

PROOF

STATE OF IOWA

House Journal

TUESDAY, MARCH 16, 2004

Printed daily by the State of Iowa during the sessions of the General Assembly.
An official corrected copy is available for reference in the office of the Chief Clerk.
(The official bound copy will be available after a reasonable time upon adjournment.)

JOURNAL OF THE HOUSE

Sixty-fifth Calendar Day - Forty-fourth Session Day

Hall of the House of Representatives
Des Moines, Iowa, Tuesday, March 16, 2004

The House met pursuant to adjournment at 9:24 a.m., Speaker Rants in the chair.

Prior to convening the House was entertained with the singing of "America the Beautiful" by the Honorable Del Hanson, state representative from Benton County and his pastor's wife, LuAnn Urlaub.

Prayer was offered by Reverend Mark Urlaub, pastor of Bethlehem Evangelical Lutheran Church, Vinton. He was guest of Representative Del Hanson from Benton County.

PLEDGE ALLEGIANCE

The Pledge of Allegiance was led by Speaker Rants.

The Journal of Monday, March 15, 2004 was approved.

INTRODUCTION OF BILLS

[House File 2540](#), by Gipp, a bill for an act relating to economic development incentives under the new jobs and income program, the new capital investment program, and the enterprise zone program and providing an effective date.

Read second time and placed on the **ways and means calendar**.

[House File 2541](#), by committee on ways and means, a bill for an act relating to utility replacement taxes by redefining major additions for purposes of allocating replacement taxes to taxing districts, requiring certain taxpayers to report estimated replacement taxes, and changing or establishing certain reporting dates and including effective and retroactive applicability date provisions.

Read first time and placed on the **ways and means calendar**

SENATE MESSAGE CONSIDERED

[Senate File 2278](#), by committee on judiciary, a bill for an act creating medical parole for certain persons committed to the custody of the department of corrections, and providing an effective date.

Read first time and referred to committee on **public safety**.

On motion by Gipp of Winneshiek, the House was recessed at 9:28 a.m., until 4:00 p.m.

AFTERNOON SESSION

The House reconvened at 3:35 p.m., Speaker pro tempore Carroll in the chair.

MESSAGE FROM THE SENATE

The following message was received from the Senate:

Mr. Speaker: I am directed to inform your honorable body that the Senate has on March 16, 2004, amended and passed the following bill in which the concurrence of the House is asked:

[Senate File 2290](#), a bill for an act relating to economic development incentives under the new jobs and income program, the new capital investment program, and the enterprise zone program and providing an effective date.

MICHAEL E. MARSHALL, Secretary

INTRODUCTION OF BILL

[House File 2542](#), by committee on commerce, regulation and labor, a bill for an act relating to electric power generation and the cogeneration pilot program.

Read first time and placed on the **calendar**.

SENATE MESSAGE CONSIDERED

[Senate File 2290](#), by Iverson, a bill for an act relating to economic development incentives under the new jobs and income program, the

new capital investment program, and the enterprise zone program and providing an effective date.

Read first time and **passed on file**.

The House stood at ease at 3:37 p.m., until the fall of the gavel.

The House resumed session at 4:56 p.m., Speaker pro tempore Carroll in the chair.

QUORUM CALL

A non-record roll call was requested to determine that a quorum was present. The vote revealed seventy-five members present, twenty-five absent.

CONSIDERATION OF BILLS Regular Calendar

House File 2271, a bill for an act regarding public utility rights-of-way and providing an effective date, was taken up for consideration.

[SENATE FILE 2118](#) SUBSTITUTED FOR [HOUSE FILE 2271](#)

Freeman of Buena Vista asked and received unanimous consent to substitute [Senate File 2118](#) for [House File 2271](#).

Senate File 2118, a bill for an act regarding public utility rights-of-way and providing an effective date, was taken up for consideration.

Freeman of Buena Vista moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([S.F. 2118](#))

The ayes were, 99:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Bogges

Bukta	Chambers	Cphoon	Connors
Dandekar	Davitt	De Boef	Dennis
Dix	Dolecheck	Drake	Eichhorn
Elgin	Foege	Ford	Freeman
Frevert	Gaskill	Gipp	Granzow
Greimann	Greiner	Hahn	Hanson
Heaton	Heddens	Hoffman	Hogg
Horbach	Hunter	Huseman	Huser
Hutter	Jacobs	Jacoby	Jenkins
Jochum	Jones	Klemme	Kramer
Kuhn	Kurtenbach	Lalk	Lensing
Lukan	Lykam	Maddox	Manternach
Mascher	McCarthy	Mertz	Miller
Murphy	Oldson	Olson, D.	Olson, S.
Osterhaus	Paulsen	Petersen	Quirk
Raecker	Rants, Spkr.	Rasmussen	Rayhons
Reasoner	Roberts	Sands	Schickel
Shomshor	Shoultz	Smith	Stevens
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.	Watts
Wendt	Whitaker	Whitead	Wilderdyke
Winckler	Wise	Carroll, Presiding	

The nays were, 1:

Fallon

Absent or not voting, none.

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

[House File 2225](#), a bill for an act relating to the establishment of drainage and levee districts, and providing an effective date, with report of committee recommending passage, was taken up for consideration.

Mertz of Kossuth moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2225](#))

The ayes were, 99:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Bogges
Bukta	Chambers	Cohoon	Connors
Dandekar	Davitt	De Boef	Dennis
Dix	Dolecheck	Drake	Eichhorn
Elgin	Fallon	Foege	Ford
Freeman	Frevert	Gaskill	Gipp
Granzow	Greimann	Greiner	Hahn
Hanson	Heaton	Heddens	Hoffman
Hogg	Horbach	Hunter	Huseman
Huser	Hutter	Jacobs	Jacoby
Jenkins	Jochum	Jones	Klemme
Kramer	Kuhn	Kurtenbach	Lalk
Lensing	Lukan	Lykam	Manternach
Mascher	McCarthy	Mertz	Miller
Murphy	Oldson	Olson, D.	Olson, S.
Osterhaus	Paulsen	Petersen	Quirk
Raecker	Rants, Spkr.	Rasmussen	Rayhons
Reasoner	Roberts	Sands	Schickel
Shomshor	Shoultz	Smith	Stevens
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.	Watts
Wendt	Whitaker	Whitead	Wilderdyke
Winckler	Wise	Carroll,	
		Presiding	

The nays were, none.

Absent or not voting, 1:

Maddox

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

House File 2315, a bill for an act relating to agricultural conservation practices, with report of committee recommending passage, was taken up for consideration.

Mertz of Kossuth moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" (**H.F. 2315**)

The ayes were, 98:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Bogges
Bukta	Chambers	Cohoon	Connors
Dandekar	Davitt	De Boef	Dennis
Dix	Dolecheck	Drake	Eichhorn
Elgin	Fallon	Foege	Ford
Freeman	Frevert	Gaskill	Gipp
Granzow	Greimann	Greiner	Hahn
Hanson	Heaton	Heddens	Hoffman
Hogg	Horbach	Hunter	Huseman
Huser	Hutter	Jacobs	Jacoby
Jenkins	Jochum	Jones	Klemme
Kramer	Kuhn	Kurtenbach	Lalk
Lensing	Lukan	Lykam	Manternach
Mascher	McCarthy	Mertz	Miller
Murphy	Oldson	Olson, D.	Olson, S.
Osterhaus	Paulsen	Petersen	Quirk
Raecker	Rants, Spkr.	Rasmussen	Reasoner
Roberts	Sands	Schickel	Shomshor
Shoultz	Smith	Stevens	Struyk
Swaim	Taylor, D.	Taylor, T.	Thomas
Tjepkes	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wendt
Whitaker	Whitead	Wilderdyke	Winckler
Wise	Carroll, Presiding		

The nays were, none.

Absent or not voting, 2:

Maddox Rayhons

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

Osterhaus of Jackson in the chair at 5:22 p.m.

[House File 2395](#), a bill for an act relating to counterfeit labels and trademarks, and providing penalties, was taken up for consideration.

Schickel of Cerro Gordo offered amendment [H-8227](#) filed by him and Heaton of Henry as follows:

H-8227

1 Amend [House File 2395](#) as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 714.26 INTELLECTUAL
5 PROPERTY COUNTERFEITING.

6 1. DEFINITIONS. As used in this section unless
7 the context otherwise requires:

8 a. "Counterfeit mark" means any unauthorized
9 reproduction or copy of intellectual property, or
10 intellectual property affixed to any item knowingly
11 sold, offered for sale, manufactured, or distributed,
12 or identifying services offered or rendered, without
13 authority of the owner of the intellectual property.

14 b. "Intellectual property" means any trademark,
15 service mark, trade name, label, term, device, design,
16 or word adopted or used by a person to identify the
17 items or services of the person.

18 c. "Retail value" means the highest value of an
19 item determined by any reasonable standard at the time
20 the item bearing or identified by a counterfeit mark
21 is seized. If a seized item bearing or identified by
22 a counterfeit mark is a component of a finished
23 product, "retail value" also means the highest value,
24 determined by any reasonable standard, of the finished
25 product on which the component would have been
26 utilized. The retail value shall be the retail value
27 of the aggregate quantity of all items seized which
28 bear or are identified by a counterfeit mark. For
29 purposes of this paragraph, reasonable standard
30 includes but is not limited the to market value within
31 the community, actual value, replacement value, or the
32 counterfeiter's regular selling price for the item
33 bearing or identified by a counterfeit mark, or the
34 intellectual property owner's regular selling price
35 for an item similar to the item bearing or identified
36 by a counterfeit mark.

37 2. CRIMINAL OFFENSE. A person who knowingly
38 manufactures, produces, displays, advertises,
39 distributes, offers for sale, sells, possesses with
40 intent to sell or distributes any item or knowingly
41 provides service bearing or identified by a
42 counterfeit mark commits intellectual property
43 counterfeiting.

44 a. A person commits intellectual property
45 counterfeiting in the first degree if any of the
46 following apply:

47 (1) The person is manufacturing or producing an
48 item bearing or identified by a counterfeit mark.

49 (2) The offense involves more than one thousand

50 items bearing or identified by a counterfeit mark and

Page 2

1 the total retail value of such items is equal to or
2 greater than ten thousand dollars.

3 (3) The offense is a third or subsequent violation
4 of this section.

5 Intellectual property counterfeiting in the first
6 degree is a class "C" felony.

7 b. A person commits intellectual property
8 counterfeiting in the second degree if any of the
9 following apply:

10 (1) The offense involves more than one hundred
11 items but does not involve more than one thousand
12 items bearing or identified by a counterfeit mark and
13 the total retail value of such items is equal to or
14 greater than one thousand dollars but less than ten
15 thousand dollars.

16 (2) The offense is a second violation of this
17 section.

18 Intellectual property counterfeiting in the second
19 degree is a class "D" felony.

20 c. All intellectual property counterfeiting which
21 is not intellectual property counterfeiting in the
22 first degree or second degree is intellectual property
23 counterfeiting in the third degree. Intellectual
24 property counterfeiting in the third degree is an
25 aggravated misdemeanor.

26 3. EVIDENCE. Any state or federal certificate of
27 registration of any intellectual property shall be
28 prima facie evidence of ownership of the intellectual
29 property in dispute.

30 4. SEIZURE AND DISPOSITION. Any items bearing or
31 identified by a counterfeit mark, and all personal
32 property, including but not limited to any items,
33 objects, tools, machines, equipment,
34 instrumentalities, or vehicles used in connection with
35 a violation of this section, shall be seized by any
36 law enforcement agency.

37 (1) All seized personal property shall be disposed
38 of in accordance with section 809.5 or as provided in
39 subparagraph (2).

40 (2) Upon request of the intellectual property
41 owner, all seized items bearing or identified by a
42 counterfeit mark shall be released by the seizing
43 agency to the intellectual property owner for
44 destruction or disposition. If the intellectual
45 property owner does not request release of the seized
46 items, the items shall be destroyed unless the
47 intellectual property owner consents to another
48 disposition."

49 2. Title page, by striking lines 1 and 2, and
50 inserting the following: "An Act creating the

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1 criminal offense of intellectual property
2 counterfeiting, and providing a penalty."

Eichhorn of Hamilton offered the following amendment [H-8253](#), to amendment [H-8227](#), filed by him from the floor and moved its adoption:

[H-8253](#)

1 Amend the amendment, [H-8227](#), to [House File 2395](#) as
2 follows:
3 1. Page 1, line 50, by striking the word "and"
4 and inserting the following: "or".
5 2. Page 2, line 12, by striking the word "and"
6 and inserting the following: "or".

Amendment [H-8253](#) was adopted.

On motion by Schickel of Cerro Gordo amendment [H-8227](#), as amended, was adopted.

Schickel of Cerro Gordo moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2395](#))

The ayes were, 99:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Boggess
Bukta	Carroll	Chambers	Cohoon
Connors	Dandekar	Davitt	De Boef
Dennis	Dix	Dolecheck	Drake
Eichhorn	Elgin	Fallon	Foege
Ford	Freeman	Frevert	Gaskill
Gipp	Granzow	Greimann	Greiner
Hahn	Hanson	Heaton	Heddens
Hoffman	Hogg	Horbach	Hunter
Huseman	Huser	Hutter	Jacobs
Jacoby	Jenkins	Jochum	Jones
Klemme	Kramer	Kuhn	Kurtenbach
Lalk	Lensing	Lukan	Lykam

Maddox	Manternach	Mascher	McCarthy
Mertz	Miller	Murphy	Oldson
Olson, D.	Olson, S.	Paulsen	Petersen
Quirk	Rants, Spkr.	Rasmussen	Rayhons
Reasoner	Roberts	Sands	Schickel
Shomshor	Shoultz	Smith	Stevens
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.	Watts
Wendt	Whitaker	Whitead	Wilderdyke
Winckler	Wise	Osterhaus, Presiding	

The nays were, none.

Absent or not voting, 1:

Raecker

The bill having received a constitutional majority was declared to have passed the House and the title, as amended, was agreed to.

[HOUSE FILE 2280](#) WITHDRAWN

Schickel of Cerro Gordo asked and received unanimous consent to withdraw [House File 2280](#) from further consideration by the House.

[House File 2434](#), a bill for an act to update and modify the enhanced 911 emergency telephone communications system, was taken up for consideration.

Tjepkes of Webster moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2434](#))

The ayes were, 99:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Bogges
Bukta	Carroll	Chambers	Cohon
Connors	Dandekar	Davitt	De Boef
Dennis	Dix	Dolecheck	Drake
Eichhorn	Elgin	Fallon	Foege
Ford	Freeman	Frevert	Gaskill
Gipp	Granzow	Greimann	Greiner

Hahn	Hanson	Heaton	Heddens
Hoffman	Hogg	Horbach	Hunter
Huseman	Huser	Hutter	Jacobs
Jacoby	Jenkins	Jochum	Jones
Klemme	Kramer	Kuhn	Kurtenbach
Lalk	Lensing	Lukan	Lykam
Maddox	Mascher	McCarthy	Mertz
Miller	Murphy	Oldson	Olson, D.
Olson, S.	Paulsen	Petersen	Quirk
Raecker	Rants, Spkr.	Rasmussen	Rayhons
Reasoner	Roberts	Sands	Schickel
Shomshor	Shoultz	Smith	Stevens
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.	Watts
Wendt	Whitaker	Whitead	Wilderdyke
Winckler	Wise	Osterhaus, Presiding	

The nays were, none.

Absent or not voting, 1:

Manternach

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

LEAVE OF ABSENCE

Leave of absence was granted as follows:

Manternach of Jones on request of Gipp of Winneshiek.

IMMEDIATE MESSAGES

Jacobs of Polk asked and received unanimous consent that the following bills be immediately messaged to the Senate: **House Files 2225, 2315, 2395, 2434** and **Senate File 2118**.

House File 2464, a bill for an act providing for the establishment and funding of an automated external defibrillator grant program, and providing an effective date, was taken up for consideration.

Lukan of Dubuque moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2464](#))

The ayes were, 98:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Bogges
Bukta	Carroll	Chambers	Cohoon
Connors	Dandekar	Davitt	De Boef
Dennis	Dix	Dolecheck	Drake
Eichhorn	Elgin	Fallon	Foege
Ford	Freeman	Frevert	Gaskill
Gipp	Granzow	Greimann	Greiner
Hahn	Hanson	Heaton	Heddens
Hoffman	Hogg	Horbach	Hunter
Huseman	Huser	Hutter	Jacobs
Jacoby	Jenkins	Jochum	Jones
Klemme	Kramer	Kuhn	Kurtenbach
Lalk	Lensing	Lukan	Lykam
Maddox	Mascher	McCarthy	Mertz
Miller	Murphy	Oldson	Olson, D.
Olson, S.	Paulsen	Petersen	Quirk
Raecker	Rants, Spkr.	Rasmussen	Rayhons
Reasoner	Roberts	Sands	Schickel
Shomshor	Smith	Stevens	Struyk
Swaim	Taylor, D.	Taylor, T.	Thomas
Tjepkes	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wendt
Whitaker	Whitead	Wilderdyke	Winckler
Wise	Osterhaus, Presiding		

The nays were, 1:

Shoultz

Absent or not voting, 1:

Manternach

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

[House File 2475](#), a bill for an act relating to persons doing business as swine dealers and persons engaged in the business of buying or selling feeder pigs, was taken up for consideration.

S. Olson of Clinton asked and received unanimous consent to withdraw amendment [H-8225](#) filed by him on March 11, 2004.

S. Olson of Clinton offered the following amendment [H-8229](#) filed by him and moved its adoption:

[H-8229](#)

- 1 Amend [House File 2475](#) as follows:
- 2 1. Page 2, line 26, by striking the word "less"
- 3 and inserting the following: "later".
- 4 2. Page 2, by inserting after line 29, the
- 5 following:
- 6 "Sec.____. IMPLEMENTATION. In implementing this
- 7 Act, the department may adopt rules pursuant to
- 8 section 17A.4, subsection 2, and section 17A.5,
- 9 subsection 2, paragraph "b".
- 10 Sec.____. EFFECTIVE DATE. This Act, being deemed
- 11 of immediate importance, takes effect upon enactment."
- 12 3. Title page, line 3, by inserting after the
- 13 word "pigs" the following: "and providing an
- 14 effective date".

Amendment [H-8229](#) was adopted.

S. Olson of Clinton moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2475](#))

The ayes were, 99:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Boggess
Bukta	Carroll	Chambers	Cohoon
Connors	Dandekar	Davitt	De Boef
Dennis	Dix	Dolecheck	Drake
Eichhorn	Elgin	Fallon	Foege
Ford	Freeman	Frevert	Gaskill
Gipp	Granzow	Greimann	Greiner
Hahn	Hanson	Heaton	Heddens
Hoffman	Hogg	Horbach	Hunter
Huseman	Huser	Hutter	Jacobs
Jacoby	Jenkins	Jochum	Jones
Klemme	Kramer	Kuhn	Kurtenbach
Lalk	Lensing	Lukan	Lykam
Maddox	Mascher	McCarthy	Mertz

Miller	Murphy	Oldson	Olson, D.
Olson, S.	Paulsen	Petersen	Quirk
Raecker	Rants, Spkr.	Rasmussen	Rayhons
Reasoner	Roberts	Sands	Schickel
Shomshor	Shultz	Smith	Stevens
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.	Watts
Wendt	Whitaker	Whitead	Wilderdyke
Winckler	Wise	Osterhaus	
		Presiding	

The nays were, none.

Absent or not voting, 1:

Manternach

The bill having received a constitutional majority was declared to have passed the House and the title, as amended, was agreed to.

[HOUSE FILE 2031](#) WITHDRAWN

S. Olson of Clinton asked and received unanimous consent to withdraw [House File 2031](#) from further consideration by the House.

IMMEDIATE MESSAGES

Gipp of Winneshiek asked and received unanimous consent that the following bills be immediately messaged to the Senate: **House Files 2464 and 2475.**

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker: I am directed to inform your honorable body that the Senate has on March 16, 2004, passed the following bill in which the concurrence of the Senate was asked:

[House File 2325](#), a bill for an act relating to raising an ineffective assistance of counsel claim against an attorney in a criminal case on appeal.

Also: That the Senate has on March 16, 2004, adopted the following resolution in which the concurrence of the Senate was asked:

[House Concurrent Resolution 104](#), a concurrent resolution urging state employee unions and the governor to renegotiate and establish a pay freeze for the fiscal year beginning July 1, 2004.

Also: That the Senate has on March 16, 2004, passed the following bill in which the concurrence of the House is asked:

[Senate File 2150](#), a bill for an act providing for termination of parental rights of a parent convicted of felony physical or sexual abuse of a child in the parent's or child's household.

Also: That the Senate has on March 16, 2004, passed the following bill in which the concurrence of the House is asked:

[Senate File 2234](#), a bill for an act relating to child custody and visitation provisions.

Also: That the Senate has on March 16, 2004, amended and passed the following bill in which the concurrence of the House is asked:

[Senate File 2280](#), a bill for an act relating to the awarding of bonuses to appointed state officers and state employees and providing an effective date.

Also: That the Senate has on March 16, 2004, passed the following bill in which the concurrence of the House is asked:

[Senate File 2284](#), a bill for an act relating to the establishment of a regional transit district within the unincorporated areas of certain counties and within certain cities, requiring creation of a regional transit district commission, authorizing the voluntary imposition of a regional transit property tax levy, and providing for the issuance of general obligation bonds and revenue bonds.

MICHAEL E. MARSHALL, Secretary

[House File 2486](#), a bill for an act providing for animal agriculture, including by providing for offenses involving animals and crops and related property, and providing penalties, was taken up for consideration.

Gipp of Winneshiek asked and received unanimous consent that [House File 2486](#) be deferred and that the bill retain its place on the calendar.

[House File 2502](#), a bill for an act relating to residential landlord-tenant law, by making certain changes concerning family violence and domestic abuse, was taken up for consideration.

[SENATE FILE 2199](#) SUBSTITUTED FOR [HOUSE FILE 2502](#)

Boal of Polk asked and received unanimous consent to substitute [Senate File 2199](#) for [House File 2502](#).

Senate File 2199, a bill for an act relating to residential landlord-tenant law, by making certain changes concerning family violence and domestic abuse, was taken up for consideration.

Boal of Polk moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" (**S.F. 2199**)

The ayes were, 99:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Bogges
Bukta	Carroll	Chambers	Cohoon
Connors	Dandekar	Davitt	De Boef
Dennis	Dix	Dolecheck	Drake
Eichhorn	Elgin	Fallon	Foege
Ford	Freeman	Frevert	Gaskill
Gipp	Granzow	Greimann	Greiner
Hahn	Hanson	Heaton	Heddens
Hoffman	Hogg	Horbach	Hunter
Huseman	Huser	Hutter	Jacobs
Jacoby	Jenkins	Jochum	Jones
Klemme	Kramer	Kuhn	Kurtenbach
Lalk	Lensing	Lukan	Lykam
Maddox	Mascher	McCarthy	Mertz
Miller	Murphy	Oldson	Olson, D.
Olson, S.	Paulsen	Petersen	Quirk
Raecker	Rants, Spkr.	Rasmussen	Rayhons
Reasoner	Roberts	Sands	Schickel
Shomshor	Shoultz	Smith	Stevens
Struyk	Swaim	Taylor, D.	Taylor, T.
Thomas	Tjepkes	Tymeson	Upmeyer
Van Engelenhoven	Van Fossen, J.K.	Van Fossen, J.R.	Watts
Wendt	Whitaker	Whitead	Wilderdyke
Winckler	Wise	Osterhaus, Presiding	

The nays were, none.

Absent or not voting 1:

Manternach

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

Speaker Rants in the chair at 6:10 p.m.

IMMEDIATE MESSAGE

Gipp of Winneshiek asked and received unanimous consent that [Senate File 2199](#) be immediately messaged to the Senate.

[HOUSE FILE 2248](#) WITHDRAWN

Boal of Polk asked and received unanimous consent to withdraw [House File 2248](#) from further consideration by the House.

RULES SUSPENDED

Gipp of Winneshiek asked and received unanimous consent to suspend House Rules 30, 31, 33, 34 and 39 for the immediate consideration of [House File 2540](#).

COMMITTEE RECOMMENDATION

MR. SPEAKER: The Chief Clerk of the House respectfully reports that the following committee recommendation has been received and is on file in the office of the Chief Clerk.

MARGARET A. THOMSON
Chief Clerk of the House

COMMITTEE ON WAYS AND MEANS

[House File 2540](#), a bill for an act relating to economic development incentives under the new jobs and income program, the new capital investment program, and the enterprise zone program and providing an effective date.

Fiscal note is not required.

Recommended **Do Pass** March 16, 2004.

Ways and Means Calendar

[House File 2540](#), a bill for an act relating to economic development incentives under the new jobs and income program, the new capital investment program, and the enterprise zone program and providing an effective date, was taken up for consideration.

Hoffman of Crawford offered the following amendment [H-8246](#) filed by the committee on economic growth from the floor and moved its adoption:

[H-8246](#)

1 Amend [House File 2540](#) as follows:

2 1. By striking page 1, line 10, through page 2,
3 line 29, and inserting the following:

4 "Sec. ____ NEW SECTION. 15.331C CORPORATE TAX
5 CREDIT – FOR CERTAIN SALES TAXES PAID BY DEVELOPER.

6 1. An eligible business or a supporting business
7 may claim a corporate tax credit in an amount equal to
8 the taxes paid by a third-party developer under
9 chapters 422 and 423 for gas, electricity, water, or
10 sewer utility services, goods, wares, or merchandise,
11 or on services rendered, furnished, or performed to or
12 for a contractor or subcontractor and used in the
13 fulfillment of a written contract relating to the
14 construction or equipping of a facility with the
15 economic development area of the eligible business or
16 supporting business. Taxes attributable to intangible
17 property and furniture and furnishings shall not be
18 included, but taxes attributable to racks, shelving,
19 and conveyor equipment to be used in a warehouse or
20 distribution center shall be included. Any credit in
21 excess of the tax liability for the tax year may be
22 credited to the tax liability for the following seven
23 years or until depleted, whichever occurs earlier. An
24 eligible business may elect to receive a refund of all
25 or a portion of an unused tax credit.

26 2. A third-party developer shall state under oath,
27 on forms provided by the department of economic
28 development, the amount of taxes paid as described in
29 subsection 1 and shall submit such forms to the
30 department. After receiving the form from the third-
31 party developer, the department shall issue a tax
32 credit to the eligible business or supporting
33 business. The eligible business or supporting
34 business shall not claim a tax credit under this
35 section unless a tax credit certificate issued by the
36 department of economic development is attached to the
37 taxpayer's tax return for the tax year for which the
38 tax credit is claimed. A tax credit certificate shall
39 contain the eligible business's or supporting
40 business's name, address, tax identification number,
41 the amount of the tax credit, and other information
42 required by the department of revenue."

43 2. Page 4, line 7, by striking the word "ten" and
44 inserting the following: "five".

45 3. Page 6, line 2, by striking the word "ten" and
46 inserting the following: "five".

47 4. Page 6, by inserting after line 3 the
 48 following:
 49 "Sec. ____ Section 15.385, Code Supplement 2003,
 50 is amended by adding the following new subsection:

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1 NEW SUBSECTION. 1A. Corporate tax credit for
 2 certain sales taxes paid by developer, as provided in
 3 section 15.331C."
 4 5. Page 6, line 25, by striking the word "ten"
 5 and inserting the following: "five".
 6 6. Page 8, line 1, by striking the word "ten" and
 7 inserting the following: "five".

The committee amendment [H-8246](#) was adopted.

[SENATE FILE 2290](#) SUBSTITUTED FOR [HOUSE FILE 2540](#)

Hoffman of Crawford asked and received unanimous consent to substitute [Senate File 2290](#) for [House File 2540](#).

[Senate File 2290](#), a bill for an act relating to economic development incentives under the new jobs and income program, the new capital investment program, and the enterprise zone program and providing an effective date, was taken up for consideration.

Hoffman of Crawford asked and received unanimous consent to withdraw amendment [H-8255](#) filed by him and Struyk of Pottawattamie from the floor.

Hoffman of Crawford offered the following amendment [H-8257](#) filed by him and Struyk of Pottawattamie from the floor and moved its adoption:

[H-8257](#)

1 Amend [Senate File 2290](#), as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 1, by inserting after line 9 the
 4 following:
 5 "Sec. ____ Section 15.331A, unnumbered paragraph
 6 1, Code Supplement 2003, is amended to read as
 7 follows:
 8 The eligible business or a supporting business
 9 shall be entitled to a refund of the taxes paid under
 10 chapters 422 and 423 for gas, electricity, water, or

11 sewer utility services, goods, wares, or merchandise,
12 or on services rendered, furnished, or performed to or
13 for a contractor or subcontractor and used in the
14 fulfillment of a written contract relating to the
15 construction or equipping of a facility within the
16 economic development area of the eligible business or
17 a supporting business. Taxes attributable to
18 intangible property and furniture and furnishings
19 shall not be refunded. However, an eligible business
20 shall be entitled to a refund for taxes attributable
21 to racks, shelving, and conveyor equipment to be used
22 in a warehouse or distribution center subject to
23 section 15.331C."

24 2. Page 1, line 33, by inserting after the word
25 "department." the following: "The taxes paid shall be
26 itemized to allow identification of the taxes
27 attributable to racks, shelving, and conveyor
28 equipment to be used in a warehouse or distribution
29 center."

30 3. Page 1, line 35, by inserting after the word
31 "credit" the following: "certificate".

32 4. Page 1, line 35, by inserting after the words
33 "supporting business" the following: "equal to the
34 taxes paid by a third-party developer under chapters
35 422 and 423 for gas, electricity, water, or sewer
36 utility services, goods, wares, or merchandise, or on
37 services rendered, furnished, or performed to or for a
38 contractor or subcontractor and used in the
39 fulfillment of a written contract relating to the
40 construction or equipping of a facility. The
41 department shall also issue a tax credit certificate
42 to the eligible business or supporting business equal
43 to the taxes paid and attributable to racks, shelving,
44 and conveyor equipment to be used in a warehouse or
45 distribution center. The aggregate combined total
46 amount of tax refunds under section 15.331A for taxes
47 attributable to racks, shelving, and conveyor
48 equipment to be used in a warehouse or distribution
49 center and of tax credit certificates issued by the
50 department for the taxes paid and attributable to

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1 racks, shelving, and conveyor equipment to be used in
2 a warehouse or distribution center shall not exceed
3 five hundred thousand dollars in a fiscal year. If an
4 applicant for a tax credit certificate does not
5 receive a certificate for the taxes paid and
6 attributable to racks, shelving, and conveyor
7 equipment to be used in a warehouse or distribution
8 center, the application shall be considered in
9 succeeding fiscal years".

- 10 5. Page 3, line 22, by striking the word "five",
 11 and inserting the following: "ten".
 12 6. Page 5, line 17, by striking the word "five",
 13 and inserting the following: "ten".
 14 7. By renumbering as necessary.

Amendment [H-8257](#) was adopted.

Jochum of Dubuque asked and received unanimous consent to withdraw amendment [H-8254](#) filed by Jochum, Winckler of Scott, Lensing of Johnson and Shoultz of Black Hawk, from the floor.

Hoffman of Crawford moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([S.F. 2290](#))

The ayes were, 98:

Alons	Arnold	Baudler	Bell
Berry	Boal	Boddicker	Bogges
Bukta	Carroll	Chambers	Cohoon
Connors	Dandekar	Davitt	De Boef
Dennis	Dix	Dolecheck	Drake
Eichhorn	Elgin	Foege	Ford
Freeman	Frevert	Gaskill	Gipp
Granzow	Greimann	Greiner	Hahn
Hanson	Heaton	Heddens	Hoffman
Hogg	Horbach	Hunter	Huseman
Huser	Hutter	Jacobs	Jacoby
Jenkins	Jochum	Jones	Klemme
Kramer	Kuhn	Kurtenbach	Lalk
Lensing	Lukan	Lykam	Maddox
Mascher	McCarthy	Mertz	Miller
Murphy	Oldson	Olson, D.	Olson, S.
Osterhaus	Paulsen	Petersen	Quirk
Raecker	Rasmussen	Rayhons	Reasoner
Roberts	Sands	Schickel	Shomshor
Shoultz	Smith	Stevens	Struyk
Swaim	Taylor, D.	Taylor, T.	Thomas
Tjepkes	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wendt
Whitaker	Whitead	Wilderdyke	Winckler
Wise	Mr. Speaker		
	Rants		

The nays were, 1:

Fallon

Absent or not voting, 1:

Manternach

The bill having received a constitutional majority was declared to have passed the House and the title was agreed to.

IMMEDIATE MESSAGE

Gipp of Winneshiek asked and received unanimous consent that [Senate File 2290](#) be immediately messaged to the Senate.

Hahn of Muscatine in the chair at 6:50 p.m.

Regular Calendar

[House File 2484](#), a bill for an act relating to the reorganization of the division of banking of the department of commerce and its regulation of banking, was taken up for consideration.

Jenkins of Black Hawk offered amendment [H-8244](#) filed by Jenkins, et al., as follows:

[H-8244](#)

- 1 Amend [House File 2484](#) as follows:
- 2 1. Page 1, by inserting before line 1 the
- 3 following:
- 4 "DIVISION I
- 5 DIVISION OF BANKING"
- 6 2. Page 14, by inserting after line 33 the
- 7 following:
- 8 "DIVISION II
- 9 CREDIT UNIONS
- 10 Sec. ____ Section 533.2, Code 2003, is amended to
- 11 read as follows:
- 12 533.2 AMENDMENTS.
- 13 ~~1. The articles Articles~~ of incorporation ~~or the~~
- 14 ~~bylaws~~ may be amended by a favorable vote of a
- 15 majority of the members present at a meeting, if that
- 16 number constitutes a quorum and if the proposed
- 17 amendment was contained in the notice of the meeting.
- 18 2. Bylaws may ~~also~~ be amended by a any of the
- 19 following methods:
- 20 a. The favorable vote of a majority of the members

21 ~~of the board, or by present at a meeting, if that~~
 22 ~~number constitutes a quorum and if the proposed~~
 23 ~~amendment was contained in the notice of the meeting.~~

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

26 c. By a majority vote of members voting by mailed
 27 or electronic ballot, according to procedures
 28 specified by rule of the superintendent requiring at
 29 least twenty days' notice to all members, mailed
 30 ballots ensuring the confidentiality of voters,
 31 announcement to members of the results of the vote,
 32 and preservation of the ballots for a reasonable
 33 period of time according to procedures specified by
 34 rule of the superintendent, requiring at least twenty
 35 days' notice to all members. All amendments must be
 36 approved by the superintendent before they become
 37 effective. An announcement shall be made to members
 38 of the results of the vote. Ballots shall be
 39 preserved for a reasonable period of time following
 40 the vote.

41 d. A combination of procedures as specified in
 42 paragraphs "a" and "c", whereby members are allowed to
 43 vote either in person at a meeting or by mailed or
 44 electronic ballot, according to procedures specified
 45 by rule of the superintendent. If the proposed
 46 amendment receives a favorable majority of the total
 47 votes cast in person and by mailed ballot, the bylaws
 48 shall be amended.

49 Sec. ____ Section 533.4, subsection 5, Code 2003,
 50 is amended by adding the following new paragraph:

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1 NEW PARAGRAPH. j. Any investment permitted by
 2 federal credit unions, provided that this paragraph
 3 shall not permit a credit union to invest in a credit
 4 union service organization except as provided in
 5 paragraph "f".

6 Sec. ____ Section 533.4, Code 2003, is amended by
 7 adding the following new subsection:

8 NEW SUBSECTION. 28. Set off a member's accounts
 9 against any of the member's debts or liabilities owed
 10 the state credit union pursuant to an agreement
 11 entered into between the member and the credit union.
 12 The credit union shall also have a lien on the shares
 13 and deposits of a member for any sum due the credit
 14 union from the member or for any loan endorsed by the
 15 member.

16 Sec. ____ Section 533.6, subsection 2, Code 2003,
 17 is amended to read as follows:

18 2. The superintendent may make or cause to be made
 19 an examination of each credit union whenever the

20 superintendent believes such examination is necessary
21 or advisable, but in no event less frequently than
22 once during each ~~eighteen-month~~ twenty-four-month
23 period. A credit union designated as serving
24 predominantly low-income members shall be reviewed
25 during each examination to ensure that such credit
26 union is continuing to meet the standards established
27 by rule of the superintendent. Each credit union and
28 all of its officers and agents shall give to the
29 representatives of the superintendent free access to
30 all books, papers, securities, records, and other
31 sources of information under their control. A report
32 of such examination shall be forwarded to the
33 chairperson of each credit union within thirty days
34 after the completion of the examination. Within
35 thirty days of the receipt of this report, a meeting
36 of the directors shall be called to consider matters
37 contained in the report and the action taken shall be
38 set forth in the minutes of the board. The
39 superintendent may accept, in lieu of the examination
40 of a credit union, an audit report conducted by a
41 certified public accounting firm selected from a list
42 of firms previously approved by the superintendent.
43 The cost of the audit shall be paid by the credit
44 union.
45 Sec. ____ Section 533.8, Code 2003, is amended to
46 read as follows:
47 533.8 ELECTIONS.
48 1. At the organization meeting there shall be
49 elected a board of directors of not less than nine
50 members to hold office for such terms as the bylaws

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1 provide and until successors are elected and qualify.
2 2. At each annual meeting there shall be elected
3 one member to fill each position vacated by reason of
4 expiring terms or other causes.
5 3. Pursuant to rules adopted by the
6 superintendent, state credit unions may allow members
7 to vote on the election of directors via electronic
8 means including, but not limited to, the internet or
9 telephone.
10 4. A record of the names and addresses of the
11 directors, officers and committee persons shall be
12 filed with the superintendent within ten days
13 following each election.
14 5. A state credit union wishing to maintain a
15 board of directors of less than nine members may apply
16 to the superintendent for permission to reduce the
17 required number of directors to no fewer than seven
18 members. An application to reduce the required number

19 of directors under this subsection must demonstrate
 20 both of the following:

21 a. The application is necessitated by a hardship
 22 or other special circumstance.

23 b. The lesser number of directors is in the best
 24 interest of the credit union and its members.

25 Sec. ____ Section 533.9, Code 2003, is amended to
 26 read as follows:

27 533.9 DIRECTORS AND OFFICERS.

28 1. Within five days following the organization
 29 meeting and each annual meeting, the directors shall
 30 elect from their own number a chairperson of the
 31 board, a vice chairperson, a secretary, and a chief
 32 financial officer whose title shall be designated by
 33 the board of directors.

34 2. The board shall appoint a credit committee of
 35 not less than three members, and an auditing committee
 36 of not less than three members, and may also appoint
 37 alternate members of the credit committee.

38 3. Only a member of the board of directors or a
 39 member of the credit union may be appointed to the
 40 credit committee or to the auditing committee.

41 4. The board may appoint an executive committee to
 42 act on its behalf when designated for that purpose.

43 5. The duties and responsibilities of a director
 44 and of the board of directors have general shall
 45 include, but are not limited to, all of the following:

46 a. General management of the affairs of the state
 47 credit union including, but not limited to, the power
 48 to fix;

49 b. Setting the amount of the surety bond which
 50 that shall be required of all officers and employees

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1 handling money.

2 c. Periodic review of the original records of the
 3 state credit union, or comprehensive summaries
 4 prepared by the officers of the credit union,
 5 pertaining to loans, security interests, and
 6 investments.

7 d. Review of the adequacy of the state credit
 8 union's internal controls.

9 e. Periodic review of utilization of security
 10 measures.

11 f. Establishing education and training programs to
 12 ensure that the directors possess adequate knowledge
 13 to manage the affairs of the state credit union.

14 6. a. Directors of a state credit union shall
 15 discharge the duties of their position in good faith
 16 and with that diligence, care, and skill which
 17 ordinarily prudent persons would exercise under

18 similar circumstances in like positions.
19 b. The directors have a continuing responsibility
20 to assure themselves that the state credit union is
21 being managed according to law and that the practices
22 and policies adopted by the board are being
23 implemented.

24 7. Unless the bylaws provide otherwise, the board
25 of directors may permit any and all directors to
26 participate in all except one meeting per year of the
27 board of directors through the use of any means of
28 communication by which all directors participating in
29 the meeting may simultaneously hear each other and
30 communicate during the meeting. A director
31 participating in a meeting by this means is deemed to
32 be present at the meeting.

33 8. a. A director, committee member, officer, or
34 employee of a state credit union shall not directly or
35 indirectly participate in either the deliberation upon
36 or the determination of any matter in which the
37 director, committee member, officer, or employee has a
38 direct or indirect interest.

39 b. For the purposes of this subsection, an
40 interest may include, but is not limited to, a
41 pecuniary or familial interest.

42 Sec. ____. Section 533.12, subsection 1, Code 2003,
43 is amended to read as follows:

44 1. The capital of a credit union shall consist of
45 the payments that have been made to it by the several
46 members thereof on shares. ~~The credit union shall~~
47 ~~have a lien on the shares and deposits of a member for~~
48 ~~any sum due to the credit union from the member or for~~
49 ~~any loan endorsed by the member.~~ A credit union may
50 charge an entrance fee as may be provided by the

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1 bylaws.

2 Sec. ____. Section 533.19, Code 2003, is amended to
3 read as follows:

4 533.19 EXPULSION – WITHDRAWAL.

5 1. The board of directors may expel any member who
6 has failed to do either of the following:

7 a. Carry out the member's obligations to the state
8 credit union.

9 b. Comply with the state credit union's bylaws or
10 policies.

11 2. A member may be expelled by a majority vote of
12 the board of directors at a regular or special meeting
13 of the board.

14 a. ~~The An~~ expelled member may request a hearing
15 before the membership of the credit union. A meeting
16 of the membership shall be held within sixty days of

17 the member's request.

18 b. The membership may, by majority vote at the
19 membership meeting, reinstate the expelled member upon
20 terms and conditions prescribed by it.

21 3. Any member may withdraw from the credit union
22 at any time, but notice of withdrawal may be required
23 as provided in this section.

24 4. All amounts paid on shares or as deposits of an
25 expelled or withdrawing member, with any dividends or
26 interest accredited thereto, to the date thereof,
27 shall, after deducting all amounts due from the member
28 to the credit union and an amount as necessary to
29 honor outstanding share drafts drawn against accounts
30 of the member, be paid to the member.

31 5. Upon expulsion or withdrawal of a member from a
32 credit union, or at any other time, the credit union
33 may require sixty days' notice of intention to
34 withdraw shares and thirty days' notice of intention
35 to withdraw deposits, except that a credit union shall
36 not at any time require notice of withdrawal with
37 respect to funds which are subject to withdrawal by
38 share drafts.

39 6. Withdrawing or expelled members shall have no
40 further rights in the credit union but are not, by
41 such expulsion or withdrawal, released from any
42 remaining liability to the credit union.

43 Sec.____. NEW SECTION. 533.19A SUSPENSION OR
44 RESTRICTION OF SERVICES.

45 1. A state credit union may suspend or deny
46 certain services to members who have performed any of
47 the following actions:

- 48 a. Caused a loss to the state credit union.
- 49 b. Violated the membership agreement or any policy
50 adopted by the board.

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1 c. Been physically or verbally abusive to state
2 credit union members or staff.

3 2. Members with suspended services may maintain a
4 share account and continue to vote at annual and
5 special meetings.

6 Sec.____. Section 533.38, Code 2003, is amended by
7 adding the following new subsection:

8 NEW SUBSECTION. 12. Establish one or more capital
9 accounts in the same manner as if it were a federal
10 credit union.

11 DIVISION III

12 BANKS ARE LIMITED LIABILITY COMPANIES

13 Sec.____. Section 422.11, Code 2003, is amended to
14 read as follows:

15 422.11 FRANCHISE TAX CREDIT.

16 The taxes imposed under this division, less the
17 credits allowed under section 422.12, shall be reduced
18 by a franchise tax credit. A taxpayer who is a
19 shareholder in a financial institution, as defined in
20 section 581 of the Internal Revenue Code, which has in
21 effect for the tax year an election under subchapter S
22 of the Internal Revenue Code, or is a member of a
23 financial institution organized as a limited liability
24 company under chapter 524 that is taxed as a
25 partnership for federal income tax purposes, shall
26 compute the amount of the tax credit by recomputing
27 the amount of tax under this division by reducing the
28 taxable income of the taxpayer by the taxpayer's pro
29 rata share of the items of income and expense of the
30 financial institution and subtracting the credits
31 allowed under section 422.12. This recomputed tax
32 shall be subtracted from the amount of tax computed
33 under this division after the deduction for credits
34 allowed under section 422.12. The resulting amount,
35 which shall not exceed the taxpayer's pro rata share
36 of the franchise tax paid by the financial
37 institution, is the amount of the franchise tax credit
38 allowed.

39 Sec. _____. Section 524.103, subsections 6, 8, 17,
40 20, 30, 31, and 33, Code 2003, are amended to read as
41 follows:

42 6. "Articles of incorporation" means the original
43 or restated articles of incorporation and all
44 amendments thereto and includes articles of merger.
45 "Articles of incorporation" also means the original or
46 restated articles of organization and all amendments
47 including articles of merger if a state bank is
48 organized as a limited liability company under this
49 chapter.

50 8. "Bank" means a corporation or limited liability

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1 company organized under this chapter or 12 U.S.C. §
2 21.

3 17. "Control" means when a person, directly or
4 indirectly or acting through or together with one or
5 more persons, satisfies any of the following:

6 a. Owns, controls, or has the power to vote fifty
7 percent or more of any class of voting securities or
8 membership interests of another person.

9 b. Controls, in any manner, the election of a
10 majority of the directors, managers, trustees, or
11 other persons exercising similar functions of another
12 person.

13 c. Has the power to exercise a controlling
14 influence over the management or policies of another

15 person.

16 20. "Executive officer" means a person who
 17 participates or has authority to participate, other
 18 than in the capacity of a director or manager, in
 19 major policymaking functions of a state bank, whether
 20 or not the officer has an official title, whether or
 21 not such a title designates the officer as an
 22 assistant, or whether or not the officer is serving
 23 without salary or other compensation. The chief
 24 executive officer, chairperson of the board, the
 25 president, every vice president, and the cashier of a
 26 state bank are deemed to be executive officers, unless
 27 such an officer is excluded, by resolution of the
 28 board of directors of a state bank or by the bylaws of
 29 the state bank, from participation, other than in the
 30 capacity of a director, in major policymaking
 31 functions of the state bank, and the officer does not
 32 actually participate in the major policymaking
 33 functions. All officers who serve on a board of
 34 directors are deemed to be executive officers, except
 35 as provided for in section 524.701, subsection 3.

36 30. "Shareholder" means one who is a holder of
 37 record of shares in a state bank. If a state bank is
 38 organized as a limited liability company under this
 39 chapter, "shareholder" means any member of the limited
 40 liability company.

41 31. "Shares" means the units into which the
 42 proprietary interests in a state bank are divided,
 43 including any membership interests of a state bank
 44 organized as a limited liability company under this
 45 chapter.

46 33. "State bank" means any bank incorporated
 47 pursuant to the provisions of this chapter after
 48 January 1, 1970, and any "state bank" or "savings
 49 bank" incorporated pursuant to the laws of this state
 50 and doing business as such on January 1, 1970, or

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1 organized as a limited liability company under this
 2 chapter.

3 Sec. _____. Section 524.103, Code 2003, is amended
 4 by adding the following new subsections:
 5 NEW SUBSECTION. 9A. "Board of directors" means
 6 the board of directors of a state bank as provided in
 7 section 524.601. For state banks organized as a
 8 limited liability company under this chapter, "board
 9 of directors" means a board of directors or board of
 10 managers as designated by the limited liability
 11 company in its articles of organization or operating
 12 agreement.

13 NEW SUBSECTION. 18A. "Director" means a member of

14 the board of directors and includes a manager of a
15 state bank organized as a limited liability company
16 under this chapter.
17 NEW SUBSECTION. 23A. "Manager" means a person
18 designated by the members to manage a state bank
19 organized as a limited liability company under this
20 chapter as provided in the articles of organization or
21 an operating agreement and may include a member of the
22 board of directors.
23 NEW SUBSECTION. 23B. "Member" means a person with
24 a membership interest in a state bank organized as a
25 limited liability company under this chapter.
26 NEW SUBSECTION. 23C. "Membership interest" means
27 a member's share of the profits and losses, the right
28 to receive distributions of assets, and any right to
29 vote or participate in management, of a state bank
30 organized as a limited liability company under this
31 chapter.
32 Sec. ____ Section 524.301, Code 2003, is amended
33 to read as follows:
34 524.301 INCORPORATORS – ORGANIZERS.
35 A state bank may be incorporated or organized as a
36 limited liability company under this chapter by one or
37 more individuals eighteen years of age or older, a
38 majority of whom shall be residents of this state and
39 citizens of the United States.
40 Sec. __. NEW SECTION. 524.302A ARTICLES OF
41 INCORPORATION – LIMITED LIABILITY COMPANY.
42 1. The articles of incorporation of a state bank
43 organized as a limited liability company under this
44 chapter shall be in the form prescribed by the
45 superintendent, and shall set forth all of the
46 following:
47 a. The name of the state bank, that it is
48 organized for the purpose of conducting the business
49 of banking, and that it is organized under the
50 provisions of this chapter.

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1 b. The street address of the limited liability
2 company's initial registered office and the name of
3 its initial registered agent at that office.
4 c. The location of the state bank's proposed
5 principal office of the limited liability company,
6 which may be the same as the registered office, but
7 need not be within this state.
8 d. The duration of the state bank, which shall be
9 perpetual.
10 e. The aggregate number of common and preferred
11 shares which the state bank shall have authority to
12 issue and the par value of such shares. If such

13 shares are to be divided into classes or series, the
14 number of shares of each class or series and a
15 statement of the par value of the shares of each class
16 or series.

17 f. The number of managers constituting the initial
18 board of directors and the names and addresses of the
19 individuals who are to serve as directors until
20 successors are elected and qualify. A statement that
21 the exclusive authority to manage the state bank is
22 vested in a board of directors that is elected or
23 appointed by the members, that operates in
24 substantially the same manner as, and has
25 substantially the same rights, powers, privileges,
26 duties, and responsibilities as, a board of directors
27 of a state bank chartered as a corporation under this
28 chapter.

29 g. A provision that the articles of incorporation,
30 operating agreement, or other organizational documents
31 of the state bank shall not require the consent of any
32 other owner in order for an owner to transfer
33 membership interests in the state bank, including
34 voting rights.

35 2. The articles of incorporation may set forth any
36 or all of the following:

37 a. Provisions not inconsistent with law regarding
38 management of the business and regulation of the
39 affairs of the state bank.

40 b. Any provision required or permitted by this
41 chapter to be set forth in the operating agreement.

42 3. The articles of incorporation need not set
43 forth any of the organizational powers enumerated in
44 this chapter.

45 Sec. ____ Section 524.303, Code 2003, is amended
46 to read as follows:

47 524.303 APPLICATION FOR APPROVAL.

48 The incorporators or organizers shall make an
49 application to the superintendent for approval of a
50 proposed state bank in the manner prescribed by the

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1 superintendent and shall deliver to the
2 superintendent, together with such application:

3 1. The articles of incorporation.

4 2. Applicable fees, payable to the secretary of
5 state as specified in section 490.122 or 490A.124, for
6 the filing and recording of the articles of
7 incorporation.

8 Sec. ____ Section 524.304, subsection 1, Code
9 2003, is amended to read as follows:

10 1. The incorporators or organizers of a state bank
11 shall, within thirty days of the acceptance of the

12 application for processing, publish notice of the
13 proposed incorporation or organization once each week
14 for two successive weeks in a newspaper of general
15 circulation published in the municipal corporation
16 which is proposed as the principal place of business
17 of the state bank, or if there is none, a newspaper of
18 general circulation published in the county, or in a
19 county adjoining the county, in which the proposed
20 state bank is to have its principal place of business.
21 The notice shall set forth all of the following:
22 a. The name of the proposed state bank.
23 b. A statement that it is to be incorporated or
24 organized under this chapter.
25 c. The purpose or purposes of the state bank.
26 d. The names and addresses of the incorporators or
27 organizers and of the members of the initial board of
28 directors or board of directors as they appear, or
29 will appear, in the articles of incorporation.
30 e. The date the application was accepted for
31 processing.
32 f. If the incorporation or organization of the
33 state bank has been approved by the superintendent
34 under section 524.305, subsection 8, the name and
35 address of the bank with which the state bank will
36 have merged, or the assets of which the state bank
37 will have acquired or the condition of which in some
38 other way provided a purpose for the incorporation or
39 organization.
40 Sec. ____. Section 524.305, subsection 1, paragraph
41 d, Code 2003, is amended to read as follows:
42 d. The character and fitness of the incorporators
43 or organizers and of the members of the initial board
44 of directors are such as to command the confidence of
45 the community and to warrant the belief that the
46 business of the proposed state bank will be honestly
47 and efficiently conducted.
48 Sec. ____. Section 524.305, subsections 6, 7, and
49 9, Code 2003, are amended to read as follows:
50 6. If the superintendent approves the application,

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1 the superintendent shall notify the incorporators or
2 organizers, and such other persons who requested in
3 writing that they be notified, of the approval. If
4 the superintendent disapproves the application, the
5 superintendent shall notify the incorporators or
6 organizers of the action and the reason for the
7 decision.
8 7. The actions of the superintendent shall be
9 subject to judicial review in accordance with chapter
10 17A. The court may award damages to the incorporators

11 or organizers if it finds that review is sought
12 frivolously or in bad faith.

13 9. As a condition of receiving the decision of the
14 superintendent with respect to the application the
15 incorporators or organizers shall reimburse the
16 superintendent for all expenses incurred by the
17 superintendent in connection with the application.

18 Sec.____. Section 524.306, Code 2003, is amended
19 to read as follows:

20 524.306 INCORPORATION OR ORGANIZATION OF STATE
21 BANK.

22 1. Unless a delayed effective date or time is
23 specified, the corporate or organizational existence
24 of a state bank begins when the articles of
25 incorporation, with the superintendent's approval
26 indicated on the articles of incorporation, are filed
27 with the secretary of state. The secretary of state
28 shall record the articles of incorporation and forward
29 a copy of them to the county recorder of the county in
30 which the state bank is to have its principal place of
31 business.

32 2. The secretary of state's acknowledgment of
33 filing of the articles of incorporation is conclusive
34 proof that the incorporators or organizers satisfied
35 all conditions precedent to incorporation or
36 organization, except in a proceeding instituted by the
37 superintendent to cancel or revoke the incorporation
38 or involuntarily dissolve the corporation or
39 organization.

40 Sec.____. Section 524.307, Code 2003, is amended
41 to read as follows:

42 524.307 INITIAL ORGANIZATION OF STATE BANK.

43 Upon incorporation, or organization as a limited
44 liability company, of the state bank, the initial
45 board of directors shall hold an organizational
46 meeting within this state, at the call of a majority
47 of the directors, to complete the organization of the
48 state bank by electing officers, adopting bylaws, if
49 any are to be adopted, and conducting any other
50 business properly brought before the board at the

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1 meeting.

2 Sec.____. Section 524.308, subsection 2, Code
3 2003, is amended to read as follows:

4 2. If a state bank transacts any business before
5 receipt of an authorization to do business in
6 violation of subsection 1, the directors, managers,
7 and officers who willfully authorized or participated
8 in the action are severally liable for the debts and
9 liabilities of the state bank incurred prior to the

10 receipt of the authorization to do business.
11 Sec.____. Section 524.310, Code 2003, is amended
12 to read as follows:
13 524.310 NAME OF STATE BANK.
14 1. The name of a state bank originally
15 incorporated or organized after the effective date of
16 this chapter shall include the word "bank" and may
17 include the word "state" or "trust" in its name. A
18 state bank using the word "trust" in its name must be
19 authorized under this chapter to act in a fiduciary
20 capacity.
21 2. The provisions of this section shall not
22 require any state bank, existing and operating on
23 January 1, 1970, to add to, modify or otherwise change
24 its corporate or organizational name, either on
25 January 1, 1970, or upon renewal of its corporate
26 existence pursuant to section 524.314.
27 3. If a state bank existing and operating on
28 January 1, 1970, causes its corporate or
29 organizational name to be changed, the name as changed
30 shall comply with subsection 1 of this section.
31 4. a. A person may reserve the exclusive use of a
32 corporate or organizational name for a state bank by
33 delivering an application to the secretary of state
34 for filing. The application must set forth the name
35 and address of the applicant and the name proposed to
36 be reserved. If the secretary of state finds that the
37 corporate or organizational name applied for is
38 available, the secretary of state shall reserve the
39 name for the applicant's exclusive use for a
40 nonrenewable one hundred twenty day period.
41 b. The owner of a reserved corporate or
42 organizational name may transfer the reservation to
43 another person by delivering to the secretary of state
44 a signed notice of the transfer that states the name
45 and address of the transferee.
46 Sec.__. Section 524.312, subsections 1 and 5,
47 Code 2003, are amended to read as follows:
48 1. A state bank originally incorporated or
49 organized pursuant to this chapter shall have its
50 principal place of business within the city limits of

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1 a municipal corporation. The existence of a state
2 bank shall not, however, be affected by the subsequent
3 discontinuance of the municipal corporation. A state
4 bank existing and operating on January 1, 1970, which
5 does not have its principal place of business within
6 the city limits of a municipal corporation, may renew
7 its corporate or organizational existence pursuant to
8 section 524.314 without regard to this section and may

9 also operate as a bank or convert to and operate as a
10 bank office when acquired by or merged into another
11 state bank and approved by the superintendent.
12 5. A state bank approved under the provisions of
13 section 524.305, subsection 8, shall not commence its
14 business at any location other than within a municipal
15 corporation or unincorporated area in which was
16 located the principal place of business or an office
17 of the bank the condition of which was the basis for
18 the superintendent authorizing incorporation or
19 organization of the new state bank.

20 Sec.____. Section 524.313, Code 2003, is amended
21 to read as follows:

22 524.313 BYLAWS.

23 A state bank may adopt bylaws. The power to adopt,
24 amend, or repeal bylaws or adopt new bylaws is vested
25 in the board of directors unless reserved to the
26 shareholders by the articles of incorporation. The
27 bylaws may contain any provisions for the regulation
28 and management of the affairs of the state bank not
29 inconsistent with law or the articles of
30 incorporation. For a state bank organized as a
31 limited liability company under this chapter, "bylaws"
32 means the operating agreement of the state bank.

33 Sec.____. NEW SECTION. 524.315 STATE BANKS AS
34 LIMITED LIABILITY COMPANIES.

35 1. A state bank organized as a limited liability
36 company under this chapter shall also be subject to
37 chapter 490A, the Iowa limited liability company Act.
38 If a provision of the Iowa limited liability company
39 Act conflicts with a provision of this chapter or any
40 rule of the superintendent adopted pursuant to this
41 chapter, the provisions of this chapter or rule of the
42 superintendent shall control.

43 2. The superintendent shall possess the exclusive
44 authority to regulate a state bank organized as a
45 limited liability company under this chapter.

46 3. The superintendent may adopt rules to ensure
47 that a state bank organized as a limited liability
48 company under this chapter is operating in a safe and
49 sound manner and is subject to the superintendent's
50 authority in the same manner as a state bank organized

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1 as a corporation.

2 Sec.____. Section 524.401, subsections 2, 3, and
3 4, Code 2003, are amended to read as follows:

4 2. The minimum capital structure of a state bank
5 incorporated after July 1, 1995, or organized after
6 July 1, 2004, pursuant to the provisions of this
7 chapter shall not be less than the amount required by

8 the federal deposit insurance corporation, or its
9 successor, or a greater amount which the
10 superintendent may deem necessary in view of the
11 deposit potential of the state bank and current
12 banking standards relating to total capital
13 requirements.

14 3. A state bank incorporated on or after July 1,
15 1995, or organized after July 1, 2004, pursuant to
16 this chapter, prior to receiving authorization to do
17 business from the superintendent, shall establish
18 paid-in surplus and undivided profits as required by
19 the superintendent.

20 4. A state bank originally incorporated or
21 organized pursuant to this chapter shall establish,
22 prior to receiving authorization to do business from
23 the superintendent, paid-in surplus and undivided
24 profits as required by the superintendent.

25 Sec. ____ Section 524.525, Code 2003, is amended
26 to read as follows:

27 524.525 SUBSCRIPTION FOR SHARES BEFORE
28 INCORPORATION OR ORGANIZATION.

29 1. A subscription for shares entered into before
30 incorporation or organization of the state bank is
31 irrevocable for six months unless the subscription
32 agreement provides a longer or shorter period, or all
33 subscribers agree to revocation.

34 2. The board of directors may determine the
35 payment terms of subscriptions for shares that were
36 entered into before incorporation or organization of
37 the state bank unless the subscription agreement
38 specifies the terms. A call for payment by the board
39 of directors must be uniform so far as practicable as
40 to all shares of the same class or series, unless the
41 subscription agreement specifies otherwise.

42 3. Shares issued pursuant to subscriptions entered
43 into before incorporation or organization of the state
44 bank are fully paid and nonassessable when the state
45 bank receives the consideration specified in the
46 subscription agreement.

47 4. If a subscriber defaults in payment of money or
48 property under a subscription agreement entered into
49 before incorporation or organization of the state
50 bank, the state bank may do either of the following:

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- 1 a. Collect the amount owed as any other debt.
- 2 b. Unless the subscription agreement provides
- 3 otherwise, the state bank may rescind the agreement
- 4 and may sell the shares if the debt remains unpaid
- 5 more than twenty days after the state bank sends
- 6 written demand for payment to the subscriber.

7 Sec. ____ Section 524.528, subsection 2, paragraph
8 c, Code 2003, is amended to read as follows:

9 c. There is no preemptive right with respect to
10 any of the following:

11 (1) Shares issued as compensation to directors,
12 managers, officers, agents, or employees of the state
13 bank, its subsidiaries, or its affiliates.

14 (2) Shares issued to satisfy conversion or option
15 rights created to provide compensation to directors,
16 managers, officers, agents, or employees of the state
17 bank, its subsidiaries, or its affiliates.

18 (3) Shares authorized in articles of incorporation
19 that are issued within six months from the effective
20 date of incorporation or organization.

21 Sec. ____ Section 524.801, subsection 1, Code
22 2003, is amended to read as follows:

23 1. To sue and be sued, complain and defend, in its
24 corporate or organizational name.

25 Sec. ____ Section 524.801, unnumbered paragraph 2,
26 Code 2003, is amended to read as follows:

27 The powers granted in this section shall not be
28 construed as limiting or enlarging any grant of
29 authority made elsewhere in this chapter, or as a
30 limitation on the purposes for which a state bank may
31 be incorporated or organized.

32 Sec. ____ Section 524.1301, Code 2003, is amended
33 to read as follows:

34 524.1301 DISSOLUTION BY INCORPORATORS, ORGANIZERS,
35 OR INITIAL DIRECTORS.

36 A majority of the incorporators, organizers, or
37 initial directors of a state bank that has not issued
38 shares or has not commenced business may dissolve the
39 state bank by delivering articles of dissolution to
40 the superintendent, together with the applicable
41 filing and recording fees, for filing with the
42 secretary of state that set forth all of the
43 following:

- 44 1. The name of the state bank.
- 45 2. The date of its incorporation or organization.
- 46 3. Either of the following:
 - 47 a. That the state bank has not issued any shares.
 - 48 b. That the state bank has not commenced business.
- 49 4. That no debt of the state bank remains unpaid.
- 50 5. If shares were issued, that the net assets of

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1 the state bank remaining after the payment of all
2 necessary expenses have been distributed to the
3 shareholders.

4 6. That a majority of the incorporators,
5 organizers, or initial directors authorized the

6 dissolution.

7 Sec.____. Section 524.1302, Code 2003, is amended
8 to read as follows:

9 524.1302 INVOLUNTARY DISSOLUTION PRIOR TO
10 COMMENCEMENT OF BUSINESS.

11 Prior to the issuance of an authorization to do
12 business, the superintendent may cause the dissolution
13 of a state bank if there exists any reason why it
14 should not have been incorporated or organized under
15 this chapter or if an authorization to do business has
16 not been issued within one year after the date of its
17 incorporation or organization, or such longer time as
18 the superintendent may allow for satisfaction of
19 conditions precedent to its issuance. After giving
20 the state bank adequate notice and an opportunity for
21 hearing, the superintendent shall certify the
22 applicable facts by the filing of a statement with the
23 secretary of state, who shall thereafter issue a
24 certificate of dissolution. Upon the issuance of such
25 certificate of dissolution by the secretary of state,
26 the corporate or organizational existence of the state
27 bank shall cease.

28 Sec.____. Section 524.1309, Code 2003, is amended
29 to read as follows:

30 524.1309 BECOMING SUBJECT TO CHAPTER 490 OR 490A.

31 In lieu of the dissolution procedure prescribed in
32 sections 524.1303 to 524.1306, a state bank may cease
33 to carry on the business of banking and, after
34 compliance with this section, continue as a
35 corporation subject to chapter 490; or if the state
36 bank is organized as a limited liability company under
37 this chapter, continue as a limited liability company
38 subject to chapter 490A.

39 1. A state bank ~~which~~ that has commenced business
40 may propose to voluntarily cease to carry on the
41 business of banking and become a corporation subject
42 to chapter 490, or a limited liability company subject
43 to chapter 490A, upon the affirmative vote of the
44 holders of at least a majority of the shares entitled
45 to vote on such proposal, adopting a plan involving
46 both a provision for acquisition of its assets and
47 assumption of its liabilities by another state bank,
48 national bank, or other financial institution insured
49 by the federal deposit insurance corporation, and a
50 provision for continuance of its business if

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1 acquisition of its assets and assumption of its
2 liabilities is not effected, or any other plan
3 providing for the cessation of banking business and
4 the payment of its liabilities.

5 2. The application to the superintendent for
6 approval of a plan described in subsection 1 ~~of this~~
7 ~~section~~ shall be treated by the superintendent in the
8 same manner as an application for approval of a plan
9 of dissolution under ~~subsection 2~~ of section 524.1303,
10 subsection 2, and shall be subject to ~~subsection 3~~ of
11 section 524.1303, subsection 3.

12 3. Immediately upon adoption and approval of a
13 plan to voluntarily cease to carry on the business of
14 banking and become a corporation subject to chapter
15 490, or a limited liability company subject to chapter
16 490A, the state bank shall deliver to the
17 superintendent a plan to cease the business of banking
18 and become a corporation subject to chapter 490, or a
19 limited liability company subject to chapter 490A,
20 which shall be signed by two of its duly authorized
21 officers and shall contain the name of the state bank,
22 the post office address of its principal place of
23 business, the name and address of its officers and
24 directors, the number of shares entitled to vote on
25 the plan and the number of shares voted for or against
26 the plan, respectively, the nature of the business to
27 be conducted by the corporation under chapter 490, or
28 by the limited liability company subject to chapter
29 490A, and the general nature of the assets to be held
30 by the corporation or company.

31 4. Upon approval of the plan by the
32 superintendent, the state bank shall immediately
33 surrender to the superintendent its authorization to
34 do business as a bank and shall cease to accept
35 deposits and carry on the banking business except
36 insofar as may be necessary for it to complete the
37 settlement of its affairs as a state bank in
38 accordance with subsection 5.

39 5. The board of directors has full power to
40 complete the settlement of the affairs of the state
41 bank. Within thirty days after approval by the
42 superintendent of the plan to cease the business of
43 banking and become a corporation subject to chapter
44 490, or a limited liability company subject to chapter
45 490A, the state bank shall give notice of its intent
46 to persons identified in section 524.1305, subsection
47 4, in the manner provided for in that subsection. In
48 completing the settlement of its affairs as a state
49 bank the state bank shall also follow the procedure
50 prescribed in section 524.1305, subsections 4, 5, and

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1 6.

2 6. Upon completion of all the requirements of this
3 section, the state bank shall deliver to the
4 superintendent articles of intent to be subject to
5 chapter 490 or 490A, together with the applicable
6 filing and recording fees, which shall set forth that
7 the state bank has complied with this section, that it
8 has ceased to carry on the business of banking, and
9 the information required by section 490.202 relative
10 to the contents of articles of incorporation under
11 chapter 490, or article of organization under chapter
12 490A. If the superintendent finds that the state bank
13 has complied with this section and that the articles
14 of intent to be subject to chapter 490 or 490A satisfy
15 the requirements of this section, the superintendent
16 shall deliver them to the secretary of state for
17 filing and recording in the secretary of state's
18 office, and they shall be filed and recorded in the
19 office of the county recorder.

20 7. Upon the filing of the articles of intent to be
21 subject to chapter 490 or 490A, the state bank shall
22 cease to be a state bank subject to this chapter, and
23 shall cease to have the powers of a state bank subject
24 to this chapter and shall become a corporation subject
25 to chapter 490 or a limited liability company subject
26 to chapter 490A. The secretary of state shall issue a
27 certificate as to the filing of the articles of intent
28 to be subject to chapter 490 or 490A, and send the
29 certificate to the corporation or limited liability
30 company or its representative. The articles of intent
31 to be subject to chapter 490 or 490A shall be the
32 articles of incorporation of the corporation or a
33 limited liability company. The provisions of chapter
34 490 or 490A becoming applicable to a corporation or
35 limited liability company formerly doing business as a
36 state bank shall not affect any right accrued or
37 established, or liability or penalty incurred under
38 this chapter prior to the filing with the secretary of
39 state of the articles of intent to be subject to
40 chapter 490 or 490A.

41 8. A shareholder of a state bank who objects to
42 adoption by the state bank of a plan to cease to carry
43 on the business of banking and to continue as a
44 corporation subject to chapter 490, or a limited
45 liability company subject to chapter 490A, is entitled
46 to appraisal rights provided for in chapter 490,
47 division XIII, or in chapter 490A, subchapter VII.

48 9. A state bank, at any time prior to the approval
49 of the articles of intent to become subject to chapter
50 490 or 490A, may revoke the proceedings in the manner

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1 prescribed by section 524.1306.

2 Sec.____. Section 524.1405, subsection 2,
3 paragraph f, Code 2003, is amended to read as follows:

4 f. The shares of each party to the merger that are
5 to be converted into shares, obligations, or other
6 securities of the surviving party or any other
7 corporation or limited liability company or into cash
8 or other property are converted, and the former
9 holders of the shares are entitled only to the rights
10 provided in the articles of merger or to their rights
11 under section 524.1406.

12 Sec.____. Section 524.1408, Code 2003, is amended
13 to read as follows:

14 524.1408 MERGER OF CORPORATION OR LIMITED
15 LIABILITY COMPANY SUBSTANTIALLY OWNED BY A STATE BANK.

16 A state bank owning at least ninety percent of the
17 outstanding shares, of each class, of another
18 corporation or limited liability company which it is
19 authorized to own under this chapter, may merge the
20 other corporation or limited liability company into
21 itself without approval by a vote of the shareholders
22 of either the state bank or the subsidiary corporation
23 or limited liability company. The board of directors
24 of the state bank shall approve a plan of merger, mail
25 to shareholders of record of the subsidiary
26 corporation or holders of membership interests in the
27 subsidiary limited company, and prepare and execute
28 articles of merger in the manner provided for in
29 section 490.1105. The articles of merger, together
30 with the applicable filing and recording fees, shall
31 be delivered to the superintendent who shall, if the
32 superintendent approves of the proposed merger and if
33 the superintendent finds the articles of merger
34 satisfy the requirements of this section, deliver them
35 to the secretary of state for filing and recording in
36 the secretary of state's office, and they shall be
37 filed in the office of the county recorder. The
38 secretary of state upon filing the articles of merger
39 shall issue a certificate of merger and send the
40 certificate to the state bank and a copy of it to the
41 superintendent.

42 Sec.____. Section 524.1802, subsection 1, Code
43 2003, is amended by adding the following new
44 paragraph:

45 NEW PARAGRAPH. gg. "Incorporated in any state"
46 means a limited liability company organized as a state
47 bank under this chapter and a limited liability
48 company organized as a state bank under the laws of
49 any state as defined in 12 U.S.C. } 1813(a)(3).

50 Sec.____. Section 524.2001, Code 2003, is amended

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1 to read as follows:
 2 524.2001 APPLICABILITY OF OTHER CHAPTERS.
 3 Chapters 490, ~~490A~~, 491, 492, and 493 do not apply
 4 to banks except as provided by this chapter.
 5 DIVISION IV
 6 REAL PROPERTY LOANS
 7 Sec. ____ Section 535.8, subsection 2, paragraph
 8 b, unnumbered paragraph 2, Code 2003, is amended to
 9 read as follows:
 10 The lender shall not charge the borrower for the
 11 cost of revenue stamps or real estate commissions
 12 which are paid by the seller.
 13 ~~PARAGRAPH DIVIDED. Collection~~ The collection of
 14 any ~~cost~~ costs other than as expressly permitted by
 15 this lettered paragraph "b" is prohibited. However,
 16 additional costs incurred in connection with a loan
 17 under this paragraph "b", if bona fide and reasonable,
 18 may be collected by a state-chartered financial
 19 institution licensed under chapter 524, 533, or 534,
 20 to the extent permitted under applicable federal law
 21 as determined by the office of the comptroller of the
 22 currency of the United States department of treasury,
 23 the national credit union association, or the office
 24 of thrift supervision of the United States department
 25 of treasury. Such costs shall apply only to the same
 26 type of state chartered entity as the federally
 27 chartered entity affected."
 28 3. Title page, by striking lines 1 and 2 and
 29 inserting the following: "An Act relating to the
 30 regulation of financial institutions including banks,
 31 credit unions, and real property loan lenders."
 32 4. By renumbering as necessary.

Jenkins of Black Hawk offered the following amendment [H-8250](#),
 to amendment [H-8244](#), filed by him from the floor and moved its
 adoption:

[H-8250](#)

1 Amend the amendment, [H-8244](#), to [House File 2484](#) as
 2 follows:
 3 1. Page 2, line 1, by striking the words
 4 "investment permitted by" and inserting the following:
 5 "permissible investment for".

Amendment [H-8250](#) was adopted.

Jenkins of Black Hawk offered the following amendment [H-8249](#),
 to amendment [H-8244](#), filed by him from the floor and moved its
 adoption:

[H-8249](#)

1 Amend the amendment, [H-8244](#), to [House File 2484](#) as
 2 follows:
 3 1. Page 6, line 12, by striking the word "ARE"
 4 and inserting the following: "AS".
 5 2. Page 20, line 27, by inserting after the word
 6 "affected" the following: "and to an insurer
 7 organized under chapter 508 or 515, or otherwise
 8 authorized to conduct the business of insurance in
 9 this state".

Amendment [H-8249](#) was adopted.

Eichhorn of Hamilton offered the following amendment [H-8256](#), to amendment [H-8244](#), filed by him from the floor and moved its adoption:

[H-8256](#)

1 Amend the amendment, [H-8244](#), to [House File 2484](#) as
 2 follows:
 3 1. Page 20, by striking lines 5 through 27.
 4 2. Page 20, by striking lines 30 and 31 and
 5 inserting the following: "regulation of banks and
 6 credit unions."

A non-record roll call was requested.

The ayes were 36, nays 54.

Amendment [H-8256](#) lost.

On motion by Jenkins of Black Hawk amendment [H-8244](#), as amended, was adopted.

Sands of Louisa moved that the bill be read a last time now and placed upon its passage which motion prevailed and the bill was read a last time.

On the question "Shall the bill pass?" ([H.F. 2484](#))

The ayes were, 85:

Alons	Arnold	Baudler	Bell
Boal	Boggess	Bukta	Carroll
Chambers	Cohoon	Connors	Dandekar

Davitt	De Boef	Dennis	Dix
Dolecheck	Drake	Elgin	Foege
Freeman	Gaskill	Gipp	Granzow
Greiner	Hanson	Heaton	Heddens
Hoffman	Horbach	Huseman	Huser
Hutter	Jacobs	Jacoby	Jenkins
Jones	Klemme	Kramer	Kuhn
Kurtenbach	Lalk	Lensing	Lukan
Lykam	Maddox	Mascher	McCarthy
Mertz	Miller	Murphy	Oldson
Olson, D.	Olson, S.	Paulsen	Petersen
Quirk	Raecker	Rants, Spkr.	Rasmussen
Rayhons	Reasoner	Roberts	Sands
Schickel	Shomshor	Smith	Stevens
Struyk	Swaim	Taylor, T.	Thomas
Tjepkes	Tymeson	Upmeyer	Van Engelenhoven
Van Fossen, J.K.	Van Fossen, J.R.	Watts	Wendt
Whitaker	Whitead	Wilderdyke	Wise
Hahn, Presiding			

The nays were, 14:

Berry	Boddicker	Eichhorn	Fallon
Ford	Frevert	Greimann	Hogg
Hunter	Jochum	Osterhaus	Shoultz
Taylor, D.	Winckler		

Absent or not voting, 1:

Manternach

The bill having received a constitutional majority was declared to have passed the House and the title, as amended, was agreed to.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker: I am directed to inform your honorable body that the Senate has on March 16, 2004, adopted the following resolution in which the concurrence of the Senate was asked:

[House Joint Resolution 2005](#), a joint resolution authorizing the temporary use and consumption of wine and beer in the State Capitol in conjunction with the 2004 Annual Meeting of the Midwestern Legislative Conference of the Council of State Governments.

Also: That the Senate has on March 16, 2004, amended and passed the following bill in which the concurrence of the Senate was asked:

[House File 2340](#), a bill for an act relating to the temporary absence of an elected city official on active military duty and the appointment of a temporary replacement and providing an effective date.

Also: That the Senate has on March 16, 2004, adopted the following resolution in which the concurrence of the House is asked:

[Senate Joint Resolution 2009](#), a joint resolution authorizing the temporary use and consumption of wine in the State Capitol in conjunction with the 2004 Annual Meeting of the MidAmerican Chapter of the American Association of Law Librarians.

Also: That the Senate has on March 16, 2004, amended and passed the following bill in which the concurrence of the House is asked:

[Senate File 2154](#), a bill for an act relating to parties to whom traffic citations are issued for failure to obey school bus warning devices.

Also: That the Senate has on March 16, 2004, amended and passed the following bill in which the concurrence of the House is asked:

[Senate File 2243](#), a bill for an act relating to the transfer and apportionment of district associate judges and to the qualifications of magistrates, and providing for a study.

Also: That the Senate has on March 16, 2004, concurred in the House amendment and passed the following bill in which the concurrence of the Senate was asked:

[Senate File 2290](#), a bill for an act relating to economic development incentives under the new jobs and income program, the new capital investment program, and the enterprise zone program and providing an effective date.

MICHAEL E. MARSHALL, Secretary

Speaker Rants in the chair at 7:44 p.m.

IMMEDIATE MESSAGE

Gipp of Winneshiek asked and received unanimous consent that [House File 2484](#) be immediately messaged to the Senate.

EXPLANATION OF VOTE

I was necessarily absent from the House chamber on March 15, 2004. Had I been present, I would have voted "aye" on House Files 2352, 2462, 2493 and Senate Files 2059, 2070, 2112, 2166, 2167, 2188, 2230, 2240, 2253 and 2261 and "nay" on [House File 2505](#) and [Senate File 2189](#).

DE BOEF of Keokuk

I was necessarily absent from the House chamber on March 16, 2004. Had I been present, I would have voted "aye" on [House File 2395](#).

RAECKER of Polk

I was necessarily absent from the House chamber on March 15, 2004. Had I been present, I would have voted "aye" on House Files 2352, 2462, 2493 and Senate Files 2059, 2070, 2112, 2166, 2167, 2188, 2189, 2230, 2240, 2253 and 2261 and "nay" on [House File 2505](#).

ROBERTS of Carroll

I was necessarily absent from the House chamber on March 15, 2004. Had I been present, I would have voted "aye" on House Files 2352, 2462, 2493, 2505 and Senate Files 2059, 2070, 2112, 2166, 2167, 2188, 2189, 2230, 2240, 2253 and 2261.

WHITEAD of Woodbury

I was necessarily absent from the House chamber on March 15, 2004. Had I been present, I would have voted "aye" on House Files 2352, 2462, 2493, 2505 and Senate Files, 2059, 2070, 2112, 2166, 2167, 2188, 2189, 2230, 2240, 2253 and 2261.

WISE of Lee

CERTIFICATES OF RECOGNITION

MR. SPEAKER: The Chief Clerk of the House respectfully reports that certificates of recognition have been issued as follows.

MARGARET A. THOMSON
Chief Clerk of the House

- 2004\731 Lyle Dockwell, Latimer – For celebrating his 80th birthday.
- 2004\732 Fred Trager, Hampton – For celebrating his 90th birthday.
- 2004\733 Shirley and George Dunham, LeGrand – For celebrating their 60th wedding anniversary.
- 2004\734 Harold Casper, Melbourne – For celebrating his 83rd birthday.

- 2004\735 Veda and Paul Miller, Lacona – For celebrating their 70th wedding anniversary.
- 2004\736 Dolores Kloberdanz, Webster City – For celebrating her 80th birthday.
- 2004\737 Andy Wenzel, Clarion/Goldfield Elementary – For winning 1st place in the Iowa Mother’s Association Essay Contest.
- 2004\738 Ellen Odle, Clarion/Goldfield Elementary – For receiving 2nd place in the Iowa Mother’s Association Essay Contest.
- 2004\739 Darin Eisenger, Clarion – For earning All-American status as an amateur in Triathlon USA’s 2003 National Rankings.
- 2004\740 Brittany Helgeson, Clarion/Goldfield High School – For winning the Girls State Wrestling Championship.
- 2004\741 Roxanne Soesbe, Clarion/Goldfield High School – For winning the Girls State Wrestling Championship.
- 2004\742 Lavonne Reinke, Larchwood – For being named Iowa Clerk of the Year.
- 2004\743 Joshua Van Roekel, Sioux Center – For attaining the Rank of Eagle Scout, the highest rank in the Boy Scouts of America.
- 2004\744 Heikalena and Sylvester Harms, George – For celebrating their 60th wedding anniversary.
- 2004\745 Jacob Krapfl, New Vienna – For his outstanding performance of duty in Iraq as part of Operation Iraqi Freedom.
- 2004\746 Iola Jensen, West Union – For celebrating her 90th birthday.
- 2004\747 Maria Kalm, Maynard – For celebrating her 80th birthday.
- 2004\748 Ruth Nicholson, Oelwein – For celebrating her 96th birthday.
- 2004\749 Lenora Fagenbaum, Sumner – For celebrating her 90th birthday.
- 2004\750 Elsie Warnke, Sumner – For celebrating her 88th birthday.
- 2004\751 Andrew Huhman, Denver – For attaining the rank of Eagle Scout, the highest rank in the Boy Scouts of America.
- 2004\752 Anna Kuhnberg, Oelwein – For celebrating her 100th birthday.
- 2004\753 Olinda Aschbrenner, Sumner – For celebrating her 95th birthday.
- 2004\754 Margaret Reinertson, Ocheyedon – For celebrating her 90th birthday.

- 2004\755 Paul Keitel, De Witt – For being inducted into the 2004 Iowa High School Athletic Association's Officials Hall of Fame.
- 2004\756 Raymond Culbertson, Bagley – For celebrating his 80th birthday.
- 2004\757 Jack and Shirley Drake, Lewis – For celebrating their 50th wedding anniversary.
- 2004\758 Chad Larson, Milford – For attaining the rank of Eagle Scout, the highest rank in Boy Scouts of America.
- 2004\759 Jonathan Vaage, Milford – For attaining the rank of Eagle Scout, the highest rank in the Boy Scouts of America.

SUBCOMMITTEE ASSIGNMENTS

[House File 2372](#)

Ways and Means: Olson, S., Chair; Drake and Frevert.

[House File 2417](#)

Ways and Means: Carroll, Chair; Frevert and Tymeson.

[House File 2474](#)

Ways and Means: Lalk, Chair; Davitt and Drake.

[House File 2477](#)

Ways and Means: Boal, Chair; Huser and Lukan.

[Senate File 449](#)

Ways and Means: Paulsen, Chair; Sands and Shoultz.

[Senate File 2249](#)

Public Safety: Baudler, Chair; Hunter and Klemme.

[Senate File 2278](#)

Public Safety: Sands, Chair; De Boef and Heddens.

HOUSE STUDY BILL COMMITTEE ASSIGNMENTS

[H.S.B. 719](#) **Oversight**

Relating to farm mediation, by providing for participation by foreign business entities.

H.S.B. 720 Ways and Means

A joint resolution proposing an amendment to the Constitution of the State of Iowa to require approval by vote of the people before certain tax or fee increases take effect.

COMMITTEE RECOMMENDATIONS

MR. SPEAKER: The Chief Clerk of the House respectfully reports that the following committee recommendations have been received and are on file in the office of the Chief Clerk.

MARGARET A. THOMSON
Chief Clerk of the House

COMMITTEE ON ECONOMIC GROWTH

House File 2540, a bill for an act relating to economic development incentives under the new jobs and income program, the new capital investment program, and the enterprise zone program and providing an effective date.

Fiscal Note is not required.

Recommended **Amend and Do Pass with amendment H-8246** March 16, 2004.

Pursuant to Rule 31.7, **House File 2540** was referred to the committee on ways and means.

COMMITTEE ON TRANSPORTATION

Senate File 2066, a bill for an act modifying requirements for securing children transported in motor vehicles and making a penalty applicable.

Fiscal Note is not required.

Recommended **Do Pass** March 16, 2004.

COMMITTEE ON WAYS AND MEANS

Committee Bill (Formerly **House Study Bill 635**), relating to utility replacement taxes by redefining major additions for purposes of allocating replacement taxes to taxing districts, requiring certain taxpayers to report estimated replacement taxes, and changing or establishing certain reporting dates and including effective and retroactive applicability date provisions.

Fiscal Note is not required.

Recommended **Do Pass** March 15, 2004.

RESOLUTION FILED

[HCR 120](#), by Gipp, a concurrent resolution honoring the Iowa State Fair in its sesquicentennial year.

Laid over under **Rule 25**.

AMENDMENTS FILED

H-8247	H.F. 2471	Hanson of Benton
H-8248	S.F. 297	Lukan of Dubuque
		Miller of Webster
H-8251	H.F. 2524	Eichhorn of Hamilton
H-8252	H.F. 2521	Oldson of Polk
		Miller of Webster
		Quirk of Chickasaw
		Swaim of Davis
		Hogg of Linn
		Petersen of Polk
		Struyk of Pottawattamie
		Wise of Lee
H-8258	H.F. 2473	Carroll of Poweshiek
		Smith of Marshall
H-8259	H.F. 2441	Eichhorn of Hamilton
H-8260	H.F. 2340	Senate Amendment
H-8261	H.F. 2532	Bell of Jasper
H-8262	H.F. 2532	Elgin of Linn
H-8263	H.F. 2524	Eichhorn of Hamilton

On motion by Gipp of Winneshiek the House adjourned at 7:45 p.m., until 8:45 a.m., Wednesday, March 17, 2004.