

For Senate Business 4/7/87  
To Pass 4/10/87 (p. 1266)

FILED MAR 20 1987

SENATE FILE 470  
BY COMMITTEE ON JUDICIARY  
(formerly SSB 228)  
*Approved (p. 827)*

Passed Senate, Date 4-6-87 (p. 1105) Passed House, Date 4-14-87 (p. 1300)  
Vote: Ayes 29 Nays 18 Vote: Ayes 68 Nays 27  
Approved April 27, 1987 (p. 1542)

A BILL FOR

1 An Act relating to corporate takeovers.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 502.102, subsection 11, Code 1987, is  
2 amended to read as follows:

3 11. "Securities Act of 1933", "Securities Exchange Act of  
4 1934", "Public Utility Holding Company Act of 1935",  
5 "Investment Company Act of 1940", "Internal Revenue Code of  
6 1954" and "Agricultural Marketing Act" mean the federal  
7 statutes of those names, ~~as amended before January 17, 1976.~~

8 Sec. 2. Section 502.102, subsections 14, 15, 16 and 17,  
9 Code 1987, are amended by striking the subsections and  
10 inserting the following:

11 14. For the purposes of sections 502.211 through 502.218,  
12 unless the context otherwise requires:

13 a. "Associate" means a person acting jointly or in concert  
14 with another for the purpose of acquiring, holding or  
15 disposing of, or exercising any voting rights attached to the  
16 equity securities of a target company.

17 b. "Equity security" means any stock or similar security,  
18 and includes the following:

19 (1) Any security convertible, with or without  
20 consideration, into a stock or similar security.

21 (2) Any warrant or right to subscribe to or purchase a  
22 stock of similar security.

23 (3) Any security carrying a warrant or right to subscribe  
24 to or purchase a stock or similar security.

25 (4) Any other security which the administrator deems to be  
26 of a similar nature and considers necessary or appropriate,  
27 according to rules prescribed by the administrator for the  
28 public interest and protection of investors, to be treated as  
29 an equity security.

30 c. "Offeror" means a person who makes or in any manner  
31 participates in making a takeover offer. It does not include  
32 a supervised financial institution or broker-dealer loaning  
33 funds to an offeror in the ordinary course of its business, or  
34 any supervised financial institution, broker-dealer, attorney,  
35 accountant, consultant, employee, or other person furnishing

1 information or advice to or performing ministerial duties for  
2 an offeror, and who does not otherwise participate in the  
3 takeover offer.

4 d. "Offeree" means the beneficial owner, who is a resident  
5 of this state, of equity securities which an offeror offers to  
6 acquire in connection with a takeover offer.

7 e. "Takeover offer":

8 (1) Means the offer to acquire any equity securities of a  
9 target company from a resident of this state pursuant to a  
10 tender offer or request or invitation for tenders, if after  
11 the acquisition of all securities acquired pursuant to the  
12 offer either of the following are true:

13 (a) The offeror would be directly or indirectly a  
14 beneficial owner of more than ten percent of any class of the  
15 outstanding equity securities of the target company.

16 (b) The beneficial ownership by the offeror of any class  
17 of the outstanding equity securities of the target company  
18 would be increased by more than five percent. However, this  
19 provision does not apply if after the acquisition of all  
20 securities acquired pursuant to the offer, the offeror would  
21 not be directly or indirectly a beneficial owner of more than  
22 ten percent of any class of the outstanding equity securities  
23 of the target company.

24 (2) Does not include the following:

25 (a) An offer in connection with the acquisition of a  
26 security which, together with all other acquisitions by the  
27 offeror of securities of the same class of equity securities  
28 of the target company, would not result in the offeror having  
29 acquired more than two percent of this class of securities  
30 during the preceding twelve-month period.

31 (b) An offer by the target company to acquire its own  
32 equity securities if such offer is subject to section 13(e) of  
33 the Securities Exchange Act of 1934.

34 (c) An offer in which the target company is an insurance  
35 company or insurance holding company subject to regulation by

1 the commissioner of insurance, a financial institution subject  
2 to regulation by the state superintendent of banking or the  
3 state auditor, or a public utility subject to regulation by  
4 the commerce commission.

5 f. "Target company" means an issuer of publicly-traded  
6 equity securities which has at least twenty percent of its  
7 equity securities beneficially held by residents of this state  
8 and has substantial assets in this state. For the purposes of  
9 this chapter, an equity security is publicly traded if a  
10 trading market exists for the security. A trading market  
11 exists if the security is traded on a national securities  
12 exchange, whether or not registered pursuant to the Securities  
13 Exchange Act of 1934, or on the over-the-counter market.

14 g. "Beneficial owner" includes, but is not limited to, any  
15 person who directly or indirectly, through any contract,  
16 arrangement, understanding, or relationship, has or shares the  
17 power to vote or direct the voting of a security or has or  
18 shares the power to dispose of or otherwise direct the  
19 disposition of the security. A person is the beneficial owner  
20 of securities beneficially owned by any relative or spouse or  
21 relative of the spouse residing in the home of the person, any  
22 trust or estate in which the person owns ten percent or more  
23 of the total beneficial interest or serves as trustee or  
24 executor, any corporation or entity in which the person owns  
25 ten percent or more of the equity, and any affiliate or  
26 associate of the person.

27 h. "Beneficial ownership" includes, but is not limited to,  
28 the right, exercisable within sixty days, to acquire  
29 securities through the exercise of options, warrants, or  
30 rights or the conversion of convertible securities. The  
31 securities subject to these options, warrants, rights, or  
32 conversion privileges held by a person are outstanding for the  
33 purpose of computing the percentage of outstanding securities  
34 of the class owned by the person, but are not outstanding for  
35 the purpose of computing the percentage of the class owned by

1 any other person.

2 15. "Interest at the legal rate" means the interest rate  
3 for judgments specified in section 535.3.

4 Sec. 3. Section 502.211, Code 1987, is amended by striking  
5 the section and inserting the following:

6 502.211 REGISTRATION REQUIREMENT.

7 1. It is unlawful for a person to make a takeover offer or  
8 to acquire any equity securities pursuant to the offer unless  
9 the offer is valid under sections 502.211 through 502.218. A  
10 takeover offer is effective when the offeror files with the  
11 administrator a registration statement containing the  
12 information prescribed in subsection 6. Not later than the  
13 date of filing of the registration statement, the offeror  
14 shall deliver a copy of the registration statement by  
15 certified mail to the target company at its principal office  
16 and publicly disclose the material terms of the proposed  
17 offer. Public disclosure shall require, at a minimum, that a  
18 copy of the registration statement be supplied to all broker-  
19 dealers maintaining an office in this state currently quoting  
20 the security.

21 2. The registration statement shall be filed on forms  
22 prescribed by the administrator, and shall be accompanied by a  
23 consent by the offeror to service of process and filing fee  
24 specified in section 502.216, and contain the following  
25 information:

26 a. All information specified in subsection 6.

27 b. Two copies of all solicitation materials intended to be  
28 used in the takeover offer, and in the form proposed to be  
29 published, sent, or delivered to offerees.

30 c. Additional information as prescribed by the  
31 administrator by rule, pursuant to chapter 17A, prior to the  
32 making of the offer.

33 3. Registration shall not be considered approval by the  
34 administrator, and any representation to the contrary is  
35 unlawful.

1 4. Within three calendar days of the date of filing of the  
2 registration statement, the administrator may, by order,  
3 summarily suspend the effectiveness of the takeover offer if  
4 the administrator determines that the registration does not  
5 contain all of the information specified in subsection 6 or  
6 that the takeover offer materials provided to offerees do not  
7 provide full disclosure to offerees of all material  
8 information concerning the takeover offer. The suspension  
9 shall remain in effect only until the determination following  
10 a hearing held pursuant to subsection 5.

11 5. A hearing shall be scheduled by the administrator for  
12 each suspension under this section, and the hearing shall be  
13 held within ten calendar days of the date of the suspension.  
14 The administrator's determination following the hearing shall  
15 be made within three calendar days after the hearing has been  
16 completed, but not more than sixteen days after the date of  
17 the suspension. The administrator may prescribe different  
18 time periods than those specified in the subsection by rule or  
19 order.

20 If, based upon the hearing, the administrator finds that  
21 the registration statement fails to provide for full and fair  
22 disclosure of all material information concerning the offer,  
23 or that the takeover is in violation of any of the provisions  
24 of section 502.211 through 502.218, the administrator shall  
25 permanently suspend the effectiveness of the takeover offer,  
26 subject to the right of the offeror to correct disclosure and  
27 other deficiencies identified by the administrator and to  
28 reinstate the takeover offer by filing a new or amended  
29 registration statement pursuant to this section.

30 6. The form required to be filed by subsection 2,  
31 paragraph "a", shall contain all of the following information:

32 a. The identity and background of all persons on whose  
33 behalf the acquisition of any equity security of the target  
34 company has been or is to be effected.

35 b. The source and amount of funds or other consideration

1 used or to be used in acquiring any equity security including,  
2 if applicable, a statement describing any securities which are  
3 being offered in exchange for the equity securities of the  
4 target company and, if any part of the acquisition price is or  
5 will be represented by borrowed funds or other consideration,  
6 a description of the material terms of any financing  
7 arrangements and the names of the parties from whom the funds  
8 were or are to be borrowed.

9 c. If the offeror is other than a natural person,  
10 information concerning its organization and operations,  
11 including the year, form and jurisdiction of its organization,  
12 a description of each class of equity security and long-term  
13 debt, a description of the business conducted by the offeror  
14 and its subsidiaries and any material changes in the offeror  
15 or subsidiaries during the past three years, a description of  
16 the location and character of the principal properties of the  
17 offeror and its subsidiaries, a description of any pending and  
18 material legal or administrative proceedings in which the  
19 offeror or any of its affiliates is a party, the names of all  
20 directors and executive officers of the offeror and their  
21 material business activities and affiliations during the past  
22 five years, and financial statements of the offeror in a form  
23 and for periods of time as the administrator may, pursuant to  
24 chapter 17A and prior to the making of the offer, prescribe.

25 d. If the offeror is a natural person, information  
26 concerning the offeror's identity and background, including  
27 business activities and affiliations during the past five  
28 years and a description of any pending and material legal or  
29 administrative proceedings in which the offeror is a party.

30 e. If the purpose of the acquisition is to gain control of  
31 the target company, the material terms of any plans or  
32 proposals which the offeror has, upon gaining control, to  
33 liquidate the target company, sell its assets, effect its  
34 merger or consolidation, change the location of its principal  
35 executive office or of a material portion of its business

1 activities, change its management or policies of employment,  
2 materially alter its relationship with suppliers or customers  
3 or the community in which it operates, or make any other major  
4 changes in its business, corporate structure, management or  
5 personnel, and other information which would materially affect  
6 the shareholders' evaluation of the acquisition.

7 f. The number of shares or units of any equity security of  
8 the target company owned beneficially by the offeror and any  
9 affiliate or associate of the offeror, together with the name  
10 and address of each affiliate or associate.

11 g. The material terms of any contract, arrangement, or  
12 understanding with any other person with respect to the equity  
13 securities of the target company by which the offeror has or  
14 will acquire any interest in additional equity securities of  
15 the target company, or is or will be obligated to transfer any  
16 interest in the equity securities to another.

17 h. Information required to be included in a tender offer  
18 statement pursuant to section 14(d) of the Securities Exchange  
19 Act of 1934 and the rules and regulations of the securities  
20 and exchange commission issued pursuant to the Act.

21 Sec. 4. Section 502.212, Code 1987, is amended by striking  
22 the section and inserting the following:

23 502.212 FILING OF SOLICITATION MATERIALS.

24 Copies of all advertisements, circulars, letters, or other  
25 materials disseminated by the offeror or the target company,  
26 soliciting or requesting the acceptance or rejection of a  
27 takeover offer shall be filed with the administrator and sent  
28 to the target company or offeror not later than the time the  
29 solicitation or request materials are first published, sent,  
30 or given to the offerees. The administrator may prohibit the  
31 use of any materials deemed false or misleading.

32 Sec. 5. Section 502.213, Code 1987, is amended by striking  
33 the section and inserting the following:

34 502.213 FRAUDULENT AND DECEPTIVE PRACTICES.

35 It is unlawful for an offeror, target company, affiliate or

1 associate of an offeror or target company, or broker-dealer  
2 acting on behalf of an offeror or target company to engage in  
3 a fraudulent, deceptive, or manipulative act or practice in  
4 connection with a takeover offer. For purposes of this  
5 section, an unlawful act or practice includes, but is not  
6 limited to, the following:

7 1. The publication or use in connection with a takeover  
8 offer of a false statement of a material fact, or the omission  
9 of a material fact which renders the statements made  
10 misleading.

11 2. The purchase of any of the equity securities of an  
12 officer, director, or beneficial owner of five percent or more  
13 of the equity securities of the target company by the offeror  
14 or the target company for a consideration greater than that to  
15 be paid to other shareholders, unless the terms of the  
16 purchase are disclosed in a registration statement filed  
17 pursuant to section 502.211.

18 3. The refusal by a target company to permit an offeror  
19 who is a shareholder of record to examine or copy its list of  
20 shareholders, pursuant to the applicable corporation statutes,  
21 for the purpose of making a takeover offer.

22 4. The refusal by a target company to mail any  
23 solicitation materials published by the offeror to its  
24 security holders with reasonable promptness after receipt from  
25 the offeror of the materials, together with the reasonable  
26 expenses of postage and handling.

27 5. The solicitation of any offeree for acceptance or  
28 rejection of a takeover offer, or acquisition of any equity  
29 security pursuant to a takeover offer, when the offer is  
30 suspended under section 502.211, provided, however, that the  
31 target company may communicate during a suspension with its  
32 equity security holders to the extent required to respond to  
33 the takeover offer made pursuant to the Securities Exchange  
34 Act of 1934.

35 Sec. 6. Section 502.214, Code 1987, is amended by striking

1 the section and inserting the following:

2 502.214 LIMITATIONS ON OFFERORS.

3 1. A takeover offer shall contain substantially the same  
4 terms for shareholders residing within and outside this state.

5 2. An offeror shall provide that any equity securities of  
6 a target company deposited or tendered pursuant to a takeover  
7 offer may be withdrawn by or on behalf of an offeree within  
8 seven days after the date the offer has become effective and  
9 after sixty days from the date the offer has become effective,  
10 or as otherwise determined by the administrator pursuant to a  
11 rule or order issued for the protection of the shareholders.

12 3. If an offeror makes a takeover offer for less than all  
13 the outstanding equity securities of any class and, within ten  
14 days after the offer has become effective and copies of the  
15 offer, or notice of any increase in the consideration offered,  
16 are first published or sent or given to equity security  
17 holders, the number of securities deposited or tendered  
18 pursuant to the offer is greater than the number of securities  
19 that the offeror has offered to accept and pay for, the  
20 securities shall be accepted pro rata, disregarding fractions,  
21 according to the number of securities deposited or tendered  
22 for each offeree.

23 4. If an offeror varies the terms of a takeover offer  
24 before the offer's expiration date by increasing the  
25 consideration offered to equity security holders, the offeror  
26 shall pay the increased consideration for all equity  
27 securities accepted, whether the securities have been accepted  
28 by the offeror before or after the variation in the terms of  
29 the offer.

30 5. An offeror shall not make a takeover offer or acquire  
31 any equity securities in this state pursuant to a takeover  
32 offer during the period of time that an administrator's  
33 proceeding alleging a violation of this chapter is pending  
34 against the offeror.

35 6. An offeror shall not acquire, remove, or exercise

1 control, directly or indirectly, over any target company  
2 assets located in this state pursuant to a takeover offer  
3 during the period of time that an administrator's proceeding  
4 alleging a violation of this chapter is pending against the  
5 offeror.

6 7. An offeror shall not acquire from a resident of this  
7 state an equity security of any class of a target company at  
8 any time within two years following the last purchase of  
9 securities pursuant to a takeover offer with respect to that  
10 class, including, but not limited to, acquisitions made by  
11 purchase, exchange, merger, consolidation, partial or complete  
12 liquidation, redemption, reverse stock split,  
13 recapitalization, reorganization, or any other similar  
14 transaction, unless the holders of the equity securities are  
15 afforded, at the time of the acquisition, a reasonable  
16 opportunity to dispose of the securities to the offeror upon  
17 substantially equivalent terms as those provided in the  
18 earlier takeover offer.

19 Sec. 7. Section 502.215, Code 1987, is amended by striking  
20 the section and inserting the following:

21 502.215 ADMINISTRATION -- RULES AND ORDERS.

22 1. The administrator shall make and adopt rules and forms  
23 as the administrator determines are necessary to carry out the  
24 purposes of sections 502.211 through 502.218.

25 2. The administrator may by rule or order exempt from any  
26 provision of sections 502.211 through 502.218 the following:

27 a. A proposed takeover offer or a category or type of  
28 takeover offer which the administrator determines does not  
29 have the purpose or effect of changing or influencing the  
30 control of a target company.

31 b. A proposed takeover offer for which the administrator  
32 determines that compliance with the sections is not necessary  
33 for the protection of the offerees.

34 c. A person from the requirement of filing statements.

35 3. In the event of a conflict between the provisions of

1 chapter 17A and the provisions of sections 502.211 through  
2 502.218, the provisions of sections 502.211 through 502.218  
3 shall prevail.

4 Sec. 8. NEW SECTION. 502.216 FEES AND EXPENSES.

5 The administrator shall charge a nonrefundable filing fee  
6 of two hundred fifty dollars for a registration statement  
7 filed by an offeror.

8 Sec. 9. NEW SECTION. 502.217 APPLICATION OF CORPORATE  
9 TAKEOVER LAW.

10 If the target company is a public utility, public utility  
11 holding company, national banking association, bank holding  
12 company, or savings and loan association which is subject to  
13 regulation by a federal agency and the takeover of such  
14 company is subject to approval by the federal agency, sections  
15 502.211 through 502.218 do not apply.

16 Sec. 10. NEW SECTION. 502.218 APPLICATION OF SECURITIES  
17 LAW.

18 All of the provisions of this chapter which are not in  
19 conflict with sections 502.211 through 502.218, apply to any  
20 takeover offer involving a target company.

21 Sec. 11. Section 502.407, Code 1987, is amended to read as  
22 follows:

23 502.407 MISSTATEMENTS IN PUBLICITY.

24 It is unlawful for any person to make or cause to be made,  
25 in any public report or press release, or in other information  
26 which is either made generally available to the public or used  
27 in opposition to a tender offer, any statement of a material  
28 fact relating to an issuer a target company or made in  
29 connection with a tender offer which is, at the time and in  
30 the light of the circumstances under which it is made, false  
31 or misleading, if it is reasonably foreseeable that such  
32 statement will induce other persons to buy, sell or hold  
33 securities of the issuer target company.

34 Sec. 12. Section 502.501, Code 1987, is amended by adding  
35 the following new subsection:



1 of a target company or where the commissioner determines that  
2 compliance is not necessary for the protection of the  
3 offerees.

4 In addition to other remedies provided under current law,  
5 the court may provide that all shares acquired in violation of  
6 the provisions of this law be denied voting rights for one  
7 year after acquisition, that the shares be nontransferable on  
8 the books of the target company, or that during this one-year  
9 period the target company have the option to call the shares  
10 for redemption.

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SSB # 228  
Judiciary  
MWD  
SP47D

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

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SUB COMMITTEE ASSIGNMENTS  
CHAIR: Mann  
COMMITTEE: Judiciary  
3/19/87

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20 consideration, into a stock or similar security.

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22 stock of similar security.

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24 to or purchase a stock or similar security.

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26 of a similar nature and considers necessary or appropriate,  
27 according to rules prescribed by the administrator for the  
28 public interest and protection of investors, to be treated as  
29 an equity security.

30 c. "Offeror" means a person who makes or in any manner  
31 participates in making a takeover offer. It does not include  
32 a supervised financial institution or broker-dealer loaning  
33 funds to an offeror in the ordinary course of its business, or  
34 any supervised financial institution, broker-dealer, attorney,  
35 accountant, consultant, employee, or other person furnishing

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1 information or advice to or performing ministerial duties for  
2 an offeror, and who does not otherwise participate in the  
3 takeover offer.

4 d. "Offeree" means the beneficial owner, who is a resident  
5 of this state, of equity securities which an offeror offers to  
6 acquire in connection with a takeover offer.

7 e. "Takeover offer":

8 (1) Means the offer to acquire any equity securities of a  
9 target company from a resident of this state pursuant to a  
10 tender offer or request or invitation for tenders, if after  
11 the acquisition of all securities acquired pursuant to the  
12 offer either of the following are true:

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14 beneficial owner of more than ten percent of any class of the  
15 outstanding equity securities of the target company.

16 (b) The beneficial ownership by the offeror of any class  
17 of the outstanding equity securities of the target company  
18 would be increased by more than five percent. However, this  
19 provision does not apply if after the acquisition of all  
20 securities acquired pursuant to the offer, the offeror would  
21 not be directly or indirectly a beneficial owner of more than  
22 ten percent of any class of the outstanding equity securities  
23 of the target company.

24 (2) Does not include the following:

25 (a) An offer in connection with the acquisition of a  
26 security which, together with all other acquisitions by the  
27 offeror of securities of the same class of equity securities  
28 of the target company, would not result in the offeror having  
29 acquired more than two percent of this class of securities  
30 during the preceding twelve-month period.

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32 equity securities if such offer is subject to section 13(e) of  
33 the Securities Exchange Act of 1934.

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35 company or insurance holding company subject to regulation by

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10 trading market exists for the security. A trading market  
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17 power to vote or direct the voting of a security or has or  
18 shares the power to dispose of or otherwise direct the  
19 disposition of the security. A person is the beneficial owner  
20 of securities beneficially owned by any relative or spouse or  
21 relative of the spouse residing in the home of the person, any  
22 trust or estate in which the person owns ten percent or more  
23 of the total beneficial interest or serves as trustee or  
24 executor, any corporation or entity in which the person owns  
25 ten percent or more of the equity, and any affiliate or  
26 associate of the person.

27 h. "Beneficial ownership" includes, but is not limited to,  
28 the right, exercisable within sixty days, to acquire  
29 securities through the exercise of options, warrants, or  
30 rights or the conversion of convertible securities. The  
31 securities subject to these options, warrants, rights, or  
32 conversion privileges held by a person are outstanding for the  
33 purpose of computing the percentage of outstanding securities  
34 of the class owned by the person, but are not outstanding for  
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1 any other person.

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24 specified in section 502.216, and contain the following  
25 information:

26 a. All information specified in subsection 6.

27 b. Two copies of all solicitation materials intended to be  
28 used in the takeover offer, and in the form proposed to be  
29 published, sent, or delivered to offerees.

30 c. Additional information as prescribed by the  
31 administrator by rule, pursuant to chapter 17A, prior to the  
32 making of the offer.

33 3. Registration shall not be considered approval by the  
34 administrator, and any representation to the contrary is  
35 unlawful.

1 4. Within three calendar days of the date of filing of the  
2 registration statement, the administrator may, by order,  
3 summarily suspend the effectiveness of the takeover offer if  
4 the administrator determines that the registration does not  
5 contain all of the information specified in subsection 6 or  
6 that the takeover offer materials provided to offerees do not  
7 provide full disclosure to offerees of all material  
8 information concerning the takeover offer. The suspension  
9 shall remain in effect only until the determination following  
10 a hearing held pursuant to subsection 5.

11 5. A hearing shall be scheduled by the administrator for  
12 each suspension under this section, and the hearing shall be  
13 held within ten calendar days of the date of the suspension.  
14 The administrator's determination following the hearing shall  
15 be made within three calendar days after the hearing has been  
16 completed, but not more than sixteen days after the date of  
17 the suspension. The administrator may prescribe different  
18 time periods than those specified in the subsection by rule or  
19 order.

20 If, based upon the hearing, the administrator finds that  
21 the registration statement fails to provide for full and fair  
22 disclosure of all material information concerning the offer,  
23 or that the takeover is in violation of any of the provisions  
24 of section 502.211 through 502.218, the administrator shall  
25 permanently suspend the effectiveness of the takeover offer,  
26 subject to the right of the offeror to correct disclosure and  
27 other deficiencies identified by the administrator and to  
28 reinstate the takeover offer by filing a new or amended  
29 registration statement pursuant to this section.

30 6. The form required to be filed by subsection 2,  
31 paragraph "a", shall contain all of the following information:

32 a. The identity and background of all persons on whose  
33 behalf the acquisition of any equity security of the target  
34 company has been or is to be effected.

35 b. The source and amount of funds or other consideration

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1 used or to be used in acquiring any equity security including,  
2 if applicable, a statement describing any securities which are  
3 being offered in exchange for the equity securities of the  
4 target company and, if any part of the acquisition price is or  
5 will be represented by borrowed funds or other consideration,  
6 a description of the material terms of any financing  
7 arrangements and the names of the parties from whom the funds  
8 were or are to be borrowed.

9 c. If the offeror is other than a natural person,  
10 information concerning its organization and operations,  
11 including the year, form and jurisdiction of its organization,  
12 a description of each class of equity security and long-term  
13 debt, a description of the business conducted by the offeror  
14 and its subsidiaries and any material changes in the offeror  
15 or subsidiaries during the past three years, a description of  
16 the location and character of the principal properties of the  
17 offeror and its subsidiaries, a description of any pending and  
18 material legal or administrative proceedings in which the  
19 offeror or any of its affiliates is a party, the names of all  
20 directors and executive officers of the offeror and their  
21 material business activities and affiliations during the past  
22 five years, and financial statements of the offeror in a form  
23 and for periods of time as the administrator may, pursuant to  
24 chapter 17A and prior to the making of the offer, prescribe.

25 d. If the offeror is a natural person, information  
26 concerning the offeror's identity and background, including  
27 business activities and affiliations during the past five  
28 years and a description of any pending and material legal or  
29 administrative proceedings in which the offeror is a party.

30 e. If the purpose of the acquisition is to gain control of  
31 the target company, the material terms of any plans or  
32 proposals which the offeror has, upon gaining control, to  
33 liquidate the target company, sell its assets, effect its  
34 merger or consolidation, change the location of its principal  
35 executive office or of a material portion of its business

1 activities, change its management or policies of employment,  
2 materially alter its relationship with suppliers or customers  
3 or the community in which it operates, or make any other major  
4 changes in its business, corporate structure, management or  
5 personnel, and other information which would materially affect  
6 the shareholders' evaluation of the acquisition.

7 f. The number of shares or units of any equity security of  
8 the target company owned beneficially by the offeror and any  
9 affiliate or associate of the offeror, together with the name  
10 and address of each affiliate or associate.

11 g. The material terms of any contract, arrangement, or  
12 understanding with any other person with respect to the equity  
13 securities of the target company by which the offeror has or  
14 will acquire any interest in additional equity securities of  
15 the target company, or is or will be obligated to transfer any  
16 interest in the equity securities to another.

17 h. Information required to be included in a tender offer  
18 statement pursuant to section 14(d) of the Securities Exchange  
19 Act of 1934 and the rules and regulations of the securities  
20 and exchange commission issued pursuant to the Act.

21 Sec. 4. Section 502.212, Code 1987, is amended by striking  
22 the section and inserting the following:

23 502.212 FILING OF SOLICITATION MATERIALS.

24 Copies of all advertisements, circulars, letters, or other  
25 materials disseminated by the offeror or the target company,  
26 soliciting or requesting the acceptance or rejection of a  
27 takeover offer shall be filed with the administrator and sent  
28 to the target company or offeror not later than the time the  
29 solicitation or request materials are first published, sent,  
30 or given to the offerees. The administrator may prohibit the  
31 use of any materials deemed false or misleading.

32 Sec. 5. Section 502.213, Code 1987, is amended by striking  
33 the section and inserting the following:

34 502.213 FRAUDULENT AND DECEPTIVE PRACTICES.

35 It is unlawful for an offeror, target company, affiliate or

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1 associate of an offeror or target company, or broker-dealer  
2 acting on behalf of an offeror or target company to engage in  
3 a fraudulent, deceptive, or manipulative act or practice in  
4 connection with a takeover offer. For purposes of this  
5 section, an unlawful act or practice includes, but is not  
6 limited to, the following:

7 1. The publication or use in connection with a takeover  
8 offer of a false statement of a material fact, or the omission  
9 of a material fact which renders the statements made  
10 misleading.

11 2. The purchase of any of the equity securities of an  
12 officer, director, or beneficial owner of five percent or more  
13 of the equity securities of the target company by the offeror  
14 or the target company for a consideration greater than that to  
15 be paid to other shareholders, unless the terms of the  
16 purchase are disclosed in a registration statement filed  
17 pursuant to section 502.11.

18 3. The refusal by a target company to permit an offeror  
19 who is a shareholder of record to examine or copy its list of  
20 shareholders, pursuant to the applicable corporation statutes,  
21 for the purpose of making a takeover offer.

22 4. The refusal by a target company to mail any  
23 solicitation materials published by the offeror to its  
24 security holders with reasonable promptness after receipt from  
25 the offeror of the materials, together with the reasonable  
26 expenses of postage and handling.

27 5. The solicitation of any offeree for acceptance or  
28 rejection of a takeover offer, or acquisition of any equity  
29 security pursuant to a takeover offer, when the offer is  
30 suspended under section 502.211, provided, however, that the  
31 target company may communicate during a suspension with its  
32 equity security holders to the extent required to respond to  
33 the takeover offer made pursuant to the Securities Exchange  
34 Act of 1934.

35 Sec. 6. Section 502.214, Code 1987, is amended by striking

1 the section and inserting the following:

2 502.214 LIMITATIONS ON OFFERORS.

3 1. A takeover offer shall contain substantially the same  
4 terms for shareholders residing within and outside this state.

5 2. An offeror shall provide that any equity securities of  
6 a target company deposited or tendered pursuant to a takeover  
7 offer may be withdrawn by or on behalf of an offeree within  
8 seven days after the date the offer has become effective and  
9 after sixty days from the date the offer has become effective,  
10 or as otherwise determined by the administrator pursuant to a  
11 rule or order issued for the protection of the shareholders.

12 3. If an offeror makes a takeover offer for less than all  
13 the outstanding equity securities of any class and, within ten  
14 days after the offer has become effective and copies of the  
15 offer, or notice of any increase in the consideration offered,  
16 are first published or sent or given to equity security  
17 holders, the number of securities deposited or tendered  
18 pursuant to the offer is greater than the number of securities  
19 that the offeror has offered to accept and pay for, the  
20 securities shall be accepted pro rata, disregarding fractions,  
21 according to the number of securities deposited or tendered  
22 for each offeree.

23 4. If an offeror varies the terms of a takeover offer  
24 before the offer's expiration date by increasing the  
25 consideration offered to equity security holders, the offeror  
26 shall pay the increased consideration for all equity  
27 securities accepted, whether the securities have been accepted  
28 by the offeror before or after the variation in the terms of  
29 the offer.

30 5. An offeror shall not make a takeover offer or acquire  
31 any equity securities in this state pursuant to a takeover  
32 offer during the period of time that an administrator's  
33 proceeding alleging a violation of this chapter is pending  
34 against the offeror.

35 6. An offeror shall not acquire, remove, or exercise

1 control, directly or indirectly, over any target company  
2 assets located in this state pursuant to a takeover offer  
3 during the period of time that an administrator's proceeding  
4 alleging a violation of this chapter is pending against the  
5 offeror.

6 7. An offeror shall not acquire from a resident of this  
7 state an equity security of any class of a target company at  
8 any time within two years following the last purchase of  
9 securities pursuant to a takeover offer with respect to that  
10 class, including, but not limited to, acquisitions made by  
11 purchase, exchange, merger, consolidation, partial or complete  
12 liquidation, redemption, reverse stock split,  
13 recapitalization, reorganization, or any other similar  
14 transaction, unless the holders of the equity securities are  
15 afforded, at the time of the acquisition, a reasonable  
16 opportunity to dispose of the securities to the offeror upon  
17 substantially equivalent terms as those provided in the  
18 earlier takeover offer.

19 Sec. 7. Section 502.215, Code 1987, is amended by striking  
20 the section and inserting the following:

21 502.215 ADMINISTRATION -- RULES AND ORDERS.

22 1. The administrator shall make and adopt rules and forms  
23 as the administrator determines are necessary to carry out the  
24 purposes of sections 502.211 through 502.218.

25 2. The administrator may by rule or order exempt from any  
26 provision of sections 502.211 through 502.218 the following:

27 a. A proposed takeover offer or a category or type of  
28 takeover offer which the administrator determines does not  
29 have the purpose or effect of changing or influencing the  
30 control of a target company.

31 b. A proposed takeover offer for which the administrator  
32 determines that compliance with the sections is not necessary  
33 for the protection of the offerees.

34 c. A person from the requirement of filing statements.

35 3. In the event of a conflict between the provisions of

1 chapter 17A and the provisions of sections 502.211 through  
2 502.218, the provisions of sections 502.211 through 502.218  
3 shall prevail.

4 Sec. 8. NEW SECTION. 502.216 FEES AND EXPENSES.

5 The administrator shall charge a nonrefundable filing fee  
6 of two hundred fifty dollars for a registration statement  
7 filed by an offeror.

8 Sec. 9. NEW SECTION. 502.217 APPLICATION OF CORPORATE  
9 TAKEOVER LAW.

10 If the target company is a public utility, public utility  
11 holding company, national banking association, bank holding  
12 company, or savings and loan association which is subject to  
13 regulation by a federal agency and the take over of such  
14 company is subject to approval by the federal agency, sections  
15 502.211 through 502.218 do not apply.

16 Sec. 10. NEW SECTION. 502.218 APPLICATION OF SECURITIES  
17 LAW.

18 All of the provisions of this chapter which are not in  
19 conflict with sections 502.211 through 502.218, apply to any  
20 takeover offer involving a target company.

21 Sec. 11. Section 502.407, Code 1987, is amended to read as  
22 follows:

23 502.407 MISSTATEMENTS IN PUBLICITY.

24 It is unlawful for any person to make or cause to be made,  
25 in any public report or press release, or in other information  
26 which is either made generally available to the public or used  
27 in opposition to a tender offer, any statement of a material  
28 fact relating to ~~an issuer~~ a target company or made in  
29 connection with a tender offer which is, at the time and in  
30 the light of the circumstances under which it is made, false  
31 or misleading, if it is reasonably foreseeable that such  
32 statement will induce other persons to buy, sell or hold  
33 securities of the ~~issuer~~ target company.

34 Sec. 12. Section 502.501, Code 1987, is amended by adding  
35 the following new subsection:

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1 NEW SUBSECTION. 3. In addition to other remedies provided  
2 in this chapter, in a proceeding alleging a violation of  
3 sections 502.211 through 502.218 the court may provide that  
4 all shares acquired from a resident of this state in violation  
5 of any provision of this chapter or rule order issued pursuant  
6 to this chapter be denied voting rights for one year after  
7 acquisition, that the shares be nontransferable on the books  
8 of the target company, or that during this one-year period the  
9 target company have the option to call the shares for  
10 redemption either at the price at which the shares were  
11 acquired or at book value per share as of the last day of the  
12 fiscal quarter ended prior to the date of the call for  
13 redemption, which redemption shall occur on the date set in  
14 the call notice but not later than sixty days after the call  
15 notice is given.

16 EXPLANATION

17 This bill establishes certain requirements for corporate  
18 takeovers to be administered by the commissioner of insurance.  
19 The bill declares that is unlawful for a person to make a  
20 takeover offer or to acquire any equity securities pursuant to  
21 the offer unless the offer is effective pursuant to the  
22 requirements created. A takeover offer is effective when the  
23 offeror files with the commissioner of insurance a  
24 registration statement containing certain required  
25 information.

26 The commissioner may suspend the effectiveness of the  
27 takeover offer if the commissioner determines that the  
28 registration statement does not contain all of the specified  
29 information or that the takeover offer materials provided to  
30 offerees do not provide full disclosure to offerees of all  
31 material information concerning the takeover offer.

32 The commissioner may by rule or order exempt certain  
33 takeover offers from the provisions of this chapter if the  
34 commissioner determines that the takeover offer does not have  
35 the purpose or effect of changing or influencing the control

1 of a target company or where the commissioner determines that  
2 compliance is not necessary for the protection of the  
3 offerees.

4 In addition to other remedies provided under current law,  
5 the court may provide that all shares acquired in violation of  
6 the provisions of this law be denied voting rights for one  
7 year after acquisition, that the shares be nontransferable on  
8 the books of the target company, or that during this one-year  
9 period the target company have the option to call the shares  
10 for redemption.

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SENATE FILE 470

AN ACT

RELATING TO CORPORATE TAKEOVERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 502.102, subsection 11, Code 1987, is amended to read as follows:

11. "Securities Act of 1933", "Securities Exchange Act of 1934", "Public Utility Holding Company Act of 1935", "Investment Company Act of 1940", "Internal Revenue Code of 1954" and "Agricultural Marketing Act" mean the federal statutes of those names, ~~as amended before January 17, 1976.~~

Sec. 2. Section 502.102, subsections 14, 15, 16 and 17, Code 1987, are amended by striking the subsections and inserting the following:

14. For the purposes of sections 502.211 through 502.218, unless the context otherwise requires:

a. "Associate" means a person acting jointly or in concert with another for the purpose of acquiring, holding or disposing of, or exercising any voting rights attached to the equity securities of a target company.

b. "Equity security" means any stock or similar security, and includes the following:

(1) Any security convertible, with or without consideration, into a stock or similar security.

(2) Any warrant or right to subscribe to or purchase a stock of similar security.

(3) Any security carrying a warrant or right to subscribe to or purchase a stock or similar security.

(4) Any other security which the administrator deems to be of a similar nature and considers necessary or appropriate, according to rules prescribed by the administrator for the public interest and protection of investors, to be treated as

an equity security.

c. "Offeror" means a person who makes or in any manner participates in making a takeover offer. It does not include a supervised financial institution or broker-dealer loaning funds to an offeror in the ordinary course of its business, or any supervised financial institution, broker-dealer, attorney, accountant, consultant, employee, or other person furnishing information or advice to or performing ministerial duties for an offeror, and who does not otherwise participate in the takeover offer.

d. "Offeree" means the beneficial owner, who is a resident of this state, of equity securities which an offeror offers to acquire in connection with a takeover offer.

e. "Takeover offer":

(1) Means the offer to acquire any equity securities of a target company from a resident of this state pursuant to a tender offer or request or invitation for tenders, if after the acquisition of all securities acquired pursuant to the offer either of the following are true:

(a) The offeror would be directly or indirectly a beneficial owner of more than ten percent of any class of the outstanding equity securities of the target company.

(b) The beneficial ownership by the offeror of any class of the outstanding equity securities of the target company would be increased by more than five percent. However, this provision does not apply if after the acquisition of all securities acquired pursuant to the offer, the offeror would not be directly or indirectly a beneficial owner of more than ten percent of any class of the outstanding equity securities of the target company.

(2) Does not include the following:

(a) An offer in connection with the acquisition of a security which, together with all other acquisitions by the offeror of securities of the same class of equity securities of the target company, would not result in the offeror having

acquired more than two percent of this class of securities during the preceding twelve-month period.

(b) An offer by the target company to acquire its own equity securities if such offer is subject to section 13(e) of the Securities Exchange Act of 1934.

(c) An offer in which the target company is an insurance company or insurance holding company subject to regulation by the commissioner of insurance, a financial institution subject to regulation by the state superintendent of banking or the state auditor, or a public utility subject to regulation by the commerce commission.

f. "Target company" means an issuer of publicly traded equity securities which has at least twenty percent of its equity securities beneficially held by residents of this state and has substantial assets in this state. For the purposes of this chapter, an equity security is publicly traded if a trading market exists for the security. A trading market exists if the security is traded on a national securities exchange, whether or not registered pursuant to the Securities Exchange Act of 1934, or on the over-the-counter market.

g. "Beneficial owner" includes, but is not limited to, any person who directly or indirectly, through any contract, arrangement, understanding, or relationship, has or shares the power to vote or direct the voting of a security or has or shares the power to dispose of or otherwise direct the disposition of the security. A person is the beneficial owner of securities beneficially owned by any relative or spouse or relative of the spouse residing in the home of the person, any trust or estate in which the person owns ten percent or more of the total beneficial interest or serves as trustee or executor, any corporation or entity in which the person owns ten percent or more of the equity, and any affiliate or associate of the person.

h. "Beneficial ownership" includes, but is not limited to, the right, exercisable within sixty days, to acquire

securities through the exercise of options, warrants, or rights or the conversion of convertible securities. The securities subject to these options, warrants, rights, or conversion privileges held by a person are outstanding for the purpose of computing the percentage of outstanding securities of the class owned by the person, but are not outstanding for the purpose of computing the percentage of the class owned by any other person.

15. "Interest at the legal rate" means the interest rate for judgments specified in section 535.3.

Sec. 3. Section 502.211, Code 1987, is amended by striking the section and inserting the following:

502.211 REGISTRATION REQUIREMENT.

1. It is unlawful for a person to make a takeover offer or to acquire any equity securities pursuant to the offer unless the offer is valid under sections 502.211 through 502.218. A takeover offer is effective when the offeror files with the administrator a registration statement containing the information prescribed in subsection 6. Not later than the date of filing of the registration statement, the offeror shall deliver a copy of the registration statement by certified mail to the target company at its principal office and publicly disclose the material terms of the proposed offer. Public disclosure shall require, at a minimum, that a copy of the registration statement be supplied to all broker-dealers maintaining an office in this state currently quoting the security.

2. The registration statement shall be filed on forms prescribed by the administrator, and shall be accompanied by a consent by the offeror to service of process and filing fee specified in section 502.216, and contain the following information:

- a. All information specified in subsection 6.
- b. Two copies of all solicitation materials intended to be used in the takeover offer, and in the form proposed to be published, sent, or delivered to offerees.

c. Additional information as prescribed by the administrator by rule, pursuant to chapter 17A, prior to the making of the offer.

3. Registration shall not be considered approval by the administrator, and any representation to the contrary is unlawful.

4. Within three calendar days of the date of filing of the registration statement, the administrator may, by order, summarily suspend the effectiveness of the takeover offer if the administrator determines that the registration does not contain all of the information specified in subsection 6 or that the takeover offer materials provided to offerees do not provide full disclosure to offerees of all material information concerning the takeover offer. The suspension shall remain in effect only until the determination following a hearing held pursuant to subsection 5.

5. A hearing shall be scheduled by the administrator for each suspension under this section, and the hearing shall be held within ten calendar days of the date of the suspension. The administrator's determination following the hearing shall be made within three calendar days after the hearing has been completed, but not more than sixteen days after the date of the suspension. The administrator may prescribe different time periods than those specified in the subsection by rule or order.

If, based upon the hearing, the administrator finds that the registration statement fails to provide for full and fair disclosure of all material information concerning the offer, or that the takeover is in violation of any of the provisions of section 502.211 through 502.218, the administrator shall permanently suspend the effectiveness of the takeover offer, subject to the right of the offeror to correct disclosure and other deficiencies identified by the administrator and to reinstate the takeover offer by filing a new or amended registration statement pursuant to this section.

6. The form required to be filed by subsection 2, paragraph "a", shall contain all of the following information:

a. The identity and background of all persons on whose behalf the acquisition of any equity security of the target company has been or is to be effected.

b. The source and amount of funds or other consideration used or to be used in acquiring any equity security including, if applicable, a statement describing any securities which are being offered in exchange for the equity securities of the target company and, if any part of the acquisition price is or will be represented by borrowed funds or other consideration, a description of the material terms of any financing arrangements and the names of the parties from whom the funds were or are to be borrowed.

c. If the offeror is other than a natural person, information concerning its organization and operations, including the year, form and jurisdiction of its organization, a description of each class of equity security and long-term debt, a description of the business conducted by the offeror and its subsidiaries and any material changes in the offeror or subsidiaries during the past three years, a description of the location and character of the principal properties of the offeror and its subsidiaries, a description of any pending and material legal or administrative proceedings in which the offeror or any of its affiliates is a party, the names of all directors and executive officers of the offeror and their material business activities and affiliations during the past five years, and financial statements of the offeror in a form and for periods of time as the administrator may, pursuant to chapter 17A and prior to the making of the offer, prescribe.

d. If the offeror is a natural person, information concerning the offeror's identity and background, including business activities and affiliations during the past five years and a description of any pending and material legal or administrative proceedings in which the offeror is a party.

e. If the purpose of the acquisition is to gain control of the target company, the material terms of any plans or proposals which the offeror has, upon gaining control, to liquidate the target company, sell its assets, effect its merger or consolidation, change the location of its principal executive office or of a material portion of its business activities, change its management or policies of employment, materially alter its relationship with suppliers or customers or the community in which it operates, or make any other major changes in its business, corporate structure, management or personnel, and other information which would materially affect the shareholders' evaluation of the acquisition.

f. The number of shares or units of any equity security of the target company owned beneficially by the offeror and any affiliate or associate of the offeror, together with the name and address of each affiliate or associate.

g. The material terms of any contract, arrangement, or understanding with any other person with respect to the equity securities of the target company by which the offeror has or will acquire any interest in additional equity securities of the target company, or is or will be obligated to transfer any interest in the equity securities to another.

h. Information required to be included in a tender offer statement pursuant to section 14(d) of the Securities Exchange Act of 1934 and the rules and regulations of the securities and exchange commission issued pursuant to the Act.

Sec. 4. Section 502.212, Code 1987, is amended by striking the section and inserting the following:

502.212 FILING OF SOLICITATION MATERIALS.

Copies of all advertisements, circulars, letters, or other materials disseminated by the offeror or the target company, soliciting or requesting the acceptance or rejection of a takeover offer shall be filed with the administrator and sent to the target company or offeror not later than the time the solicitation or request materials are first published, sent,

or given to the offerees. The administrator may prohibit the use of any materials deemed false or misleading.

Sec. 5. Section 502.213, Code 1987, is amended by striking the section and inserting the following:

502.213 FRAUDULENT AND DECEPTIVE PRACTICES.

It is unlawful for an offeror, target company, affiliate or associate of an offeror or target company, or broker-dealer acting on behalf of an offeror or target company to engage in a fraudulent, deceptive, or manipulative act or practice in connection with a takeover offer. For purposes of this section, an unlawful act or practice includes, but is not limited to, the following:

1. The publication or use in connection with a takeover offer of a false statement of a material fact, or the omission of a material fact which renders the statements made misleading.

2. The purchase of any of the equity securities of an officer, director, or beneficial owner of five percent or more of the equity securities of the target company by the offeror or the target company for a consideration greater than that to be paid to other shareholders, unless the terms of the purchase are disclosed in a registration statement filed pursuant to section 502.211.

3. The refusal by a target company to permit an offeror who is a shareholder of record to examine or copy its list of shareholders, pursuant to the applicable corporation statutes, for the purpose of making a takeover offer.

4. The refusal by a target company to mail any solicitation materials published by the offeror to its security holders with reasonable promptness after receipt from the offeror of the materials, together with the reasonable expenses of postage and handling.

5. The solicitation of any offeree for acceptance or rejection of a takeover offer, or acquisition of any equity security pursuant to a takeover offer, when the offer is

suspended under section 502.211, provided, however, that the target company may communicate during a suspension with its equity security holders to the extent required to respond to the takeover offer made pursuant to the Securities Exchange Act of 1934.

Sec. 6. Section 502.214, Code 1987, is amended by striking the section and inserting the following:

502.214 LIMITATIONS ON OFFERORS.

1. A takeover offer shall contain substantially the same terms for shareholders residing within and outside this state.

2. An offeror shall provide that any equity securities of a target company deposited or tendered pursuant to a takeover offer may be withdrawn by or on behalf of an offeree within seven days after the date the offer has become effective and after sixty days from the date the offer has become effective, or as otherwise determined by the administrator pursuant to a rule or order issued for the protection of the shareholders.

3. If an offeror makes a takeover offer for less than all the outstanding equity securities of any class and, within ten days after the offer has become effective and copies of the offer, or notice of any increase in the consideration offered, are first published or sent or given to equity security holders, the number of securities deposited or tendered pursuant to the offer is greater than the number of securities that the offeror has offered to accept and pay for, the securities shall be accepted pro rata, disregarding fractions, according to the number of securities deposited or tendered for each offeree.

4. If an offeror varies the terms of a takeover offer before the offer's expiration date by increasing the consideration offered to equity security holders, the offeror shall pay the increased consideration for all equity securities accepted, whether the securities have been accepted by the offeror before or after the variation in the terms of the offer.

5. An offeror shall not make a takeover offer or acquire any equity securities in this state pursuant to a takeover offer during the period of time that an administrator's proceeding alleging a violation of this chapter is pending against the offeror.

6. An offeror shall not acquire, remove, or exercise control, directly or indirectly, over any target company assets located in this state pursuant to a takeover offer during the period of time that an administrator's proceeding alleging a violation of this chapter is pending against the offeror.

7. An offeror shall not acquire from a resident of this state an equity security of any class of a target company at any time within two years following the last purchase of securities pursuant to a takeover offer with respect to that class, including, but not limited to, acquisitions made by purchase, exchange, merger, consolidation, partial or complete liquidation, redemption, reverse stock split, recapitalization, reorganization, or any other similar transaction, unless the holders of the equity securities are afforded, at the time of the acquisition, a reasonable opportunity to dispose of the securities to the offeror upon substantially equivalent terms as those provided in the earlier takeover offer.

Sec. 7. Section 502.215, Code 1987, is amended by striking the section and inserting the following:

502.215 ADMINISTRATION -- RULES AND ORDERS.

1. The administrator shall make and adopt rules and forms as the administrator determines are necessary to carry out the purposes of sections 502.211 through 502.218.

2. The administrator may by rule or order exempt from any provision of sections 502.211 through 502.218 the following:

a. A proposed takeover offer or a category or type of takeover offer which the administrator determines does not have the purpose or effect of changing or influencing the control of a target company.

b. A proposed takeover offer for which the administrator determines that compliance with the sections is not necessary for the protection of the offerees.

c. A person from the requirement of filing statements.

3. In the event of a conflict between the provisions of chapter 17A and the provisions of sections 502.211 through 502.218, the provisions of sections 502.211 through 502.218 shall prevail.

Sec. 8. NEW SECTION. 502.216 FEES AND EXPENSES.

The administrator shall charge a nonrefundable filing fee of two hundred fifty dollars for a registration statement filed by an offeror.

Sec. 9. NEW SECTION. 502.217 APPLICATION OF CORPORATE TAKEOVER LAW.

If the target company is a public utility, public utility holding company, national banking association, bank holding company, or savings and loan association which is subject to regulation by a federal agency and the takeover of such company is subject to approval by the federal agency, sections 502.211 through 502.218 do not apply.

Sec. 10. NEW SECTION. 502.218 APPLICATION OF SECURITIES LAW.

All of the provisions of this chapter which are not in conflict with sections 502.211 through 502.218, apply to any takeover offer involving a target company.

Sec. 11. Section 502.407, Code 1987, is amended to read as follows:

502.407 MISSTATEMENTS IN PUBLICITY.

It is unlawful for any person to make or cause to be made, in any public report or press release, or in other information which is either made generally available to the public or used in opposition to a tender offer, any statement of a material fact relating to an issuer a target company or made in connection with a tender offer which is, at the time and in the light of the circumstances under which it is made, false

or misleading, if it is reasonably foreseeable that such statement will induce other persons to buy, sell or hold securities of the issuer target company.

Sec. 12. Section 502.501, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. In addition to other remedies provided in this chapter, in a proceeding alleging a violation of sections 502.211 through 502.218 the court may provide that all shares acquired from a resident of this state in violation of any provision of this chapter or rule or order issued pursuant to this chapter be denied voting rights for one year after acquisition, that the shares be nontransferable on the books of the target company, or that during this one-year period the target company have the option to call the shares for redemption either at the price at which the shares were acquired or at book value per share as of the last day of the fiscal quarter ended prior to the date of the call for redemption, which redemption shall occur on the date set in the call notice but not later than sixty days after the call notice is given.

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JO ANN ZIMMERMAN  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 470, Seventy-second General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved April 27, 1987

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TERRY E. BRANSTAD  
Governor

**S.F. 470**