manufacturer representatives, or wholesale suppliers who provide consultation or develop plans concerning plumbing, HVAC, refrigeration, sheet metal, or hydronic work, or who assist a person licensed under this chapter in the installation of mechanical or plumbing systems.

Sec. 13. Section 105.12, subsection 1, Code 2013, is amended to read as follows:

1. A contracting, plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic license shall be in the form of a certificate under the seal of the department, signed by the director of public health, and shall be issued in the name of the board. The license number shall be noted on the face of the license.

Sec. 14. Section 105.15, Code 2013, is amended to read as follows:

105.15 Registry of licenses.

The name, location, license number, and date of issuance of the license of each person to whom a license has been issued shall be entered in a registry kept in the office of the department to be known as the plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic registry. The registry may be electronic and shall be open to public inspection~~; however~~. However, the licensee's home address, home telephone number, and other personal information as determined by rule shall be confidential.

Sec. 15. Section 105.16, Code 2013, is amended to read as follows:

105.16 Change of residence.

If a person licensed to practice as a contractor or a plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic professional under this chapter changes the person's residence or place of practice, the person shall so notify the board.

Sec. 16. Section 105.17, Code 2013, is amended to read as

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1 follows:
2 **105.17 Preemption of local licensing requirements.**
3 1. The provisions of this chapter regarding the licensing of
4 plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration,
5 sheet metal, and hydronic professionals and contractors shall
6 supersede and preempt all plumbing, ~~HVAC, refrigeration,~~
7 mechanical, HVAC-refrigeration, sheet metal, hydronic,
8 and contracting licensing provisions of all governmental
9 subdivisions.
10 *a.* ~~A governmental subdivision that issues licenses on~~
11 ~~July 1, 2008, shall continue to issue licenses until June 30,~~
12 ~~2009.~~ On July 1, 2009, all plumbing and mechanical licensing
13 provisions promulgated by any governmental subdivision shall
14 be null and void, except reciprocal licenses as provided in
15 section 105.21, and of no further force and effect.
16 *b.* On and after July 1, 2008, a governmental subdivision
17 shall not prohibit a contractor or a plumbing, ~~HVAC,~~
18 ~~refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal,
19 or hydronic professional licensed pursuant to this chapter
20 from performing services for which that person is licensed
21 pursuant to this chapter or enforce any plumbing and
22 mechanical licensing provisions promulgated by the governmental
23 subdivision against a person licensed pursuant to this chapter.
24 2. Nothing in this chapter shall prohibit a governmental
25 subdivision from assessing and collecting permit fees or
26 inspection fees related to work performed by ~~plumbers and~~
27 ~~mechanical~~ plumbing, mechanical, HVAC-refrigeration, sheet
28 metal, or hydronic professionals.
29 Sec. 17. Section 105.18, subsection 2, unnumbered paragraph
30 1, Code 2013, is amended to read as follows:
31 The board shall issue ~~separate~~ master licenses for plumbing,
32 ~~HVAC, refrigeration~~ mechanical, HVAC-refrigeration, sheet
33 metal, and hydronic professionals ~~and for contractors~~. The
34 board shall issue journeyperson licenses for plumbing,
35 mechanical, HVAC-refrigeration, sheet metal, and hydronic

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1 professionals. A plumbing license shall allow an individual
2 to perform work defined as plumbing. A mechanical license
3 shall allow an individual to perform work defined as
4 HVAC, refrigeration, sheet metal, and hydronic. An
5 HVAC-refrigeration license shall allow an individual to perform
6 work defined as HVAC and refrigeration. A hydronic license
7 shall allow an individual to perform work defined as hydronic.
8 A sheet metal license shall allow an individual to perform work
9 defined as sheet metal. The board shall issue the separate
10 licenses as follows:
11 Sec. 18. Section 105.18, subsection 2, paragraph a,
12 subparagraph (2), Code 2013, is amended to read as follows:
13 (2) Certify that the person will work under the direct
14 supervision of a licensed journeyperson or master ~~in the~~
15 ~~applicable discipline~~ who is licensed to do the type of
16 work that the apprentice is performing. For the purposes of
17 this chapter, direct supervision means that the supervising
18 journeyperson or master is on the same job site as the
19 apprentice.
20 Sec. 19. Section 105.18, subsection 2, paragraph b, Code
21 2013, is amended by adding the following new subparagraph:
22 NEW SUBPARAGRAPH. (3) An individual who has passed
23 both the journeyperson HVAC-refrigeration examination and
24 the journeyperson hydronic examination separately shall
25 be qualified to be issued a journeyperson mechanical
26 license without having to pass the journeyperson mechanical
27 examination.
28 Sec. 20. Section 105.18, subsection 2, paragraph c, Code
29 2013, is amended to read as follows:
30 *c. Master license.* (1) In order to be licensed by the
31 board as a master, a person shall do all of the following:
32 ~~(1)~~ (a) File an application and pay application fees as
33 established by the board, which application shall establish
34 that the person meets the minimum educational and experience
35 requirements adopted by the board.

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1 ~~(2)~~ (b) Pass the state master licensing examination for the
2 applicable discipline.
3 ~~(3)~~ (c) Provide evidence to the board that the person
4 has previously been a licensed journeyperson or master in the
5 applicable discipline.
6 (2) An individual who has passed both the master
7 HVAC-refrigeration examination and the master hydronic
8 examination separately shall be qualified to be issued a master
9 mechanical license without having to pass the master mechanical
10 examination.
11 Sec. 21. Section 105.18, subsection 2, paragraph d,
12 subparagraph (1), Code 2013, is amended by striking the
13 subparagraph and inserting in lieu thereof the following:
14 (1) File an application and pay application fees as
15 established by the board and establish that the person meets
16 the minimum requirements adopted by the board. Through
17 June 30, 2016, the application shall include the person's
18 state contractor registration number. After July 1, 2017,
19 the application shall include proof of workers compensation
20 insurance coverage, proof of unemployment insurance compliance,
21 and, for out-of-state contractors, a bond as described in
22 chapter 91C.
23 Sec. 22. Section 105.18, subsection 3, paragraph b, Code
24 2013, is amended to read as follows:
25 *b. Special, restricted license.* The board may by rule
26 provide for the issuance of special plumbing and mechanical
27 professional licenses authorizing the licensee to engage in a
28 limited class or classes of plumbing or mechanical professional
29 work, which class or classes shall be specified on the license.
30 Each licensee shall have experience, acceptable to the board,
31 in each such limited class for which the person is licensed.
32 The board shall designate each special, restricted license to
33 be a sublicense of either a plumbing, ~~HVAC, refrigeration,~~
34 mechanical, HVAC-refrigeration, sheet metal, or hydronic
35 license. A special, restricted license may be a sublicense of

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1 multiple types of licenses. An individual holding a master
2 or journeyperson, plumbing, ~~HVAC, refrigeration,~~ mechanical,
3 HVAC-refrigeration, sheet metal, or hydronic license shall not
4 be required to obtain any special, restricted license which is
5 a sublicense of the license that the individual holds. Special
6 plumbing and mechanical professional licenses shall be issued
7 to employees of a rate-regulated gas or electric public utility
8 who conduct the repair of appliances. *"Repair of appliances"*
9 means the repair or replacement of mechanical connections
10 between the appliance shutoff valve and the appliance and
11 repair of or replacement of parts to the appliance. Such
12 special, restricted license shall require certification
13 pursuant to industry-accredited certification standards.
14 Sec. 23. Section 105.18, subsection 3, paragraph d, Code
15 2013, is amended to read as follows:
16 *d.* An individual that holds either a master or
17 journeyperson ~~HVAC license or a master or journeyperson~~
18 ~~refrigeration~~ mechanical license or a master or journeyperson
19 HVAC-refrigeration license shall be exempt from having to
20 obtain a special electrician's license pursuant to chapter 103
21 in order to perform disconnect and reconnect of existing air
22 conditioning and refrigeration systems.
23 Sec. 24. Section 105.18, subsection 4, Code 2013, is amended
24 by striking the subsection.
25 Sec. 25. Section 105.19, subsections 2 and 3, Code 2013, are
26 amended to read as follows:
27 2. If the applicant is engaged in plumbing, mechanical,
28 HVAC, refrigeration, sheet metal, or hydronic work individually
29 through a business conducted as a sole proprietorship, the
30 applicant shall personally obtain the insurance and surety
31 bond required by this section. If the applicant is engaged in
32 the plumbing, mechanical, HVAC, refrigeration, sheet metal, or
33 hydronic business as an employee or owner of a legal entity,
34 then the insurance and surety bond required by this section
35 shall be obtained by the entity and shall cover all plumbing or

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mechanical work performed by the entity.

3. The insurance and surety bond shall be written by an entity licensed to do business in this state and each licensed contractor shall maintain on file with the board a certificate evidencing the insurance providing that the insurance or surety bond shall not be canceled without the entity first giving ~~fifteen~~ ten days' written notice to the board.

Sec. 26. Section 105.20, subsection 3, Code 2013, is amended to read as follows:

3. *a.* The board shall notify each licensee by mail at least sixty days prior to the expiration of a license.

b. This subsection is repealed effective December 31, 2016.

Sec. 27. Section 105.21, Code 2013, is amended to read as follows:

105.21 Reciprocal licenses.

The board may license without examination a nonresident applicant who is licensed under plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic professional licensing statutes of another state having similar licensing requirements as those set forth in this chapter and the rules adopted under this chapter if the other state grants the same reciprocal licensing privileges to residents of Iowa who have obtained Iowa plumbing or mechanical professional licenses under this chapter. The board shall adopt the necessary rules, not inconsistent with the law, for carrying out the reciprocal relations with other states which are authorized by this chapter.

Sec. 28. Section 105.22, unnumbered paragraph 1, Code 2013, is amended to read as follows:

A license to practice as a contractor or as a plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic professional may be revoked or suspended, or an application for licensure may be denied pursuant to procedures established pursuant to chapter 272C by the board, or the licensee may be otherwise disciplined in accordance with that

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chapter, when the licensee commits any of the following acts or offenses:

Sec. 29. Section 105.22, subsection 8, Code 2013, is amended to read as follows:

8. Aiding and abetting a person who is not licensed pursuant to this chapter in that person's pursuit of an unauthorized and unlicensed plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic professional practice.

Sec. 30. Section 105.25, Code 2013, is amended to read as follows:

105.25 Advertising — violations — penalties.

1. Only a person who is duly licensed pursuant to this chapter may advertise the fact that the person is licensed as a contractor or as a plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic professional by the state of Iowa.

2. All written advertisements distributed in this state by a person who is engaged in the business of designing, installing, or repairing plumbing, HVAC, refrigeration, sheet metal, or hydronic systems shall include the listing of ~~at least one master~~ the contractor license number, as applicable. ~~A master plumbing, HVAC, refrigeration, or hydronic professional shall not allow the master's license number to be used in connection with the advertising for more than one person engaged in the business of designing, installing, or repairing plumbing, HVAC, refrigeration, or hydronic systems.~~

3. A person who fraudulently claims to be a licensed contractor or a licensed plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic professional pursuant to this chapter, either in writing, cards, signs, circulars, advertisements, or other communications, is guilty of a simple misdemeanor.

4. ~~A person who fraudulently lists a contractor or a master plumbing, HVAC, refrigeration, or hydronic license number in connection with that person's advertising or falsely displays~~

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~~a contractor or a master plumbing, HVAC, refrigeration, or hydronic professional license number is guilty of a simple misdemeanor. In order to be entitled to use a license number of a master plumbing, HVAC, refrigeration, or hydronic professional, the master plumbing, HVAC, refrigeration, or hydronic professional must be employed by the person in whose name the business of designing, installing, or repairing plumbing or mechanical systems is being conducted.~~ A person who fraudulently lists a license number in connection with that person's advertising or falsely displays a license number is guilty of a simple misdemeanor.

Sec. 31. Section 105.29, Code 2013, is amended to read as follows:

105.29 Report of violators.

Every licensee and every member of the board shall report to the board the name of every person who is practicing as a contractor or as a ~~plumber or~~ plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional without a license issued pursuant to this chapter pursuant to the knowledge or reasonable belief of the person making the report. The opening of an office or place of business for the purpose of providing any services for which a license is required by this chapter, the announcing to the public in any way the intention to provide any such service, the use of any professional designation, or the use of any sign, card, circular, device, vehicle, or advertisement, as a provider of any such services shall be prima facie evidence of engaging in the practice of a contractor or a ~~plumber or~~ plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional.

Sec. 32. NEW SECTION. **105.31 Licenses.**

1. *License expiration.*

a. All licenses that currently possess an expiration date prior to June 30, 2014, shall be granted a one-time extension of the expiration date to June 30, 2014, at no additional

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1 charge or continuing education requirements. The licensees of
2 these licenses shall pay a full renewal fee upon renewal and
3 shall be issued a license with an expiration date of June 30,
4 2017. Applicable late renewal fees shall apply during this
5 period.
6 *b.* Licenses with an expiration date of July 1, 2014, or
7 later shall have the license renewal fee prorated using a
8 one-sixth deduction for each six-month period following July
9 1, 2014. Applicable late renewal fees shall apply during this
10 period. Licenses renewed through June 29, 2017, shall be
11 issued with an expiration date of June 30, 2017.
12 2. *License reissue.* A license reissued pursuant to this
13 subsection shall be for the same level of license held by the
14 licensee on the effective date of this Act, but may be for a
15 class described in paragraphs *"a"* through *"e"*, if applicable. A
16 license shall be reissued at the date of the first renewal.
17 *a.* An individual with either an HVAC or a refrigeration
18 license will be issued an HVAC-refrigeration license.
19 *b.* An individual who holds an HVAC and a hydronic license
20 will be issued a mechanical license at the first renewal.
21 *c.* An individual who holds a refrigeration and a hydronic
22 license will be issued a mechanical license.
23 *d.* An individual who holds only a hydronic license will be
24 issued a hydronic license.
25 *e.* An individual who holds an HVAC or a refrigeration
26 license may take the hydronic test before June 30, 2014, in
27 order to be issued a mechanical license at the time of renewal.
28 Sec. 33. NEW SECTION. **105.32 Transition provisions.**
29 A licensee whose license expires between June 30, 2014, and
30 July 1, 2017, may voluntarily renew their license early so they
31 may have an expiration date of June 30, 2017. This voluntary
32 early renewal may happen at any time on or after July 1, 2014.
33 The department shall promulgate rules that allow for this
34 one-time early renewal process, including fees and continuing
35 education requirements.

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1 Sec. 34. Section 331.301, subsection 6, paragraph b, Code
2 2013, is amended to read as follows:
3 *b.* A county shall not impose any fee or charge on any
4 individual or business licensed by the board for the right to
5 perform plumbing, mechanical, HVAC, refrigeration, sheet metal
6 or hydronic systems work within the scope of the license. This
7 paragraph does not prohibit a county from charging fees for the
8 issuance of permits for, and inspections of, work performed in
9 its jurisdiction.
10 Sec. 35. Section 364.3, subsection 3, paragraph b, Code
11 2013, is amended to read as follows:
12 *b.* A city shall not impose any fee or charge on any
13 individual or business licensed by the board for the right to
14 perform plumbing, mechanical, HVAC, refrigeration, sheet metal
15 or hydronic systems work within the scope of the license. This
16 paragraph does not prohibit a city from charging fees for the
17 issuance of permits for, and inspections of, work performed in
18 its jurisdiction.
19 Sec. 36. EMERGENCY RULES. The plumbing and mechanical
20 systems board may adopt emergency rules under section 17A.4,
21 subsection 3, and section 17A.5, subsection 2, paragraph "b",
22 to implement the provisions of this Act and the rules shall
23 be effective immediately upon filing unless a later date is
24 specified in the rules. Any rules adopted in accordance with
25 this section shall also be published as a notice of intended
26 action as provided in section 17A.4.
27 Sec. 37. EFFECTIVE UPON ENACTMENT. This Act, being deemed
28 of immediate importance, takes effect upon enactment.
29 EXPLANATION
30 This bill makes changes relating to the licensing of
31 plumbing, mechanical, HVAC-refrigeration, sheet metal, or
32 hydronic professionals, and includes transition provisions.
33 The bill redefines plumbing, HVAC, refrigeration, or
34 hydronic systems professionals as plumbing, mechanical,
35 HVAC-refrigeration, sheet metal, or hydronic professionals and

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1 makes related changes.
2 A plumbing license allows an individual to perform plumbing
3 work. A mechanical license allows an individual to perform
4 HVAC, refrigeration, sheet metal, and hydronic work. An
5 HVAC-refrigeration license allows an individual to perform
6 HVAC and refrigeration work. A hydronic license shall allow
7 an individual to perform hydronic work. A sheet metal license
8 allows an individual to perform sheet metal work.
9 The bill requires that the labor services division of
10 the department of workforce development and the department
11 of public health develop a plan to combine the contractor
12 registration and contractor licensing application process
13 for contractors licensed under Code chapter 105, to be
14 implemented in time for licensing renewals due July 1, 2017.
15 The department of public health shall transfer to the labor
16 services division a portion of each contractor license fee
17 equal to three times the current contractor registration
18 fee. Effective July 1, 2017, a contractor licensed under Code
19 chapter 105 shall register as a contractor under Code chapter
20 91C.
21 The bill adds "sheet metal" to the list of licensed
22 professionals. The term includes heating, ventilation, air
23 conditioning, pollution control, fume hood systems, and related
24 ducted systems.
25 The bill requires that the board adopt the most current
26 version of the uniform plumbing code and the international
27 mechanical code. Local jurisdictions must comply with the
28 state plumbing code and state mechanical code, as provided for
29 in the bill, by December 31, 2015. However, the bill provides
30 that the board and local jurisdictions may adopt standards that
31 are more restrictive.
32 The bill requires that the board adopt an industry
33 standardized examination for each license type. If a
34 standardized examination is not available for a specified
35 license type, the board shall work with the testing vendor to

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1 create an examination for the specified license type.
2 The bill requires that an apprentice work under the direct
3 supervision of an appropriately licensed journeyperson or
4 master who is on the same job site.
5 The bill provides that an individual who has passed both
6 the journeyperson HVAC-refrigeration examination and the
7 journeyperson hydronic examination separately shall be
8 issued a journeyperson mechanical license without having to
9 pass an examination. An individual who has passed both the
10 master HVAC-refrigeration examination and the master hydronic
11 examination separately shall be issued a master mechanical
12 license without having to pass an examination.
13 Relating to the use of master license numbers in
14 advertising, the bill requires a contractor license number,
15 instead of master license number, in written advertisements and
16 also eliminates a current provision that prohibited the use of
17 a master's license number in connection with the advertising
18 for more than one person engaged in the business.
19 The bill repeals, effective December 31, 2016, the
20 requirement that the board notify each licensee by mail at
21 least 60 days before the licensee's license expires.
22 The bill provides that all licenses that currently possess
23 an expiration date prior to June 30, 2014, shall be granted a
24 one-time extension of the expiration date to June 30, 2014,
25 at no additional charge. Licenses issued on or after July
26 1, 2014, shall expire on the same renewal date every three
27 years, beginning with June 30, 2017. Licensees whose licenses
28 have an expiration date of July 1, 2014, or later shall be
29 issued a license with an expiration date of June 30, 2017,
30 and shall have the license renewal fee prorated. These
31 licensees may also voluntarily renew their licenses early and
32 be issued a license with a June 30, 2017, expiration date.
33 Licenses renewed through June 29, 2017, shall be issued with an
34 expiration date of June 30, 2017.
35 At the time of license renewal:

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a. An individual with either an HVAC or a refrigeration license will be issued an HVAC-refrigeration license.

b. An individual who holds an HVAC and a hydronic license will be issued a mechanical license at the first renewal.

c. An individual who holds a refrigeration and a hydronic license will be issued a mechanical license.

d. An individual who holds only a hydronic license will be issued a hydronic license.

e. An individual who holds an HVAC or a refrigeration license may take the hydronic test before June 30, 2014, in order to be issued a mechanical license.

The bill exempts a holder of a mechanical license from the requirement to also hold an HVAC-refrigeration, sheet metal, or hydronic license in order to perform that work.

In addition to the administrative penalties set out in Code chapter 272C, relating to licensees, Code chapter 105 makes it a simple misdemeanor for a person to claim to be a mechanical, HVAC, refrigeration, sheet metal, or hydronic contractor or professional. A simple misdemeanor is punishable by confinement for no more than 30 days or a fine of at least $65 but not more than $625 or both.

Senate Resolution 9 - Introduced

SENATE RESOLUTION NO. 9
BY HART, QUIRMBACH, and WHITVER

A Resolution recognizing March 2013 as Iowa Women's History Month.

WHEREAS, Iowa women of every race, class, and ethnic background have made historic contributions to the growth and strength of our state and nation in countless recorded and unrecorded ways, including through the struggle for women's rights; and

WHEREAS, Iowa women have played and continue to play a critical economic, cultural, and social role by constituting a significant portion of the labor force working inside and outside of the home despite being underpaid; and

WHEREAS, Iowa women were particularly important in the establishment of early charitable, philanthropic, and cultural institutions in our state and nation; and

WHEREAS, Iowa women and men amended the Constitution of the State of Iowa to read that "All men and women are, by nature, free and equal, and have certain inalienable rights..."; and

WHEREAS, Iowa women have been leaders in business, industry, labor, agriculture, and academia as well as in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, the peace movement, and the woman suffrage movement, which have helped to create a more fair and just society for all; and

WHEREAS, despite these contributions, and those of women throughout the world, the role of women has

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been consistently overlooked and undervalued, in the literature, teaching, and study of history; NOW THEREFORE,

BE IT RESOLVED BY THE SENATE, That the Senate recognizes the month of March 2013 as Iowa Women's History Month and invites the citizens of Iowa to continue to uncover the roles women have played throughout history.