

House Study Bill 691 - Introduced

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

A BILL FOR

1 An Act providing for business corporations, providing for
2 certain fees, and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

GENERAL PROVISIONS

Section 1. Section 490.101, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.101 Short title.

This chapter shall be known and may be cited as the "*Iowa Business Corporation Act*".

Sec. 2. Section 490.120, Code 2020, is amended by striking the section and inserting in lieu thereof the following:

490.120 Requirements for documents — extrinsic facts.

1. A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the secretary of state.

2. This chapter must require or permit filing the document in the office of the secretary of state.

3. The document must contain the information required by this chapter and may contain other information.

4. The document must be typewritten or printed or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form.

5. The document must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

6. Except as provided in section 490.1622, subsection 3, the document must be signed by any of the following:

a. The chairperson of the board of directors of a domestic or foreign corporation, its president, or another of its officers.

b. If directors have not been selected or the corporation has not been formed, by an incorporator.

1 *c.* If the corporation is in the hands of a receiver,
2 trustee, or other court-appointed fiduciary, by that fiduciary.

3 7. *a.* The person executing the document shall sign it
4 and state beneath or opposite the person's signature the
5 person's name and the capacity in which the document is signed.
6 The document may but need not contain a corporate seal,
7 attestation, acknowledgment, or verification.

8 *b.* The secretary of state may accept for filing a document
9 containing a copy of a signature, however made.

10 8. If the secretary of state has prescribed a mandatory
11 form for the document under section 490.121, subsection 1, the
12 document must be in or on the prescribed form.

13 9. The document must be delivered to the office of the
14 secretary of state for filing. Delivery may be made by
15 electronic transmission if and to the extent permitted by the
16 secretary of state. If it is filed in typewritten or printed
17 form and not transmitted electronically, the secretary of state
18 may require one exact or conformed copy to be delivered with
19 the document.

20 10. When the document is delivered to the office of the
21 secretary of state for filing, the correct filing fee, and any
22 franchise tax, license fee, or penalty required by this chapter
23 or other law to be paid at the time of delivery for filing must
24 be paid or provision for payment made in a manner permitted by
25 the secretary of state.

26 11. Whenever a provision of this chapter permits any of the
27 terms of a plan or a filed document to be dependent on facts
28 objectively ascertainable outside the plan or filed document,
29 all of the following provisions apply:

30 *a.* The manner in which the facts will operate upon the terms
31 of the plan or filed document must be set forth in the plan or
32 filed document.

33 *b.* The facts may include any of the following:

34 (1) Any of the following that is available in a nationally
35 recognized news or information medium either in print or

1 electronically: statistical or market indices, market prices
2 of any security or group of securities, interest rates,
3 currency exchange rates, or similar economic or financial data.

4 (2) A determination or action by any person or body,
5 including the corporation or any other party to a plan or filed
6 document.

7 (3) The terms of, or actions taken under, an agreement to
8 which the corporation is a party, or any other agreement or
9 document.

10 c. As used in this subsection:

11 (1) "*Filed document*" means a document filed with the
12 secretary of state under any provision of this chapter except
13 subchapter XV or section 490.1622.

14 (2) "*Plan*" means a plan of domestication, conversion,
15 merger, or share exchange.

16 d. The following provisions of a plan or filed document
17 shall not be made dependent on facts outside the plan or filed
18 document:

19 (1) The name and address of any person required in a filed
20 document.

21 (2) The registered office of any entity required in a filed
22 document.

23 (3) The registered agent of any entity required in a filed
24 document.

25 (4) The number of authorized shares and designation of each
26 class or series of shares.

27 (5) The effective date of a filed document.

28 (6) Any required statement in a filed document of the date
29 on which the underlying transaction was approved or the manner
30 in which that approval was given.

31 e. If a provision of a filed document is made dependent on a
32 fact ascertainable outside of the filed document, and that fact
33 is neither ascertainable by reference to a source described
34 in paragraph "b", subparagraph (1), nor a document that is a
35 matter of public record, and the affected shareholders have

1 not received notice of the fact from the corporation, then the
2 corporation shall file with the secretary of state articles of
3 amendment to the filed document setting forth the fact promptly
4 after the time when the fact referred to is first ascertainable
5 or thereafter changes. Articles of amendment under this
6 paragraph "e" are deemed to be authorized by the authorization
7 of the original filed document to which they relate and may be
8 filed by the corporation without further action by the board of
9 directors or the shareholders.

10 Sec. 3. Section 490.121, Code 2020, is amended by striking
11 the section and inserting in lieu thereof the following:

12 **490.121 Forms.**

13 1. a. The secretary of state may prescribe and furnish on
14 request any of the following forms:

15 (1) An application for a certificate of existence or
16 certificate of registration.

17 (2) A foreign corporation's registration statement.

18 (3) A foreign corporation's statement of withdrawal.

19 (4) A foreign corporation's transfer of registration
20 statement.

21 (5) The biennial report required by section 490.1622.

22 b. If the secretary of state so requires, use of the forms
23 provided in paragraph "a" is mandatory.

24 2. The secretary of state may prescribe and furnish on
25 request forms for other documents required or permitted to be
26 filed by this chapter but their use is not mandatory.

27 Sec. 4. Section 490.122, Code 2020, is amended by striking
28 the section and inserting in lieu thereof the following:

29 **490.122 Filing, service, and copying fees.**

30 1. The secretary of state shall collect the following fees
31 when the documents described in **this subsection** are delivered
32 to the secretary of state for filing:

33 DOCUMENT	FEE
34 a. Articles of incorporation	\$ ____
35 b. Application for use of indistinguishable	

1	name	\$	___
2	<i>c.</i> Application for reserved name	\$	___
3	<i>d.</i> Notice of transfer of reserved name	\$	___
4	<i>e.</i> Application for registered name	\$	___
5	<i>f.</i> Application for renewal of registered		
6	name	\$	___
7	<i>g.</i> Corporation's statement of change of		
8	registered agent or registered office or both	\$	___
9	<i>h.</i> Agent's statement of change of registered		
10	office for each affected corporation not to exceed		
11	a total of	\$	___
12	<i>i.</i> Agent's statement of resignation	No fee	
13	<i>j.</i> Articles of domestication	\$	___
14	<i>k.</i> Articles of conversion	\$	___
15	<i>l.</i> Amendment of articles of		
16	incorporation	\$	___
17	<i>m.</i> Restatement of articles of incorporation		
18	with amendment of articles	\$	___
19	<i>n.</i> Restatement of articles of incorporation		
20	without amendment of articles	\$	___
21	<i>o.</i> Articles of merger or share exchange	\$	___
22	<i>p.</i> Articles of dissolution	\$	___
23	<i>q.</i> Articles of revocation of dissolution	\$	___
24	<i>r.</i> Certificate of administrative		
25	dissolution	No fee	
26	<i>s.</i> Application for reinstatement following		
27	administrative dissolution	\$	___
28	<i>t.</i> Certificate of reinstatement	No fee	
29	<i>u.</i> Certificate of judicial dissolution	No fee	
30	<i>v.</i> Foreign registration statement	\$	___
31	<i>w.</i> Amendment of foreign registration		
32	statement	\$	___
33	<i>x.</i> Statement of withdrawal	\$	___
34	<i>y.</i> Transfer of foreign registration statement	\$	___
35	<i>z.</i> Notice of termination of registration	No fee	

- 1 *aa.* Biennial report \$ ___
- 2 *ab.* Articles of correction \$ ___
- 3 *ac.* Articles of validation \$ ___
- 4 *ad.* Application for certificate of existence or
- 5 registration \$ ___
- 6 *ae.* Any other document required or permitted
- 7 to be filed by [this chapter](#) \$ ___

8 2. The secretary of state shall collect a fee of \$___ each
 9 time process is served on the secretary of state under this
 10 chapter. The party to a proceeding causing service of process
 11 is entitled to recover this fee as costs if such party prevails
 12 in the proceeding.

13 3. The secretary of state shall collect the following fees
 14 for copying and certifying the copy of any filed document
 15 relating to a domestic or foreign corporation:

- 16 *a.* \$___ a page for copying.
- 17 *b.* \$___ for the certificate.

18 Sec. 5. Section 490.123, Code 2020, is amended by striking
 19 the section and inserting in lieu thereof the following:

20 **490.123 Effective date of filed document.**

21 1. Except to the extent otherwise provided in section
 22 490.124, subsection 3, and part E, a document accepted for
 23 filing is effective as follows:

24 *a.* On the date and at the time of filing, as provided in
 25 section 490.125, subsection 2.

26 *b.* On the date of filing and at the time specified in the
 27 document as its effective time, if later than the time under
 28 paragraph "a".

29 *c.* At a specified delayed effective date and time which
 30 shall not be more than ninety days after filing.

31 *d.* If a delayed effective date is specified, but no time is
 32 specified, at 12:01 a.m. on the date specified, which shall not
 33 be more than ninety days after the date of filing.

34 2. If a filed document does not specify the time zone or
 35 place at which a date or time or both is to be determined, the

1 date or time or both at which it becomes effective shall be
2 those prevailing at the place of filing in this state.

3 Sec. 6. Section 490.124, Code 2020, is amended by striking
4 the section and inserting in lieu thereof the following:

5 **490.124 Correcting filed document.**

6 1. A document filed by the secretary of state pursuant to
7 this chapter may be corrected if any of the following applies:

- 8 a. The document contains an inaccuracy.
9 b. The document was defectively signed, attested, sealed,
10 verified, or acknowledged.
11 c. The electronic transmission was defective.

12 2. A document is corrected by complying with all of the
13 following:

14 a. By preparing articles of correction that do all of the
15 following:

- 16 (1) Describe the document, including its filing date, or a
17 copy of the document is attached to the articles of correction.
18 (2) Specify the inaccuracy or defect to be corrected.
19 (3) Correct the inaccuracy or defect.

20 b. By delivering the articles of correction to the secretary
21 of state for filing.

22 3. Articles of correction are effective on the effective
23 date of the document they correct except as to persons relying
24 on the uncorrected document and adversely affected by the
25 correction. As to those persons, articles of correction are
26 effective when filed.

27 Sec. 7. Section 490.125, Code 2020, is amended by striking
28 the section and inserting in lieu thereof the following:

29 **490.125 Filing duty of secretary of state.**

30 1. If a document delivered to the office of the secretary of
31 state for filing satisfies the requirements of section 490.120,
32 the secretary of state shall file it.

33 2. The secretary of state files a document by recording
34 it as filed on the date and time of receipt. After filing
35 a document, except the biennial report required by section

1 490.1622, and except as provided in section 490.503, the
2 secretary of state shall return to the person who delivered
3 the document for filing a copy of the document with an
4 acknowledgment of the date and time of filing.

5 3. If the secretary of state refuses to file a document,
6 it shall be returned to the person who delivered the document
7 for filing within five days after the document was delivered,
8 together with a brief, written explanation of the reason for
9 the refusal.

10 4. The secretary of state's duty to file documents under
11 this section is ministerial. The secretary of state's filing
12 or refusing to file a document does not create a presumption
13 of any of the following:

14 a. The document does or does not conform to the requirements
15 of this chapter.

16 b. The information contained in the document is correct or
17 incorrect.

18 Sec. 8. Section 490.126, Code 2020, is amended by striking
19 the section and inserting in lieu thereof the following:

20 **490.126 Appeal from secretary of state's refusal to file**
21 **document.**

22 1. If the secretary of state refuses to file a document
23 delivered for filing, the person that delivered the document
24 for filing may petition the district court to compel its
25 filing. The document and the explanation of the secretary of
26 state's refusal to file must be attached to the petition. The
27 court may decide the matter in a summary proceeding.

28 2. The court may order the secretary of state to file the
29 document or take other action the court considers appropriate.

30 3. The court's final decision may be appealed as in other
31 civil proceedings.

32 Sec. 9. Section 490.127, Code 2020, is amended by striking
33 the section and inserting in lieu thereof the following:

34 **490.127 Evidentiary effect of certified copy of filed**
35 **document.**

1 A certificate from the secretary of state delivered with
2 a copy of a document filed by the secretary of state is
3 conclusive evidence that the original document is on file with
4 the secretary of state.

5 Sec. 10. Section 490.128, Code 2020, is amended by striking
6 the section and inserting in lieu thereof the following:

7 **490.128 Certificate of existence or registration.**

8 1. Any person may apply to the secretary of state to furnish
9 a certificate of existence for a domestic corporation or a
10 certificate of registration for a foreign corporation.

11 2. A certificate of existence must set forth all of the
12 following:

13 a. The domestic corporation's corporate name.

14 b. That the domestic corporation is duly incorporated under
15 the law of this state, the date of its incorporation, and the
16 period of its duration if less than perpetual.

17 c. That all fees, taxes, and penalties owed to this state
18 have been paid, subject to all of the following:

19 (1) Payment is reflected in the records of the secretary of
20 state.

21 (2) Nonpayment affects the existence of the domestic
22 corporation.

23 d. That its most recent biennial report required by section
24 490.1622 has been filed with the secretary of state.

25 e. That articles of dissolution have not been filed.

26 f. That the corporation is not administratively dissolved
27 and a proceeding is not pending under section 490.1421.

28 g. Other facts of record in the office of the secretary of
29 state that may be requested by the applicant.

30 3. A certificate of registration must set forth all of the
31 following:

32 a. The foreign corporation's name used in this state.

33 b. That the foreign corporation is registered to do business
34 in this state.

35 c. That all fees, taxes, and penalties owed to this state

1 have been paid, subject to all of the following:

2 (1) Payment is reflected in the records of the secretary of
3 state.

4 (2) Nonpayment affects the registration of the foreign
5 corporation.

6 d. That its most recent biennial report required by section
7 490.1622 has been filed with the secretary of state.

8 e. Other facts of record in the office of the secretary of
9 state that may be requested by the applicant.

10 4. Subject to any qualification stated in the certificate,
11 a certificate of existence or registration issued by the
12 secretary of state may be relied upon as conclusive evidence of
13 the facts stated in the certificate.

14 Sec. 11. Section 490.129, Code 2020, is amended by striking
15 the section and inserting in lieu thereof the following:

16 **490.129 Penalty for signing false document.**

17 1. A person commits an offense by signing a document that
18 the person knows is false in any material respect with intent
19 that the document be delivered to the secretary of state for
20 filing.

21 2. An offense under this section is a serious misdemeanor
22 punishable by a fine of not to exceed one thousand dollars.

23 Sec. 12. Section 490.135, Code 2020, is amended by striking
24 the section and inserting in lieu thereof the following:

25 **490.135 Powers.**

26 The secretary of state has the power reasonably necessary to
27 perform the duties required of the secretary of state by this
28 chapter.

29 Sec. 13. Section 490.140, Code 2020, is amended by striking
30 the section and inserting in lieu thereof the following:

31 **490.140 Chapter definitions.**

32 As used in this chapter, unless otherwise specified:

33 1. "*Articles of incorporation*" means the articles of
34 incorporation described in section 490.202, all amendments
35 to the articles of incorporation, and any other documents

1 permitted or required to be delivered for filing by a domestic
2 business corporation with the secretary of state under any
3 provision of this chapter that modify, amend, supplement,
4 restate, or replace the articles of incorporation. After
5 an amendment of the articles of incorporation or any other
6 document filed under this chapter that restates the articles of
7 incorporation in their entirety, the articles of incorporation
8 shall not include any prior documents. When used with respect
9 to a foreign corporation or a domestic or foreign nonprofit
10 corporation, the "*articles of incorporation*" of such an entity
11 means the document of such entity that is equivalent to the
12 articles of incorporation of a domestic business corporation.

13 2. "*Authorized shares*" means the shares of all classes a
14 domestic or foreign corporation is authorized to issue.

15 3. "*Beneficial shareholder*" means a person who owns
16 the beneficial interest in shares, which may be a record
17 shareholder or a person on whose behalf shares are registered
18 in the name of an intermediary or nominee.

19 4. "*Conspicuous*" means so written, displayed, or presented
20 that a reasonable person against whom the writing is to operate
21 should have noticed it.

22 5. "*Corporation*", "*domestic corporation*", "*business*
23 *corporation*", or "*domestic business corporation*" means a
24 corporation for profit, which is not a foreign corporation,
25 incorporated under this chapter.

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

30 7. "*Distribution*" means a direct or indirect transfer of
31 cash or other property, except a corporation's own shares,
32 or inurrence of indebtedness by a corporation to or for the
33 benefit of its shareholders in respect of any of its shares.
34 A distribution may be in the form of a payment of a dividend;
35 a purchase, redemption, or other acquisition of shares; a

1 distribution of indebtedness; a distribution in liquidation;
2 or otherwise.

3 8. "*Document*" means any of the following:

4 a. A tangible medium on which information is inscribed, and
5 includes handwritten, typed, printed or similar instruments,
6 and copies of such instruments.

7 b. An electronic record.

8 9. "*Domestic*", with respect to an entity, means an entity
9 governed as to its internal affairs by the law of this state.

10 10. "*Effective date*", when referring to a document accepted
11 for filing by the secretary of state, means the time and date
12 determined in accordance with section 490.123.

13 11. "*Electronic*" means relating to technology having
14 electrical, digital, magnetic, wireless, optical,
15 electromagnetic, or similar capabilities.

16 12. "*Electronic record*" means information that is stored in
17 an electronic or other nontangible medium and is retrievable in
18 paper form through an automated process used in conventional
19 commercial practice, unless otherwise authorized in accordance
20 with section 490.141, subsection 10.

21 13. "*Electronic transmission*" or "*electronically transmitted*"
22 means any form or process of communication not directly
23 involving the physical transfer of paper or another tangible
24 medium, which is all of the following:

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

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

31 14. "*Eligible entity*" means a domestic or foreign
32 unincorporated entity or a domestic or foreign nonprofit
33 corporation.

34 15. "*Eligible interests*" means interests or memberships.

35 16. "*Employee*" includes an officer but not a director.

1 A director may accept duties that make the director also an
2 employee.

3 17. "*Entity*" includes a domestic and foreign business
4 corporation; domestic and foreign nonprofit corporation;
5 estate; trust; domestic and foreign unincorporated entity; and
6 a state, the United States, and a foreign government.

7 18. "*Expenses*" means reasonable expenses of any kind,
8 including reasonable fees and expenses of counsel and experts
9 employed by the shareholder, that are incurred in connection
10 with a matter.

11 19. "*Filing entity*" means an unincorporated entity, other
12 than a limited liability partnership, that is of a type that
13 is created by filing a public organic record or is required to
14 file a public organic record that evidences its creation.

15 20. "*Foreign*", with respect to an entity, means an entity
16 governed as to its internal affairs by the organic law of a
17 jurisdiction other than this state.

18 21. "*Foreign corporation*" or "*foreign business corporation*"
19 means a corporation incorporated under a law other than the
20 law of this state which would be a business corporation if
21 incorporated under the law of this state.

22 22. "*Foreign nonprofit corporation*" means a corporation
23 incorporated under a law other than the law of this state which
24 would be a nonprofit corporation if incorporated under the law
25 of this state.

26 23. "*Foreign registration statement*" means the foreign
27 registration statement described in section 490.1503.

28 24. "*Governmental subdivision*" includes an authority, city,
29 county, district, and municipality.

30 25. "*Governor*" means any person under whose authority the
31 powers of an entity are exercised and under whose direction the
32 activities and affairs of the entity are managed pursuant to
33 the organic law governing the entity and its organic rules.

34 26. "*Includes*" and "*including*" denote a partial definition
35 or a nonexclusive list.

1 27. "*Individual*" means a natural person.

2 28. "*Interest*" means either or both of the following rights
3 under the organic law governing an unincorporated entity:

4 a. The right to receive distributions from the entity either
5 in the ordinary course or upon liquidation.

6 b. The right to receive notice or vote on issues involving
7 its internal affairs, other than as an agent, assignee, proxy,
8 or person responsible for managing its business and affairs.

9 29. "*Interest holder*" means a person who holds of record an
10 interest.

11 30. a. "*Interest holder liability*" means any of the
12 following:

13 (1) Personal liability for a debt, obligation, or other
14 liability of a domestic or foreign corporation or eligible
15 entity that is imposed on a person by any of the following:

16 (a) Solely by reason of the person's status as a
17 shareholder, member, or interest holder.

18 (b) By the articles of incorporation of the domestic
19 corporation or the organic rules of the eligible entity
20 or foreign corporation that make one or more specified
21 shareholders, members, or interest holders, or categories of
22 shareholders, members, or interest holders, liable in their
23 capacity as shareholders, members, or interest holders for all
24 or specified liabilities of the corporation or eligible entity.

25 (2) An obligation of a shareholder, member, or interest
26 holder under the articles of incorporation of a domestic
27 corporation or the organic rules of an eligible entity or
28 foreign corporation to contribute to the entity.

29 b. For purposes of paragraph "a", except as otherwise
30 provided in the articles of incorporation of a domestic
31 corporation or the organic law or organic rules of an eligible
32 entity or a foreign corporation, interest holder liability
33 arises under paragraph "a", subparagraph (1), when the
34 corporation or eligible entity incurs the liability.

35 31. "*Jurisdiction of formation*" means the state or country

1 the law of which includes the organic law governing a domestic
2 or foreign corporation or eligible entity.

3 32. "*Means*" denotes an exhaustive definition.

4 33. "*Membership*" means the rights of a member in a domestic
5 or foreign nonprofit corporation.

6 34. "*Merger*" means a transaction pursuant to section
7 490.1102.

8 35. "*Nonfiling entity*" means an unincorporated entity that
9 is of a type that is not created by filing a public organic
10 record.

11 36. "*Nonprofit corporation*" or "*domestic nonprofit*
12 *corporation*" means a corporation incorporated under the laws of
13 this state and subject to the provisions of chapter 504.

14 37. "*Organic law*" means the statute governing the internal
15 affairs of a domestic or foreign business or nonprofit
16 corporation or unincorporated entity.

17 38. "*Organic rules*" means the public organic record and
18 private organic rules of a domestic or foreign corporation or
19 eligible entity.

20 39. "*Person*" means a person as defined in section 4.1.

21 40. "*Principal office*" means the office, in or out of
22 this state, so designated in the biennial report or foreign
23 registration statement where the principal executive offices of
24 a domestic or foreign corporation are located.

25 41. *a.* "*Private organic rules*" means any of the following:

26 (1) The bylaws of a domestic or foreign business or
27 nonprofit corporation.

28 (2) The rules, regardless of whether in writing, that govern
29 the internal affairs of an unincorporated entity, are binding
30 on all of its interest holders, and are not part of its public
31 organic record, if any.

32 *b.* Where private organic rules have been amended or
33 restated, the term means the private organic rules as last
34 amended or restated.

35 42. "*Proceeding*" includes a civil suit and criminal,

1 administrative, and investigatory action.

2 43. *a. "Public organic record"* means any of the following:

3 (1) The articles of incorporation of a domestic or foreign
4 business or nonprofit corporation.

5 (2) The document, if any, the filing of which is required
6 to create an unincorporated entity, or which creates the
7 unincorporated entity and is required to be filed.

8 *b.* Where a public organic record has been amended or
9 restated, the term means the public organic record as last
10 amended or restated.

11 44. *"Record date"* means the date fixed for determining
12 the identity of the corporation's shareholders and their
13 shareholdings for purposes of this chapter. Unless another
14 time is specified when the record date is fixed, the
15 determination shall be made as of the close of business at the
16 principal office of the corporation on the date so fixed.

17 45. *"Record shareholder"* means any of the following:

18 *a.* The person in whose name shares are registered in the
19 records of the corporation.

20 *b.* The person identified as the beneficial owner of shares
21 in a beneficial ownership certificate pursuant to section
22 490.723 on file with the corporation to the extent of the
23 rights granted by such certificate.

24 46. *"Registered foreign corporation"* means a foreign
25 corporation registered to do business in the state pursuant to
26 subchapter XV.

27 47. *"Secretary"* means the corporate officer to whom the
28 board of directors has delegated responsibility under section
29 490.840, subsection 3, to maintain the minutes of the meetings
30 of the board of directors and of the shareholders and for
31 authenticating records of the corporation.

32 48. *"Share exchange"* means a transaction pursuant to section
33 490.1103.

34 49. *"Shareholder"* means a record shareholder.

35 50. *"Shares"* means the units into which the proprietary

1 interests in a domestic or foreign corporation are divided.

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

4 a. Executing or adopting a tangible symbol to a document,
5 including any manual, facsimile, or conformed signature.

6 b. Attaching to or logically associating with an electronic
7 transmission an electronic sound, symbol, or process,
8 and including an electronic signature in an electronic
9 transmission.

10 52. "*State*", when referring to a part of the United
11 States, includes a state and commonwealth, and their agencies
12 and governmental subdivisions, and a territory and insular
13 possession, and their agencies and governmental subdivisions,
14 of the United States.

15 53. "*Subscriber*" means a person who subscribes for shares in
16 a corporation, whether before or after incorporation.

17 54. "*Type of entity*" means a generic form of entity that is
18 any of the following:

19 a. Recognized at common law.

20 b. Formed under an organic law, regardless of whether
21 some entities formed under that law are subject to provisions
22 of that law that create different categories of the form of
23 entity.

24 55. a. "*Unincorporated entity*" means an organization
25 or artificial legal person that either has a separate legal
26 existence or has the power to acquire an estate in real
27 property in its own name and that is not any of the following:

28 (1) A domestic or foreign business or nonprofit
29 corporation.

30 (2) A series of a limited liability company or of another
31 type of entity.

32 (3) An estate.

33 (4) A trust.

34 (5) A state, the United States, or foreign government.

35 b. "*Unincorporated entity*" includes a general partnership,

1 limited liability company, limited partnership, business
2 trust, joint stock association, and unincorporated nonprofit
3 association.

4 56. "*United States*" includes district, authority, bureau,
5 commission, department, and any other agency of the United
6 States.

7 57. "*Unrestricted voting trust beneficial owner*" means, with
8 respect to any shareholder rights, a voting trust beneficial
9 owner whose entitlement to exercise the shareholder right in
10 question is not inconsistent with the voting trust agreement.

11 58. "*Voting group*" means all shares of one or more
12 classes or series that under the articles of incorporation
13 or this chapter are entitled to vote and be counted together
14 collectively on a matter at a meeting of shareholders. All
15 shares entitled by the articles of incorporation or this
16 chapter to vote generally on the matter are for that purpose
17 a single voting group.

18 59. "*Voting power*" means the current power to vote in the
19 election of directors.

20 60. "*Voting trust beneficial owner*" means an owner of
21 a beneficial interest in shares of the corporation held
22 in a voting trust established pursuant to section 490.730,
23 subsection 1.

24 61. "*Writing*" or "*written*" means any information in the form
25 of a document.

26 Sec. 14. Section 490.141, Code 2020, is amended by striking
27 the section and inserting in lieu thereof the following:

28 **490.141 Notices and other communications.**

29 1. A notice under this chapter must be in writing unless
30 oral notice is reasonable in the circumstances. Unless
31 otherwise agreed between the sender and the recipient, words
32 in a notice or other communication under this chapter must be
33 in English.

34 2. A notice or other communication may be given by any
35 method of delivery, except that electronic transmissions must

1 be in accordance with this section. If the methods of delivery
2 are impracticable, a notice or other communication may be
3 given by means of a broad nonexclusionary distribution to the
4 public, which may include a newspaper of general circulation
5 in the area where published; radio, television, or other
6 form of public broadcast communication; or other methods of
7 distribution that the corporation has previously identified to
8 its shareholders.

9 3. A notice or other communication to a domestic corporation
10 or to a foreign corporation registered to do business in this
11 state may be delivered to the corporation's registered agent at
12 its registered office or to the secretary at the corporation's
13 principal office shown in its most recent biennial report or,
14 in the case of a foreign corporation that has not yet delivered
15 a biennial report, in its foreign registration statement.

16 4. A notice or other communication may be delivered by
17 electronic transmission if consented to by the recipient or if
18 authorized by subsection 10.

19 5. Any consent under subsection 4 may be revoked by the
20 person who consented by written or electronic notice to the
21 person to whom the consent was delivered. Any such consent is
22 deemed revoked if all of the following apply:

23 a. The corporation is unable to deliver two consecutive
24 electronic transmissions given by the corporation in accordance
25 with such consent.

26 b. Such inability becomes known to the secretary or an
27 assistant secretary or to the transfer agent, or other person
28 responsible for the giving of notice or other communications;
29 provided, however, the inadvertent failure to treat such
30 inability as a revocation shall not invalidate any meeting or
31 other action.

32 6. Unless otherwise agreed between the sender and the
33 recipient, an electronic transmission is received when all of
34 the following apply:

35 a. The electronic transmission enters an information

1 processing system that the recipient has designated or uses
2 for the purposes of receiving electronic transmissions or
3 information of the type sent, and from which the recipient is
4 able to retrieve the electronic transmission.

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

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

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

14 9. A notice or other communication, if in a comprehensible
15 form or manner, is effective at the earliest of the following:

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

18 (1) A shareholder's address shown on the corporation's
19 record of shareholders maintained by the corporation under
20 section 490.1601, subsection 4.

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

22 (3) The corporation's principal office.

23 *b.* If mailed by postage prepaid and correctly addressed to a
24 shareholder, upon deposit in the United States mail.

25 *c.* If mailed by United States mail postage prepaid and
26 correctly addressed to a recipient other than a shareholder,
27 the earliest of when it is actually received, or as follows:

28 (1) If sent by registered or certified mail, return receipt
29 requested, the date shown on the return receipt signed by or on
30 behalf of the addressee.

31 (2) Five days after it is deposited in the United States
32 mail.

33 *d.* If an electronic transmission, when it is received as
34 provided in subsection 6.

35 *e.* If oral, when communicated.

1 10. A notice or other communication may be in the form of
2 an electronic transmission that cannot be directly reproduced
3 in paper form by the recipient through an automated process
4 used in conventional commercial practice only if all of the
5 following apply:

6 a. The electronic transmission is otherwise retrievable in
7 perceivable form.

8 b. The sender and the recipient have consented in writing to
9 the use of such form of electronic transmission.

10 11. If this chapter prescribes requirements for notices
11 or other communications in particular circumstances, those
12 requirements govern. If articles of incorporation or bylaws
13 prescribe requirements for notices or other communications,
14 not inconsistent with this section or other provisions of
15 this chapter, those requirements govern. The articles of
16 incorporation or bylaws may authorize or require delivery of
17 notices of meetings of directors by electronic transmission.

18 12. In the event that any provisions of this chapter are
19 deemed to modify, limit, or supersede the federal Electronic
20 Signatures in Global and National Commerce Act, 15 U.S.C.
21 §§7001 et seq., the provisions of this chapter shall control
22 to the maximum extent permitted by section 102(a)(2) of that
23 federal Act.

24 13. a. Whenever notice would otherwise be required to be
25 given under any provision of this subchapter to a shareholder,
26 such notice need not be given if any of the following apply:

27 (1) Notices to the shareholders of two consecutive annual
28 meetings, and all notices of meetings during the period between
29 such two consecutive annual meetings, have been sent to such
30 shareholder at such shareholder's address as shown on the
31 records of the corporation and have been returned undeliverable
32 or could not be delivered.

33 (2) All, but not less than two, payments of dividends on
34 securities during a twelve-month period, or two consecutive
35 payments of dividends on securities during a period of more

1 than twelve months, have been sent to such shareholder at
2 such shareholder's address as shown on the records of the
3 corporation and have been returned undeliverable or could not
4 be delivered.

5 *b.* If any such shareholder shall deliver to the corporation
6 a written notice setting forth such shareholder's then-current
7 address, the requirement that notice be given to such
8 shareholder shall be reinstated.

9 *Sec. 15.* Section 490.142, Code 2020, is amended by striking
10 the section and inserting in lieu thereof the following:

11 **490.142 Number of shareholders.**

12 1. For purposes of this chapter, any of the following
13 identified as a shareholder in a corporation's current record
14 of shareholders constitutes one shareholder:

15 *a.* Three or fewer co-owners.

16 *b.* A corporation, partnership, trust, estate, or other
17 entity.

18 *c.* The trustees, guardians, custodians, or other fiduciaries
19 of a single trust, estate, or account.

20 2. For purposes of this chapter, shareholdings registered
21 in substantially similar names constitute one shareholder if
22 it is reasonable to believe that the names represent the same
23 person.

24 *Sec. 16.* Section 490.143, Code 2020, is amended by striking
25 the section and inserting in lieu thereof the following:

26 **490.143 Qualified director.**

27 1. As used in this chapter, a "*qualified director*" means a
28 director who takes action, if at the time action is to be taken
29 any of the following applies:

30 *a.* Under section 490.202, subsection 2, paragraph "f", is
31 not a director under any of the following circumstances:

32 (1) To whom the limitation or elimination of the duty of
33 an officer to offer potential business opportunities to the
34 corporation would apply.

35 (2) Has a material relationship with any other person to

1 whom the limitation or elimination described in subparagraph
2 (1) would apply.

3 **b.** Under section 490.744, does not have any of the
4 following:

5 (1) A material interest in the outcome of the proceeding.

6 (2) A material relationship with a person who has such an
7 interest.

8 **c.** Under section 490.853 or 490.855, all of the following
9 apply:

10 (1) The director is not a party to the proceeding.

11 (2) The director is not a director as to whom a transaction
12 is a director's conflicting interest transaction or who sought
13 a disclaimer of the corporation's interest in a business
14 opportunity under section 490.870, which transaction or
15 disclaimer is challenged in the proceeding.

16 (3) The director does not have a material relationship with
17 a director described in either subparagraph (1) or (2).

18 **d.** Under section 490.862, the director is not any of the
19 following:

20 (1) A director as to whom the transaction is a director's
21 conflicting interest transaction.

22 (2) A director who has a material relationship with another
23 director as to whom the transaction is a director's conflicting
24 interest transaction.

25 **e.** Under section 490.870, is not a director who does any of
26 the following:

27 (1) Pursues or takes advantage of the business opportunity,
28 directly or indirectly through or on behalf of another person.

29 (2) Has a material relationship with a director or officer
30 who pursues or takes advantage of the business opportunity,
31 directly, or indirectly through or on behalf of another person.

32 **2.** As used in this section, all of the following apply:

33 **a.** "*Material interest*" means an actual or potential
34 benefit or detriment, other than one which would devolve on
35 the corporation or the shareholders generally, that would

1 reasonably be expected to impair the objectivity of the
2 director's judgment when participating in the action to be
3 taken.

4 *b. "Material relationship"* means a familial, financial,
5 professional, employment, or other relationship that would
6 reasonably be expected to impair the objectivity of the
7 director's judgment when participating in the action to be
8 taken.

9 3. The presence of one or more of the following
10 circumstances shall not automatically prevent a director from
11 being a qualified director:

12 *a.* Nomination or election of the director to the current
13 board by any director who is not a qualified director with
14 respect to the matter, or by any person that has a material
15 relationship with that director, acting alone or participating
16 with others.

17 *b.* Service as a director of another corporation of which a
18 director who is not a qualified director with respect to the
19 matter, or any individual who has a material relationship with
20 that director, is or was also a director.

21 *c.* With respect to action to be taken under section 490.744,
22 status as a named defendant, as a director against whom action
23 is demanded, or as a director who approved the conduct being
24 challenged.

25 Sec. 17. Section 490.144, Code 2020, is amended by striking
26 the section and inserting in lieu thereof the following:

27 **490.144 Householding.**

28 1. A corporation has delivered written notice or any
29 other report or statement under this chapter, the articles of
30 incorporation, or the bylaws to all shareholders who share a
31 common address if all of the following apply:

32 *a.* The corporation delivers one copy of the notice, report,
33 or statement to the common address.

34 *b.* The corporation addresses the notice, report, or
35 statement to those shareholders either as a group or to each

1 of those shareholders individually or to the shareholders in a
2 form to which each of those shareholders has consented.

3 c. Each of those shareholders consents to delivery of
4 a single copy of such notice, report, or statement to the
5 shareholders' common address.

6 2. Any such consent described in subsection 1, paragraph
7 "b" or "c", shall be revocable by any of such shareholders who
8 deliver written notice of revocation to the corporation. If
9 such written notice of revocation is delivered, the corporation
10 shall begin providing individual notices, reports, or other
11 statements to the revoking shareholder no later than thirty
12 days after delivery of the written notice of revocation.

13 3. Any shareholder who fails to object by written notice
14 to the corporation, within sixty days of written notice by
15 the corporation of its intention to deliver single copies of
16 notices, reports, or statements to shareholders who share a
17 common address as permitted by subsection 1, shall be deemed
18 to have consented to receiving such single copy at the common
19 address; provided that the notice of intention explains that
20 consent may be revoked and the method for revoking.

21 Sec. 18. NEW SECTION. 490.145 Part definitions.

22 As used in this part:

23 1. "*Corporate action*" means any action taken by or on
24 behalf of the corporation, including any action taken by the
25 incorporator, the board of directors, a committee of the board
26 of directors, an officer or agent of the corporation, or the
27 shareholders.

28 2. "*Date of the defective corporate action*" means the date
29 or, if the defective corporate action occurred or may have
30 occurred on more than one date, the range of dates, or the
31 approximate date or range of dates, if the exact date or range
32 of dates is unknown or not readily ascertainable, the defective
33 corporate action was purported to have been taken.

34 3. "*Defective corporate action*" means all of the following:

35 a. Any corporate action purportedly taken that is, and at

1 the time such corporate action was purportedly taken would
2 have been, within the power of the corporation, but is void or
3 voidable due to a failure of authorization.

4 *b.* An overissue.

5 4. "*Failure of authorization*" means the failure to
6 authorize, approve, or otherwise effect a corporate action in
7 compliance with the provisions of this chapter, the articles of
8 incorporation or bylaws, a corporate resolution, or any plan
9 or agreement to which the corporation is a party, if and to the
10 extent such failure would render such corporate action void or
11 voidable.

12 5. "*Overissue*" means the purported issuance of any of the
13 following:

14 *a.* Shares of a class or series in excess of the number of
15 shares of a class or series the corporation has the power to
16 issue under section 490.601 at the time of such issuance.

17 *b.* Shares of any class or series that is not then authorized
18 for issuance by the articles of incorporation.

19 6. "*Putative shares*" means the shares of any class or
20 series, including shares issued upon exercise of rights,
21 options, warrants or other securities convertible into
22 shares of the corporation, or interests with respect to such
23 shares, that were created or issued as a result of a defective
24 corporate action, and any of the following applies:

25 *a.* But for any failure of authorization would constitute
26 valid shares.

27 *b.* Cannot be determined by the board of directors to be
28 valid shares.

29 7. "*Valid shares*" means the shares of any class or series
30 that have been duly authorized and validly issued in accordance
31 with this chapter, including as a result of ratification or
32 validation under this part.

33 8. *a.* "*Validation effective time*" with respect to any
34 defective corporate action ratified under this part means the
35 later of the following:

1 (1) The time at which the ratification of the defective
2 corporate action is approved by the shareholders, or if
3 approval of shareholders is not required, the time at which
4 the notice required by section 490.149 becomes effective in
5 accordance with section 490.141.

6 (2) The time at which any articles of validation filed in
7 accordance with section 490.151 become effective.

8 *b.* The validation effective time shall not be affected by
9 the filing or pendency of a judicial proceeding under section
10 490.152 or otherwise, unless otherwise ordered by the court.

11 **Sec. 19. NEW SECTION. 490.146 Defective corporate actions.**

12 1. A defective corporate action shall not be void or
13 voidable if ratified in accordance with section 490.147 or
14 validated in accordance with section 490.152.

15 2. Ratification under section 490.147 or validation under
16 section 490.152 shall not be deemed to be the exclusive means
17 of ratifying or validating any defective corporate action, and
18 the absence or failure of ratification in accordance with this
19 part shall not, of itself, affect the validity or effectiveness
20 of any corporate action properly ratified under common law or
21 otherwise, nor shall it create a presumption that any such
22 corporate action is or was a defective corporate action or void
23 or voidable.

24 3. In the case of an overissue, putative shares shall be
25 valid shares effective as of the date originally issued or
26 purportedly issued upon any of the following:

27 *a.* The effectiveness under this part and under subchapter X
28 of an amendment to the articles of incorporation authorizing,
29 designating, or creating such shares.

30 *b.* The effectiveness of any other corporate action under
31 this part ratifying the authorization, designation, or creation
32 of such shares.

33 **Sec. 20. NEW SECTION. 490.147 Ratification of defective**
34 **corporate actions.**

35 1. To ratify a defective corporate action under this

1 section, other than the ratification of an election of the
2 initial board of directors under subsection 2, the board of
3 directors shall take action ratifying the action in accordance
4 with section 490.148, stating all of the following:

5 *a.* The defective corporate action to be ratified and, if the
6 defective corporate action involved the issuance of putative
7 shares, the number and type of putative shares purportedly
8 issued.

9 *b.* The date of the defective corporate action.

10 *c.* The nature of the failure of authorization with respect
11 to the defective corporate action to be ratified.

12 *d.* That the board of directors approves the ratification of
13 the defective corporate action.

14 2. In the event that a defective corporate action to be
15 ratified relates to the election of the initial board of
16 directors of the corporation under section 490.205, subsection
17 1, paragraph "b", a majority of the persons who, at the time of
18 the ratification, are exercising the powers of directors may
19 take an action stating all of the following:

20 *a.* The name of the person or persons who first took
21 action in the name of the corporation as the initial board of
22 directors of the corporation.

23 *b.* The earlier of the date on which such persons first
24 took such action or were purported to have been elected as the
25 initial board of directors.

26 *c.* That the ratification of the election of such person or
27 persons as the initial board of directors is approved.

28 3. If any provision of this chapter, the articles of
29 incorporation or bylaws, any corporate resolution, or any
30 plan or agreement to which the corporation is a party in
31 effect at the time action under subsection 1 is taken requires
32 shareholder approval or would have required shareholder
33 approval at the date of the occurrence of the defective
34 corporate action, the ratification of the defective corporate
35 action approved in the action taken by the directors under

1 subsection 1 shall be submitted to the shareholders for
2 approval in accordance with section 490.148.

3 4. Unless otherwise provided in the action taken by the
4 board of directors under subsection 1, after the action by the
5 board of directors has been taken and, if required, approved
6 by the shareholders, the board of directors may abandon the
7 ratification at any time before the validation effective time
8 without further action of the shareholders.

9 Sec. 21. NEW SECTION. 490.148 Action on ratification.

10 1. The quorum and voting requirements applicable to a
11 ratifying action by the board of directors under section
12 490.147, subsection 1, shall be the quorum and voting
13 requirements applicable to the corporate action proposed to be
14 ratified at the time such ratifying action is taken.

15 2. If the ratification of the defective corporate action
16 requires approval by the shareholders under section 490.147,
17 subsection 3, and if the approval is to be given at a meeting,
18 the corporation shall notify each holder of valid and putative
19 shares, regardless of whether entitled to vote, as of the
20 record date for notice of the meeting and as of the date of
21 the occurrence of defective corporate action, provided that
22 notice shall not be required to be given to holders of valid or
23 putative shares whose identities or addresses for notice cannot
24 be determined from the records of the corporation. The notice
25 must state that the purpose, or one of the purposes, of the
26 meeting is to consider ratification of a defective corporate
27 action and must be accompanied by all of the following:

28 a. Either a copy of the action taken by the board of
29 directors in accordance with section 490.147, subsection 1,
30 or the information required by section 490.147, subsection 1,
31 paragraphs "a" through "d".

32 b. A statement that any claim that the ratification of
33 such defective corporate action and any putative shares issued
34 as a result of such defective corporate action should not be
35 effective, or should be effective only on certain conditions,

1 shall be brought within one hundred twenty days from the
2 applicable validation effective time.

3 3. Except as provided in subsection 4, with respect to the
4 voting requirements to ratify the election of a director, the
5 quorum and voting requirements applicable to the approval by
6 the shareholders required by section 490.147, subsection 3,
7 shall be the quorum and voting requirements applicable to the
8 corporate action proposed to be ratified at the time of such
9 shareholder approval.

10 4. The approval by shareholders to ratify the election of a
11 director requires that the votes cast within the voting group
12 favoring such ratification exceed the votes cast opposing such
13 ratification of the election at a meeting at which a quorum is
14 present.

15 5. Putative shares on the record date for determining
16 the shareholders entitled to vote on any matter submitted to
17 shareholders under section 490.147, subsection 3, and without
18 giving effect to any ratification of putative shares that
19 becomes effective as a result of such vote, shall neither be
20 entitled to vote nor counted for quorum purposes in any vote to
21 approve the ratification of any defective corporate action.

22 6. If the approval under this section of putative shares
23 would result in an overissue, in addition to the approval
24 required by section 490.147, approval of an amendment to the
25 articles of incorporation under subchapter X to increase
26 the number of shares of an authorized class or series or to
27 authorize the creation of a class or series of shares so there
28 would be no overissue shall also be required.

29 **Sec. 22. NEW SECTION. 490.149 Notice requirements.**

30 1. Unless shareholder approval is required under section
31 490.147, subsection 3, prompt notice of an action taken under
32 section 490.147 shall be given to each holder of valid and
33 putative shares, regardless of whether entitled to vote, as of
34 all of the following:

35 a. The date of such action by the board of directors.

1 *b.* The date of the defective corporate action ratified,
2 provided that notice shall not be required to be given to
3 holders of valid and putative shares whose identities or
4 addresses for notice cannot be determined from the records of
5 the corporation.

6 2. The notice must contain all of the following:

7 *a.* Either a copy of the action taken by the board of
8 directors in accordance with section 490.147, subsection 1 or
9 2, or the information required by section 490.147, subsection
10 1, paragraphs "a" through "d", or section 490.147, subsection 2,
11 paragraphs "a" through "c", as applicable.

12 *b.* A statement that any claim that the ratification of
13 the defective corporate action and any putative shares issued
14 as a result of such defective corporate action should not be
15 effective, or should be effective only on certain conditions,
16 shall be brought within one hundred twenty days from the
17 applicable validation effective time.

18 3. No notice under this section is required with respect
19 to any action required to be submitted to shareholders for
20 approval under section 490.147, subsection 3, if notice is
21 given in accordance with section 490.148, subsection 2.

22 4. A notice required by this section may be given in any
23 manner permitted by section 490.141 and, for any corporation
24 subject to the reporting requirements of section 13 or 15(d) of
25 the federal Securities Exchange Act of 1934, may be given by
26 means of a filing or furnishing of such notice with the United
27 States securities and exchange commission.

28 Sec. 23. NEW SECTION. 490.150 Effect of ratification.

29 From and after the validation effective time, and without
30 regard to the one hundred twenty-day period during which
31 a claim may be brought under section 490.152, all of the
32 following shall apply:

33 1. Each defective corporate action ratified in accordance
34 with section 490.147 shall not be void or voidable as a result
35 of the failure of authorization identified in the action taken

1 under section 490.147, subsection 1 or 2, and shall be deemed
2 a valid corporate action effective as of the date of the
3 defective corporate action.

4 2. The issuance of each putative share or fraction of a
5 putative share purportedly issued pursuant to a defective
6 corporate action identified in the action taken under section
7 490.147 shall not be void or voidable, and each such putative
8 share or fraction of a putative share shall be deemed to be an
9 identical share or fraction of a valid share as of the time it
10 was purportedly issued.

11 3. Any corporate action taken subsequent to the defective
12 corporate action ratified in accordance with this part in
13 reliance on such defective corporate action having been
14 validly effected and any subsequent defective corporate action
15 resulting directly or indirectly from such original defective
16 corporate action shall be valid as of the time taken.

17 Sec. 24. NEW SECTION. 490.151 Filings.

18 1. If the defective corporate action ratified under this
19 part would have required under any other section of this
20 chapter a filing in accordance with this chapter, then,
21 regardless of whether a filing was previously made in respect
22 of such defective corporate action and in lieu of a filing
23 otherwise required by this chapter, the corporation shall file
24 articles of validation in accordance with this section, and
25 such articles of validation shall serve to amend or substitute
26 for any other filing with respect to such defective corporate
27 action required by this chapter.

28 2. The articles of validation must set forth all of the
29 following:

30 a. The defective corporate action that is the subject of the
31 articles of validation, including in the case of any defective
32 corporate action involving the issuance of putative shares, the
33 number and type of putative shares issued and the date or dates
34 upon which such putative shares were purported to have been
35 issued.

1 *b.* The date of the defective corporate action.

2 *c.* The nature of the failure of authorization in respect of
3 the defective corporate action.

4 *d.* A statement that the defective corporate action was
5 ratified in accordance with section 490.147, including
6 the date on which the board of directors ratified such
7 defective corporate action and the date, if any, on which
8 the shareholders approved the ratification of such defective
9 corporate action.

10 *e.* The information required by subsection 3.

11 3. The articles of validation must also contain the
12 following information:

13 *a.* If a filing was previously made in respect of the
14 defective corporate action and no changes to such filing are
15 required to give effect to the ratification of such defective
16 corporate action in accordance with section 490.147, the
17 articles of validation must set forth all of the following:

18 (1) The name, title, and filing date of the filing
19 previously made and any articles of correction to that filing.

20 (2) A statement that a copy of the filing previously made,
21 together with any articles of correction to that filing, is
22 attached as an exhibit to the articles of validation.

23 *b.* If a filing was previously made in respect of the
24 defective corporate action and such filing requires any change
25 to give effect to the ratification of such defective corporate
26 action in accordance with section 490.147, the articles of
27 validation must set forth all of the following:

28 (1) The name, title, and filing date of the filing
29 previously made and any articles of correction to that filing.

30 (2) A statement that a filing containing all of the
31 information required to be included under the applicable
32 section or sections of this chapter to give effect to such
33 defective corporate action is attached as an exhibit to the
34 articles of validation.

35 (3) The date and time that such filing is deemed to have

1 become effective.

2 *c.* If a filing was not previously made in respect of the
3 defective corporate action and the defective corporate action
4 ratified under section 490.147 would have required a filing
5 under any other section of this chapter, the articles of
6 validation must set forth all of the following:

7 (1) A statement that a filing containing all of the
8 information required to be included under the applicable
9 section or sections of this chapter to give effect to such
10 defective corporate action is attached as an exhibit to the
11 articles of validation.

12 (2) The date and time that such filing is deemed to have
13 become effective.

14 **Sec. 25. NEW SECTION. 490.152 Judicial proceedings**
15 **regarding validity of corporate actions.**

16 1. Upon application by the corporation, any successor
17 entity to the corporation, a director of the corporation, any
18 shareholder, beneficial shareholder, or unrestricted voting
19 trust beneficial owner of the corporation, including any
20 such shareholder, beneficial shareholder, or unrestricted
21 voting trust beneficial owner as of the date of the defective
22 corporate action ratified under section 490.147, or any other
23 person claiming to be substantially and adversely affected by a
24 ratification under section 490.147, the district court of the
25 county where a corporation's principal office or, if none in
26 this state, its registered office, is located may do all of the
27 following:

28 *a.* Determine the validity and effectiveness of any corporate
29 action or defective corporate action.

30 *b.* Determine the validity and effectiveness of any
31 ratification under section 490.147.

32 *c.* Determine the validity of any putative shares.

33 *d.* Modify or waive any of the procedures specified in
34 section 490.147 or 490.148 to ratify a defective corporate
35 action.

1 2. In connection with an action under this section, the
2 court may make such findings or orders, and take into account
3 any factors or considerations, regarding such matters as it
4 deems proper under the circumstances.

5 3. Service of process of the application under subsection
6 1 on the corporation may be made in any manner provided by
7 statute of this state or by rule of the applicable court for
8 service on the corporation, and no other party need be joined
9 in order for the court to adjudicate the matter. In an action
10 filed by the corporation, the court may require notice of the
11 action to be provided to other persons specified by the court
12 and permit such other persons to intervene in the action.

13 4. Notwithstanding any other provision of this section or
14 otherwise under applicable law, any action asserting that the
15 ratification of any defective corporate action and any putative
16 shares issued as a result of such defective corporate action
17 should not be effective, or should be effective only on certain
18 conditions, shall be brought within one hundred twenty days of
19 the validation effective time.

20 Sec. 26. Section 490.201, Code 2020, is amended by striking
21 the section and inserting in lieu thereof the following:

22 **490.201 Incorporators.**

23 One or more persons may act as the incorporator or
24 incorporators of a corporation by delivering articles of
25 incorporation to the secretary of state for filing.

26 Sec. 27. Section 490.202, Code 2020, is amended by striking
27 the section and inserting in lieu thereof the following:

28 **490.202 Articles of incorporation.**

29 1. The articles of incorporation must set forth all of the
30 following:

31 *a.* A corporate name for the corporation that satisfies the
32 requirements of section 490.401.

33 *b.* The number of shares the corporation is authorized to
34 issue.

35 *c.* The street and mailing addresses of the corporation's

1 initial registered office and the name of its initial
2 registered agent at that office.

3 *d.* The name and address of each incorporator.

4 2. The articles of incorporation may set forth any of the
5 following:

6 *a.* The names and addresses of the individuals who are to
7 serve as the initial directors.

8 *b.* Provisions not inconsistent with law regarding any of the
9 following:

10 (1) The purpose or purposes for which the corporation is
11 organized.

12 (2) Managing the business and regulating the affairs of the
13 corporation.

14 (3) Defining, limiting, and regulating the powers of the
15 corporation, its board of directors, and shareholders.

16 (4) A par value for authorized shares or classes of shares.

17 (5) The imposition of interest holder liability on
18 shareholders.

19 *c.* Any provision that under this chapter is required or
20 permitted to be set forth in the bylaws.

21 *d.* A provision eliminating or limiting the liability
22 of a director to the corporation or its shareholders for
23 money damages for any action taken, or any failure to take
24 any action, as a director, except liability for any of the
25 following:

26 (1) The amount of a financial benefit received by a director
27 to which the director is not entitled.

28 (2) An intentional infliction of harm on the corporation or
29 the shareholders.

30 (3) A violation of section 490.833.

31 (4) An intentional violation of criminal law.

32 *e.* A provision permitting or making obligatory
33 indemnification of a director for liability, as defined in
34 section 490.850, to any person for any action taken, or any
35 failure to take any action, as a director, except liability for

1 any of the following:

2 (1) Receipt of a financial benefit to which the director is
3 not entitled.

4 (2) An intentional infliction of harm on the corporation or
5 its shareholders.

6 (3) A violation of section 490.833.

7 (4) An intentional violation of criminal law.

8 *f.* A provision limiting or eliminating any duty of a
9 director or any other person to offer the corporation the
10 right to have or participate in any, or one or more classes
11 or categories of, business opportunities, before the pursuit
12 or taking of the opportunity by the director or other person;
13 provided that any application of such a provision to an officer
14 or a related person of that officer is subject to all of the
15 following:

16 (1) It also requires approval of that application by the
17 board of directors, subsequent to the effective date of the
18 provision, by action of qualified directors taken in compliance
19 with the same procedures as are set forth in section 490.862.

20 (2) It may be limited by the authorizing action of the
21 board.

22 3. The articles of incorporation need not set forth any of
23 the corporate powers enumerated in this chapter.

24 4. Provisions of the articles of incorporation may be made
25 dependent upon facts objectively ascertainable outside the
26 articles of incorporation in accordance with section 490.120,
27 subsection 11.

28 5. As used in this section, "*related person*" has the meaning
29 specified in section 490.860.

30 Sec. 28. Section 490.203, Code 2020, is amended by striking
31 the section and inserting in lieu thereof the following:

32 **490.203 Incorporation.**

33 1. Unless a delayed effective date is specified, the
34 corporate existence begins when the articles of incorporation
35 are filed.

1 2. The secretary of state's filing of the articles of
2 incorporation is conclusive proof that the incorporators
3 satisfied all conditions precedent to incorporation except in a
4 proceeding by the state to cancel or revoke the incorporation
5 or involuntarily dissolve the corporation.

6 Sec. 29. Section 490.205, Code 2020, is amended by striking
7 the section and inserting in lieu thereof the following:

8 **490.205 Organization of corporation.**

9 1. After incorporation, the following shall apply:

10 *a.* If initial directors are named in the articles
11 of incorporation, the initial directors shall hold an
12 organizational meeting, at the call of a majority of the
13 directors, to complete the organization of the corporation by
14 appointing officers, adopting bylaws, and carrying on any other
15 business brought before the meeting.

16 *b.* If initial directors are not named in the articles of
17 incorporation, the incorporator or incorporators shall hold
18 an organizational meeting at the call of a majority of the
19 incorporators to do any of the following:

20 (1) Elect initial directors and complete the organization
21 of the corporation.

22 (2) Elect a board of directors who shall complete the
23 organization of the corporation.

24 2. Action required or permitted by this chapter to be taken
25 by incorporators at an organizational meeting may be taken
26 without a meeting if the action taken is evidenced by one or
27 more written consents describing the action taken and signed by
28 each incorporator.

29 3. An organizational meeting may be held in or out of this
30 state.

31 Sec. 30. Section 490.206, Code 2020, is amended by striking
32 the section and inserting in lieu thereof the following:

33 **490.206 Bylaws.**

34 1. The incorporators or board of directors of a corporation
35 shall adopt initial bylaws for the corporation.

1 2. The bylaws of a corporation may contain any provision
2 that is not inconsistent with law or the articles of
3 incorporation.

4 3. The bylaws may contain any of the following provisions:

5 a. A requirement that if the corporation solicits proxies
6 or consents with respect to an election of directors, the
7 corporation include in its proxy statement and any form
8 of its proxy or consent, to the extent and subject to such
9 procedures or conditions as are provided in the bylaws, one
10 or more individuals nominated by a shareholder in addition to
11 individuals nominated by the board of directors.

12 b. A requirement that the corporation reimburse the expenses
13 incurred by a shareholder in soliciting proxies or consents in
14 connection with an election of directors, to the extent and
15 subject to such procedures and conditions as are provided in
16 the bylaws, provided that no bylaw so adopted shall apply to
17 elections for which any record date precedes its adoption.

18 4. Notwithstanding section 490.1020, subsection 2,
19 paragraph "b", the shareholders in amending, repealing, or
20 adopting a bylaw described in subsection 3 shall not limit the
21 authority of the board of directors to amend or repeal any
22 condition or procedure set forth in or to add any procedure
23 or condition to such a bylaw to provide for a reasonable,
24 practical, and orderly process.

25 Sec. 31. Section 490.207, Code 2020, is amended by striking
26 the section and inserting in lieu thereof the following:

27 **490.207 Emergency bylaws.**

28 1. Unless the articles of incorporation provide otherwise,
29 the board of directors may adopt bylaws to be effective only in
30 an emergency as defined in subsection 4. The emergency bylaws,
31 which are subject to amendment or repeal by the shareholders,
32 may make all provisions necessary for managing the corporation
33 during the emergency, including any of the following:

34 a. Procedures for calling a meeting of the board of
35 directors.

1 *b.* Quorum requirements for the meeting.

2 *c.* Designation of additional or substitute directors.

3 2. All provisions of the regular bylaws not inconsistent
4 with the emergency bylaws remain effective during the
5 emergency. The emergency bylaws are not effective after the
6 emergency ends.

7 3. Corporate action taken in good faith in accordance with
8 the emergency bylaws has all of the following effects:

9 *a.* The action binds the corporation.

10 *b.* The action shall not be used to impose liability on a
11 director, officer, employee, or agent of the corporation.

12 4. An emergency exists for purposes of this section if a
13 quorum of the board of directors cannot readily be assembled
14 because of some catastrophic event.

15 Sec. 32. NEW SECTION. **490.208 Forum selection provisions.**

16 1. The articles of incorporation or bylaws may require
17 that any or all internal corporate claims shall be brought
18 exclusively in any specified court or courts of this state
19 and, if so specified, in any additional courts in this state
20 or in any other jurisdictions with which the corporation has a
21 reasonable relationship.

22 2. A provision of the articles of incorporation or bylaws
23 adopted under subsection 1 shall not have the effect of
24 conferring jurisdiction on any court or over any person or
25 claim, and shall not apply if none of the courts specified
26 by such provision has the requisite personal and subject
27 matter jurisdiction. If the court or courts of this state
28 specified in a provision adopted under subsection 1 do not
29 have the requisite personal and subject matter jurisdiction
30 and another court of this state does have such jurisdiction,
31 then the internal corporate claim may be brought in such other
32 court of this state, notwithstanding that such other court
33 of this state is not specified in such provision, and in any
34 other court specified in such provision that has the requisite
35 jurisdiction.

1 3. No provision of the articles of incorporation or bylaws
2 may prohibit bringing an internal corporate claim in the
3 courts of this state or require such claims to be determined
4 by arbitration.

5 4. "*Internal corporate claim*" means, for the purposes of
6 this section, any of the following:

7 a. Any claim that is based upon a violation of a duty
8 under the laws of this state by a current or former director,
9 officer, or shareholder in such capacity.

10 b. Any derivative action or proceeding brought on behalf of
11 the corporation.

12 c. Any action asserting a claim arising pursuant to any
13 provision of this chapter or the articles of incorporation or
14 bylaws.

15 d. Any action asserting a claim governed by the internal
16 affairs doctrine that is not included in paragraphs "a" through
17 "c".

18 Sec. 33. Section 490.302, Code 2020, is amended by striking
19 the section and inserting in lieu thereof the following:

20 **490.302 General powers.**

21 Unless its articles of incorporation provide otherwise,
22 every corporation has perpetual duration and succession in its
23 corporate name and has the same powers as an individual to do
24 all things necessary or convenient to carry out its business
25 and affairs, including the power to do all of the following:

26 1. Sue and be sued, complain, and defend in its corporate
27 name.

28 2. Have a corporate seal, which may be altered at will, and
29 to use it, or a facsimile of it, by impressing or affixing it or
30 in any other manner reproducing it.

31 3. Make and amend bylaws, not inconsistent with its articles
32 of incorporation or with the laws of this state, for managing
33 the business and regulating the affairs of the corporation.

34 4. Purchase, receive, lease, or otherwise acquire, and own,
35 hold, improve, use, and otherwise deal with, real or personal

1 property, or any legal or equitable interest in property,
2 wherever located.

3 5. Sell, convey, mortgage, pledge, lease, exchange, and
4 otherwise dispose of all or any part of its property.

5 6. Purchase, receive, subscribe for, or otherwise acquire,
6 own, hold, vote, use, sell, mortgage, lend, pledge, or
7 otherwise dispose of, and deal in and with shares or other
8 interests in, or obligations of, any other entity.

9 7. Make contracts and guarantees, incur liabilities,
10 borrow money, issue its notes, bonds, and other securities
11 and obligations, which may be convertible into or include the
12 option to purchase other securities of the corporation, and
13 secure any of its obligations by mortgage or pledge of any of
14 its property, franchises, or income.

15 8. Lend money, invest and reinvest its funds, and receive
16 and hold real and personal property as security for repayment.

17 9. Be a promoter, partner, member, associate, or manager of
18 any partnership, joint venture, trust, or other entity.

19 10. Conduct its business, locate offices, and exercise the
20 powers granted by this chapter within or without this state.

21 11. Elect directors and appoint officers, employees, and
22 agents of the corporation, define their duties, fix their
23 compensation, and lend them money and credit.

24 12. Pay pensions and establish pension plans, pension
25 trusts, profit sharing plans, share bonus plans, share option
26 plans, and benefit or incentive plans for any or all of its
27 current or former directors, officers, employees, and agents.

28 13. Make donations for the public welfare or for charitable,
29 scientific, or educational purposes.

30 14. Transact any lawful business that will aid governmental
31 policy.

32 15. Make payments or donations, or do any other act, not
33 inconsistent with law, that furthers the business and affairs
34 of the corporation.

35 Sec. 34. Section 490.303, Code 2020, is amended by striking

1 the section and inserting in lieu thereof the following:

2 **490.303 Emergency powers.**

3 1. In anticipation of or during an emergency as defined in
4 subsection 4, the board of directors of a corporation may do
5 all of the following:

6 *a.* Modify lines of succession to accommodate the incapacity
7 of any director, officer, employee, or agent.

8 *b.* Relocate the principal office, designate alternative
9 principal offices or regional offices, or authorize the
10 officers to do so.

11 2. During an emergency as defined in subsection 4, unless
12 emergency bylaws provide otherwise:

13 *a.* Notice of a meeting of the board of directors need be
14 given only to those directors whom it is practicable to reach
15 and may be given in any practicable manner.

16 *b.* One or more officers of the corporation present at a
17 meeting of the board of directors may be deemed to be directors
18 for the meeting, in order of rank and within the same rank in
19 order of seniority, as necessary to achieve a quorum.

20 3. Corporate action taken in good faith during an emergency
21 under this section to further the ordinary business affairs of
22 the corporation shall both:

23 *a.* Bind the corporation.

24 *b.* Not be used to impose liability on a corporate director,
25 officer, employee, or agent.

26 4. An emergency exists for purposes of this section if a
27 quorum of the board of directors cannot readily be assembled
28 because of some catastrophic event.

29 Sec. 35. Section 490.401, Code 2020, is amended by striking
30 the section and inserting in lieu thereof the following:

31 **490.401 Corporate name.**

32 1. A corporate name is subject to all of the following:

33 *a.* It must contain the word "corporation", "incorporated",
34 "company", or "limited", or the abbreviation "corp.", "inc.",
35 "co.", or "ltd.", or words or abbreviations of like import in

1 another language.

2 *b.* It must not contain language stating or implying that
3 the corporation is organized for a purpose other than that
4 permitted by section 490.301 and its articles of incorporation.

5 2. Except as authorized by subsections 3 and 4, a corporate
6 name must be distinguishable upon the records of the secretary
7 of state from all of the following:

8 *a.* The corporate name of a corporation incorporated in
9 this state which is not administratively dissolved, or if such
10 corporation has been administratively dissolved, within five
11 years after the effective date of dissolution.

12 *b.* A corporate name reserved or registered under section
13 490.402 or 490.403 or any similar provision of the law of this
14 state.

15 *c.* The name of a foreign corporation registered to do
16 business in this state or an alternate name adopted by a
17 foreign corporation registered to do business in this state
18 because its corporate name is unavailable.

19 *d.* The corporate name of a nonprofit corporation
20 incorporated in this state which is not administratively
21 dissolved.

22 *e.* The name of a foreign nonprofit corporation registered
23 to do business in this state or an alternate name adopted by a
24 foreign nonprofit corporation registered to conduct activities
25 in this state because its real name is unavailable.

26 *f.* The name of a domestic filing entity which is not
27 administratively dissolved.

28 *g.* The name of a foreign unincorporated entity registered
29 to do business in this state or an alternate name adopted by
30 such an entity registered to conduct activities in this state
31 because its real name is unavailable.

32 *h.* A name reserved, registered, or protected as follows:

33 (1) For a limited liability partnership, section 486A.1001
34 or 486A.1002.

35 (2) For a limited partnership, section 488.108, 488.109, or

1 488.810.

2 (3) For a business corporation, this section, or section
3 490.402, 490.403, or 490.1422.

4 (4) For a limited liability company under chapter 489,
5 section 489.108, 489.109, or 489.706.

6 (5) For a nonprofit corporation, section 504.401, 504.402,
7 504.403, or 504.1423.

8 3. A corporation may apply to the secretary of state for
9 authorization to use a name that is not distinguishable upon
10 the secretary of state's records from one or more of the names
11 described in subsection 2. The secretary of state shall
12 authorize use of the name applied for if any of the following
13 conditions apply:

14 a. The other corporation or unincorporated entity consents
15 to the use in writing and submits an undertaking in form
16 satisfactory to the secretary of state to change its name to a
17 name that is distinguishable upon the records of the secretary
18 of state from the name of the applying corporation.

19 b. The applicant delivers to the secretary of state a
20 certified copy of the final judgment of a court of competent
21 jurisdiction establishing the applicant's right to use the name
22 applied for in this state.

23 4. A corporation may use the name, including the fictitious
24 name, of another domestic or foreign corporation that is used
25 in this state if the other corporation is incorporated or
26 authorized to transact business in this state and the proposed
27 user corporation submits documentation to the satisfaction
28 of the secretary of state establishing any of the following
29 conditions:

30 a. Has merged with the other corporation.

31 b. Has been formed by reorganization of the other
32 corporation.

33 c. Has acquired all or substantially all of the assets,
34 including the corporate name, of the other corporation.

35 5. This chapter does not control the use of fictitious

1 names; however, if a corporation or a foreign corporation
2 uses a fictitious name in this state, it shall deliver to the
3 secretary of state for filing a copy of the resolution of its
4 board of directors, certified by its secretary, adopting the
5 fictitious name.

6 Sec. 36. Section 490.402, Code 2020, is amended by striking
7 the section and inserting in lieu thereof the following:

8 **490.402 Reserved name.**

9 1. A person may reserve the exclusive use of a corporate
10 name, including a fictitious or alternate name for a foreign
11 corporation whose corporate name is not available, by
12 delivering an application to the secretary of state for
13 filing. The application must set forth the name and address
14 of the applicant and the name proposed to be reserved. If the
15 secretary of state finds that the corporate name applied for is
16 available, the secretary of state shall reserve the name for
17 the applicant's exclusive use for a nonrenewable one hundred
18 twenty-day period.

19 2. The owner of a reserved corporate name may transfer the
20 reservation to another person by delivering to the secretary of
21 state a signed notice of the transfer that states the name and
22 address of the transferee.

23 Sec. 37. Section 490.403, Code 2020, is amended by striking
24 the section and inserting in lieu thereof the following:

25 **490.403 Registered name.**

26 1. A foreign corporation may register its corporate
27 name, or its corporate name with the addition of any word
28 or abbreviation listed in section 490.401, subsection 1,
29 paragraph "a", if necessary for the corporate name to comply
30 with section 490.401, subsection 1, paragraph "a", if the name
31 is distinguishable upon the records of the secretary of state
32 from the corporate names that are not available under section
33 490.401, subsection 2.

34 2. A foreign corporation registers its corporate name, or
35 its corporate name with any addition permitted by subsection

1 1, by delivering to the secretary of state for filing an
2 application that complies with all of the following:

3 a. Sets forth that name, the state or country and date of
4 its incorporation, and a brief description of the nature of the
5 business which is to be conducted in this state.

6 b. Is accompanied by a certificate of existence, or a
7 document of similar import, from the state or country of
8 incorporation.

9 3. The name is registered for the applicant's exclusive
10 use upon the effective date of the application and for the
11 remainder of the calendar year, unless renewed.

12 4. A foreign corporation whose name registration is
13 effective may renew it for successive years by delivering
14 to the secretary of state for filing a renewal application,
15 which complies with the requirements of subsection 2, between
16 October 1 and December 31 of the preceding year. The renewal
17 application when filed renews the registration for the
18 following calendar year.

19 5. a. A foreign corporation whose name registration is
20 effective may thereafter do any of the following:

21 (1) Register to do business as a foreign corporation under
22 the registered name, if it complies with section 490.401,
23 subsection 1, paragraph "b".

24 (2) Consent in writing to the use of that name by a domestic
25 corporation thereafter incorporated under this chapter or by
26 another foreign corporation.

27 b. The registration terminates when the domestic corporation
28 is incorporated or the foreign corporation registers to do
29 business under that name.

30 Sec. 38. Section 490.501, Code 2020, is amended by striking
31 the section and inserting in lieu thereof the following:

32 **490.501 Registered office and agent of domestic and**
33 **registered foreign corporations.**

34 1. Each corporation shall continuously maintain in this
35 state all of the following:

1 *a.* A registered office that may be the same as any of its
2 places of business.

3 *b.* A registered agent, which may be any of the following:

4 (1) An individual who resides in this state and whose
5 business office is identical with the registered office.

6 (2) A domestic or foreign corporation or eligible entity
7 whose business office is identical with the registered office
8 and, in the case of a foreign corporation or foreign eligible
9 entity, is registered to do business in this state.

10 2. As used in this subchapter, "*corporation*" means both a
11 domestic corporation and a registered foreign corporation.

12 Sec. 39. Section 490.502, Code 2020, is amended by striking
13 the section and inserting in lieu thereof the following:

14 **490.502 Change of registered office or registered agent.**

15 1. A corporation may change its registered office or
16 registered agent by delivering to the secretary of state
17 for filing a statement of change that sets forth all of the
18 following:

19 *a.* The name of the corporation.

20 *b.* The street and mailing addresses of its current
21 registered office.

22 *c.* If the current registered office is to be changed, the
23 street and mailing addresses of the new registered office.

24 *d.* The name of its current registered agent.

25 *e.* If the current registered agent is to be changed, the
26 name of the new registered agent and the new agent's written
27 consent, either on the statement or attached to it, to the
28 appointment.

29 *f.* That after the change or changes are made, the street and
30 mailing addresses of its registered office and of the business
31 office of its registered agent will be identical.

32 2. If the street or mailing address of a registered agent's
33 business office changes, the agent shall change the street or
34 mailing address of the registered office of any corporation for
35 which the agent is the registered agent by delivering a signed

1 written notice of the change to the corporation and delivering
2 to the secretary of state for filing a signed statement that
3 complies with the requirements of subsection 1 and states that
4 the corporation has been notified of the change.

5 3. If a registered agent changes the registered agent's
6 business address to another place, the registered agent may
7 change the business address and the address of the registered
8 agent by filing a statement as required in subsection 2 for
9 each corporation, or a single statement for all corporations
10 named in the notice, except that it need be signed only by the
11 registered agent and need not be responsive to subsection 1,
12 paragraph "e", and must recite that a copy of the statement has
13 been mailed to each corporation named in the notice.

14 4. A corporation may also change its registered office or
15 registered agent in its biennial report as provided in section
16 490.1622.

17 Sec. 40. Section 490.503, Code 2020, is amended by striking
18 the section and inserting in lieu thereof the following:

19 **490.503 Resignation of registered agent.**

20 1. A registered agent may resign as agent for a corporation
21 by delivering to the secretary of state for filing a statement
22 of resignation signed by the agent which shall state all of the
23 following:

24 a. The name of the corporation.

25 b. The name of the agent.

26 c. The agent resigns from serving as registered agent for
27 the corporation.

28 d. The address of the corporation to which the agent will
29 deliver the notice required by subsection 3.

30 2. A statement of resignation takes effect on the earlier
31 of the following:

32 a. 12:01 a.m. on the thirty-first day after the day on which
33 it is filed by the secretary of state.

34 b. The designation of a new registered agent for the
35 corporation.

1 3. A registered agent promptly shall deliver to the
2 corporation notice of the date on which a statement of
3 resignation was delivered to the secretary of state for filing.

4 4. When a statement of resignation takes effect, the person
5 that resigned ceases to have responsibility under this chapter
6 for any matter thereafter tendered to it as agent for the
7 corporation. The resignation does not affect any contractual
8 rights the corporation has against the agent or that the agent
9 has against the corporation.

10 5. A registered agent may resign with respect to a
11 corporation regardless of whether the corporation is in good
12 standing.

13 Sec. 41. Section 490.504, Code 2020, is amended by striking
14 the section and inserting in lieu thereof the following:

15 **490.504 Service on corporation.**

16 1. A corporation's registered agent is the corporation's
17 agent for service of process, notice, or demand required or
18 permitted by law to be served on the corporation.

19 2. If a corporation has no registered agent, or the agent
20 cannot with reasonable diligence be served, the corporation
21 may be served by registered or certified mail, return receipt
22 requested, addressed to the secretary at the corporation's
23 principal office. Service is perfected under this subsection
24 at the earliest of the following:

25 a. The date the corporation receives the mail.

26 b. The date shown on the return receipt, if signed on behalf
27 of the corporation.

28 c. Five days after its deposit in the United States mail,
29 as evidenced by the postmark, if mailed postpaid and correctly
30 addressed.

31 3. a. The secretary of state shall be an agent of the
32 corporation upon whom process, notice, or demand may be served,
33 if any of the following applies:

34 (1) The process, notice, or demand cannot be served on a
35 corporation pursuant to subsection 1 or 2.

1 (2) The process, notice, or demand is to be served on
2 a registered foreign corporation that has withdrawn its
3 registration pursuant to section 490.1507 or 490.1509, or the
4 registration of which has been terminated pursuant to section
5 490.1511.

6 b. Service of any process, notice, or demand on the
7 secretary of state as agent for a corporation may be made by
8 delivering to the secretary of state duplicate copies of the
9 process, notice, or demand. If process, notice, or demand
10 is served on the secretary of state, the secretary of state
11 shall forward one of the copies by registered or certified
12 mail, return receipt requested, to the corporation at the
13 last address shown in the records of the secretary of state.
14 Service is effected under this subsection at the earliest of
15 the following:

16 (1) The date the corporation receives the process, notice,
17 or demand.

18 (2) The date shown on the return receipt, if signed on
19 behalf of the corporation.

20 (3) Five days after the process, notice, or demand is
21 deposited with the United States mail by the secretary of
22 state.

23 4. This section does not prescribe the only means, or
24 necessarily the required means, of serving a corporation.

25 Sec. 42. Section 490.601, Code 2020, is amended by striking
26 the section and inserting in lieu thereof the following:

27 **490.601 Authorized shares.**

28 1. The articles of incorporation must set forth any classes
29 of shares and series of shares within a class, and the number
30 of shares of each class and series, that the corporation is
31 authorized to issue. If more than one class or series of
32 shares is authorized, the articles of incorporation must
33 prescribe a distinguishing designation for each class or series
34 and, before the issuance of shares of a class or series,
35 describe the terms, including the preferences, rights, and

1 limitations of that class or series. Except to the extent
2 varied as permitted by this section, all shares of a class or
3 series must have terms, including preferences, rights, and
4 limitations that are identical with those of other shares of
5 the same class or series.

6 2. The articles of incorporation must authorize all of the
7 following:

8 a. One or more classes or series of shares that together
9 have full voting rights.

10 b. One or more classes or series of shares, which may be
11 the same class, classes, or series as those with voting rights,
12 that together are entitled to receive the net assets of the
13 corporation upon dissolution.

14 3. The articles of incorporation may authorize one or more
15 classes or series of shares that have any of the following
16 characteristics:

17 a. Have special, conditional, or limited voting rights, or
18 no right to vote, except to the extent otherwise provided by
19 this chapter.

20 b. Are redeemable or convertible as specified in the
21 articles of incorporation in any of the following ways:

22 (1) At the option of the corporation, the shareholder, or
23 another person or upon the occurrence of a specified event.

24 (2) For cash, indebtedness, securities, or other property.

25 (3) At prices and in amounts specified or determined in
26 accordance with a formula.

27 c. Entitle the holders to distributions calculated in
28 any manner, including dividends that may be cumulative,
29 noncumulative, or partially cumulative.

30 d. Have preference over any other class or series of shares
31 with respect to distributions, including distributions upon the
32 dissolution of the corporation.

33 4. The terms of shares may be made dependent upon facts
34 objectively ascertainable outside the articles of incorporation
35 in accordance with section 490.120, subsection 11.

1 5. Any of the terms of shares may vary among holders of the
2 same class or series so long as such variations are expressly
3 set forth in the articles of incorporation.

4 6. The description of the preferences, rights, and
5 limitations of classes or series of shares in subsection 3 is
6 not exhaustive.

7 Sec. 43. Section 490.602, Code 2020, is amended by striking
8 the section and inserting in lieu thereof the following:

9 **490.602 Terms of class or series determined by board of**
10 **directors.**

11 1. If the articles of incorporation so provide, the board
12 of directors is authorized, without shareholder approval, to
13 do any of the following:

14 a. Classify any unissued shares into one or more classes or
15 into one or more series within a class.

16 b. Reclassify any unissued shares of any class into one
17 or more classes or into one or more series within one or more
18 classes.

19 c. Reclassify any unissued shares of any series of any class
20 into one or more classes or into one or more series within a
21 class.

22 2. If the board of directors acts pursuant to subsection
23 1, it shall determine the terms, including the preferences,
24 rights, and limitations, to the same extent permitted under
25 section 490.601, of any of the following:

26 a. Any class of shares before the issuance of any shares of
27 that class.

28 b. Any series within a class before the issuance of any
29 shares of that series.

30 3. Before issuing any shares of a class or series created
31 under this section, the corporation shall deliver to the
32 secretary of state for filing articles of amendment setting
33 forth the terms determined under subsection 1.

34 Sec. 44. Section 490.603, Code 2020, is amended by striking
35 the section and inserting in lieu thereof the following:

1 **490.603 Issued and outstanding shares.**

2 1. A corporation may issue the number of shares of each
3 class or series authorized by the articles of incorporation.
4 Shares that are issued are outstanding shares until they are
5 reacquired, redeemed, converted, or canceled.

6 2. The reacquisition, redemption, or conversion of
7 outstanding shares is subject to the limitations of subsection
8 3 and to section 490.640.

9 3. At all times that shares of the corporation are
10 outstanding, one or more shares that together have full voting
11 rights and one or more shares that together are entitled to
12 receive the net assets of the corporation upon dissolution must
13 be outstanding.

14 Sec. 45. Section 490.604, Code 2020, is amended by striking
15 the section and inserting in lieu thereof the following:

16 **490.604 Fractional shares.**

17 1. A corporation may issue fractions of a share or in lieu
18 of doing so may do any of the following:

19 *a.* Pay in cash the value of fractions of a share.

20 *b.* Issue scrip in registered or bearer form entitling the
21 holder to receive a full share upon surrendering enough scrip
22 to equal a full share.

23 *c.* Arrange for disposition of fractional shares by the
24 holders of such shares.

25 2. Each certificate representing scrip must be
26 conspicuously labeled "scrip" and must contain the information
27 required by section 490.625, subsection 2.

28 3. The holder of a fractional share is entitled to exercise
29 the rights of a shareholder, including the rights to vote,
30 to receive dividends, and to receive distributions upon
31 dissolution. The holder of scrip is not entitled to any of
32 these rights unless the scrip provides for them.

33 4. The board of directors may authorize the issuance of
34 scrip subject to any condition, including any of the following:

35 *a.* That the scrip will become void if not exchanged for full

1 shares before a specified date.

2 *b.* That the shares for which the scrip is exchangeable may
3 be sold and the proceeds paid to the scripholders.

4 Sec. 46. Section 490.620, Code 2020, is amended by striking
5 the section and inserting in lieu thereof the following:

6 **490.620 Subscription for shares before incorporation.**

7 1. A subscription for shares entered into before
8 incorporation is irrevocable for six months unless the
9 subscription agreement provides a longer or shorter period or
10 all the subscribers agree to revocation.

11 2. The board of directors may determine the payment terms
12 of subscriptions for shares that were entered into before
13 incorporation, unless the subscription agreement specifies
14 them. A call for payment by the board of directors must be
15 uniform so far as practicable as to all shares of the same
16 class or series, unless the subscription agreement specifies
17 otherwise.

18 3. Shares issued pursuant to subscriptions entered into
19 before incorporation are fully paid and nonassessable when
20 the corporation receives the consideration specified in the
21 subscription agreement.

22 4. If a subscriber defaults in payment of cash or
23 property under a subscription agreement entered into before
24 incorporation, the corporation may collect the amount owed
25 as any other debt. Alternatively, unless the subscription
26 agreement provides otherwise, the corporation may rescind the
27 agreement and may sell the shares if the debt remains unpaid
28 for more than twenty days after the corporation delivers a
29 written demand for payment to the subscriber.

30 5. A subscription agreement entered into after
31 incorporation is a contract between the subscriber and the
32 corporation subject to section 490.621.

33 Sec. 47. Section 490.621, Code 2020, is amended by striking
34 the section and inserting in lieu thereof the following:

35 **490.621 Issuance of shares.**

1 1. The powers granted in this section to the board of
2 directors may be reserved to the shareholders by the articles
3 of incorporation.

4 2. The board of directors may authorize shares to be issued
5 for consideration consisting of any tangible or intangible
6 property or benefit to the corporation, including cash,
7 promissory notes, services performed, contracts for services to
8 be performed, or other securities of the corporation.

9 3. Before the corporation issues shares, the board of
10 directors shall determine that the consideration received or
11 to be received for shares to be issued is adequate. That
12 determination by the board of directors is conclusive insofar
13 as the adequacy of consideration for the issuance of shares
14 relates to whether the shares are validly issued, fully paid,
15 and nonassessable.

16 4. When the corporation receives the consideration for
17 which the board of directors authorized the issuance of shares,
18 the shares issued therefor are fully paid and nonassessable.

19 5. The corporation may place in escrow shares issued for
20 a contract for future services or benefits or a promissory
21 note, or make other arrangements to restrict the transfer of
22 the shares, and may credit distributions in respect of the
23 shares against their purchase price, until the services are
24 performed, the benefits are received, or the note is paid. If
25 the services are not performed, the benefits are not received,
26 or the note is not paid, the shares escrowed or restricted and
27 the distributions credited may be canceled in whole or part.

28 6. *a.* An issuance of shares or other securities convertible
29 into or rights exercisable for shares in a transaction or
30 a series of integrated transactions requires approval of
31 the shareholders, at a meeting at which a quorum consisting
32 of a majority, or such greater number as the articles of
33 incorporation may prescribe, of the votes entitled to be cast
34 on the matter exists, if all of the following conditions are
35 satisfied:

1 (1) The shares, other securities, or rights are to be issued
2 for consideration other than cash or cash equivalents.

3 (2) The voting power of shares that are issued and issuable
4 as a result of the transaction or series of integrated
5 transactions will comprise more than twenty percent of the
6 voting power of the shares of the corporation that were
7 outstanding immediately before the transaction.

8 *b.* For purposes of this subsection, the following shall
9 apply:

10 (1) For purposes of determining the voting power of shares
11 issued and issuable as a result of a transaction or series of
12 integrated transactions, the voting power of shares or other
13 securities convertible into or rights exercisable for shares
14 shall be the greater of the following:

15 (a) The voting power of the shares to be issued.

16 (b) The voting power of the shares that would be outstanding
17 after giving effect to the conversion of convertible shares and
18 other securities and the exercise of rights to be issued.

19 (2) A series of transactions is integrated only if
20 consummation of one transaction is made contingent on
21 consummation of one or more of the other transactions.

22 Sec. 48. Section 490.622, Code 2020, is amended by striking
23 the section and inserting in lieu thereof the following:

24 **490.622 Liability of shareholders.**

25 1. A purchaser from a corporation of the corporation's own
26 shares is not liable to the corporation or its creditors with
27 respect to the shares except to pay the consideration for which
28 the shares were authorized to be issued or specified in the
29 subscription agreement.

30 2. A shareholder of a corporation is not personally liable
31 for any liabilities of the corporation, including liabilities
32 arising from acts of the corporation, subject to the following
33 exceptions:

34 *a.* To the extent provided in a provision of the articles
35 of incorporation permitted by section 490.202, subsection 2,

1 paragraph "b", subparagraph (5).

2 *b.* A shareholder may become personally liable by reason of
3 the shareholder's own acts or conduct.

4 Sec. 49. Section 490.623, Code 2020, is amended by striking
5 the section and inserting in lieu thereof the following:

6 **490.623 Share dividends.**

7 1. Unless the articles of incorporation provide otherwise,
8 shares may be issued pro rata and without consideration to the
9 corporation's shareholders or to the shareholders of one or
10 more classes or series of shares. An issuance of shares under
11 this subsection is a share dividend.

12 2. Shares of one class or series shall not be issued as a
13 share dividend in respect of shares of another class or series
14 unless one or more of the following conditions are met:

15 *a.* The articles of incorporation so authorize.

16 *b.* A majority of the votes entitled to be cast by the class
17 or series to be issued approve the issue.

18 *c.* There are no outstanding shares of the class or series
19 to be issued.

20 3. The board of directors may fix the record date for
21 determining shareholders entitled to a share dividend, which
22 date shall not be retroactive. If the board of directors does
23 not fix the record date for determining shareholders entitled
24 to a share dividend, the record date is the date the board of
25 directors authorizes the share dividend.

26 Sec. 50. Section 490.624, Code 2020, is amended by striking
27 the section and inserting in lieu thereof the following:

28 **490.624 Share rights, options, warrants, and awards.**

29 1. A corporation may issue rights, options, or warrants for
30 the purchase of shares or other securities of the corporation.
31 The board of directors shall determine the terms and conditions
32 upon which the rights, options, or warrants are issued and the
33 terms, including the consideration for which the shares or
34 other securities are to be issued. The authorization by the
35 board of directors for the corporation to issue such rights,

1 options, or warrants constitutes authorization of the issuance
2 of the shares or other securities for which the rights,
3 options, or warrants are exercisable.

4 2. The terms and conditions of such rights, options, or
5 warrants may include restrictions or conditions that do any of
6 the following:

7 a. Preclude or limit the exercise, transfer, or receipt
8 of such rights, options, or warrants by any person or
9 persons owning or offering to acquire a specified number or
10 percentage of the outstanding shares or other securities of the
11 corporation or by any transferee or transferees of any such
12 person or persons.

13 b. Invalidate or void such rights, options, or warrants
14 held by any such person or persons or any such transferee or
15 transferees.

16 3. The board of directors may authorize one or more officers
17 to do any of the following:

18 a. Designate the recipients of rights, options, warrants,
19 or other equity compensation awards that involve the issuance
20 of shares.

21 b. Determine, within an amount and subject to any other
22 limitations established by the board of directors and, if
23 applicable, the shareholders, the number of such rights,
24 options, warrants, or other equity compensation awards and
25 the terms of such rights, options, warrants, or awards to be
26 received by the recipients, provided that an officer shall
27 not use such authority to designate the officer or any other
28 persons as the board of directors may specify as a recipient of
29 such rights, options, warrants, or other equity compensation
30 awards.

31 Sec. 51. Section 490.625, Code 2020, is amended by striking
32 the section and inserting in lieu thereof the following:

33 **490.625 Form and content of certificates.**

34 1. Shares may, but need not, be represented by certificates.
35 Unless this chapter or another statute expressly provides

1 otherwise, the rights and obligations of shareholders are
2 identical regardless of whether their shares are represented by
3 certificates.

4 2. At a minimum, each share certificate must state on its
5 face all of the following:

6 a. The name of the corporation and that it is organized
7 under the law of this state.

8 b. The name of the person to whom issued.

9 c. The number and class of shares and the designation of the
10 series, if any, the certificate represents.

11 3. a. If the corporation is authorized to issue different
12 classes of shares or series of shares within a class, the
13 front or back of each certificate must summarize all of the
14 following:

15 (1) The preferences, rights, and limitations applicable to
16 each class and series.

17 (2) Any variations in preferences, rights, and limitations
18 among the holders of the same class or series.

19 (3) The authority of the board of directors to determine the
20 terms of future classes or series.

21 b. Alternatively, each certificate may state conspicuously
22 on its front or back that the corporation will furnish the
23 shareholder this information on request in writing and without
24 charge.

25 4. Each share certificate must be signed by two officers
26 designated in the bylaws.

27 5. If the person who signed a share certificate no longer
28 holds office when the certificate is issued, the certificate
29 is nevertheless valid.

30 Sec. 52. Section 490.626, Code 2020, is amended by striking
31 the section and inserting in lieu thereof the following:

32 **490.626 Shares without certificates.**

33 1. Unless the articles of incorporation or bylaws provide
34 otherwise, the board of directors of a corporation may
35 authorize the issuance of some or all of the shares of any

1 or all of its classes or series without certificates. The
2 authorization does not affect shares already represented by
3 certificates until they are surrendered to the corporation.

4 2. Within a reasonable time after the issuance or transfer
5 of shares without certificates, the corporation shall deliver
6 to the shareholder a written statement of the information
7 required on certificates by section 490.625, subsections 2 and
8 3, and, if applicable, section 490.627.

9 Sec. 53. Section 490.627, Code 2020, is amended by striking
10 the section and inserting in lieu thereof the following:

11 **490.627 Restriction on transfer of shares.**

12 1. The articles of incorporation, the bylaws, an agreement
13 among shareholders, or an agreement between shareholders
14 and the corporation may impose restrictions on the transfer
15 or registration of transfer of shares of the corporation.
16 A restriction does not affect shares issued before the
17 restriction was adopted unless the holders of the shares are
18 parties to the restriction agreement or voted in favor of the
19 restriction.

20 2. A restriction on the transfer or registration of transfer
21 of shares is valid and enforceable against the holder or a
22 transferee of the holder if the restriction is authorized
23 by this section and its existence is noted conspicuously
24 on the front or back of the certificate or is contained
25 in the information statement required by section 490.626,
26 subsection 2. Unless so noted, or contained, a restriction
27 is not enforceable against a person without knowledge of the
28 restriction.

29 3. A restriction on the transfer or registration of transfer
30 of shares is authorized for any of the following purposes:

31 a. To maintain the corporation's status when it is dependent
32 on the number or identity of its shareholders.

33 b. To preserve exemptions under federal or state securities
34 law.

35 c. For any other reasonable purpose.

1 4. A restriction on the transfer or registration of transfer
2 of shares may do any of the following:

3 a. Obligate the shareholder first to offer the corporation
4 or other persons, separately, consecutively, or simultaneously,
5 an opportunity to acquire the restricted shares.

6 b. Obligate the corporation or other persons, separately,
7 consecutively, or simultaneously, to acquire the restricted
8 shares.

9 c. Require the corporation, the holders of any class or
10 series of its shares, or other persons to approve the transfer
11 of the restricted shares, if the requirement is not manifestly
12 unreasonable.

13 d. Prohibit the transfer of the restricted shares to
14 designated persons or classes of persons, if the prohibition
15 is not manifestly unreasonable.

16 5. As used in this section, "shares" includes a security
17 convertible into or carrying a right to subscribe for or
18 acquire shares.

19 Sec. 54. Section 490.630, Code 2020, is amended by striking
20 the section and inserting in lieu thereof the following:

21 **490.630 Shareholders' preemptive rights.**

22 1. The shareholders of a corporation do not have a
23 preemptive right to acquire the corporation's unissued shares
24 except to the extent the articles of incorporation so provide.

25 2. A statement included in the articles of incorporation
26 that "the corporation elects to have preemptive rights", or
27 words of similar effect, means that the following principles
28 apply except to the extent the articles of incorporation
29 expressly provide otherwise:

30 a. The shareholders of the corporation have a preemptive
31 right, granted on uniform terms and conditions prescribed
32 by the board of directors to provide a fair and reasonable
33 opportunity to exercise the right, to acquire proportional
34 amounts of the corporation's unissued shares upon the decision
35 of the board of directors to issue them.

1 *b.* A preemptive right may be waived by a shareholder. A
2 waiver evidenced by a writing is irrevocable even though it is
3 not supported by consideration.

4 *c.* There is no preemptive right with respect to any of the
5 following:

6 (1) Shares issued as compensation to directors, officers,
7 employees, or agents of the corporation, its subsidiaries, or
8 its affiliates.

9 (2) Shares issued to satisfy conversion or option rights
10 created to provide compensation to directors, officers,
11 employees, or agents of the corporation, its subsidiaries, or
12 its affiliates.

13 (3) Shares authorized in the articles of incorporation
14 that are issued within six months from the effective date of
15 incorporation.

16 (4) Shares sold otherwise than for cash.

17 *d.* Holders of shares of any class or series without voting
18 power but with preferential rights to distributions have no
19 preemptive rights with respect to shares of any class or
20 series.

21 *e.* Holders of shares of any class or series with voting
22 power but without preferential rights to distributions have no
23 preemptive rights with respect to shares of any class or series
24 with preferential rights to distributions unless the shares
25 with preferential rights are convertible into or carry a right
26 to subscribe for or acquire the shares without preferential
27 rights.

28 *f.* Shares subject to preemptive rights that are not acquired
29 by shareholders may be issued to any person for a period of one
30 year after being offered to shareholders at a consideration
31 set by the board of directors that is not lower than the
32 consideration set for the exercise of preemptive rights. An
33 offer at a lower consideration or after the expiration of one
34 year is subject to the shareholders' preemptive rights.

35 3. As used in this section, "*shares*" includes a security

1 convertible into or carrying a right to subscribe for or
2 acquire shares.

3 Sec. 55. Section 490.640, Code 2020, is amended by striking
4 the section and inserting in lieu thereof the following:

5 **490.640 Distribution to shareholders.**

6 1. A board of directors may authorize and the corporation
7 may make distributions to its shareholders subject to
8 restriction by the articles of incorporation and the limitation
9 in subsection 3.

10 2. The board of directors may fix the record date for
11 determining shareholders entitled to a distribution, which
12 date shall not be retroactive. If the board of directors does
13 not fix a record date for determining shareholders entitled
14 to a distribution, other than one involving a purchase,
15 redemption, or other acquisition of the corporation's shares,
16 the record date is the date the board of directors authorizes
17 the distribution.

18 3. A distribution shall not be made if, after giving it
19 effect, any of the following would result:

20 a. The corporation would not be able to pay its debts as
21 they become due in the usual course of business.

22 b. The corporation's total assets would be less than
23 the sum of its total liabilities plus, unless the articles
24 of incorporation permit otherwise, the amount that would be
25 needed, if the corporation were to be dissolved at the time
26 of the distribution, to satisfy the preferential rights upon
27 dissolution of shareholders whose preferential rights are
28 superior to those receiving the distribution.

29 4. The board of directors may base a determination
30 that a distribution is not prohibited under subsection 3
31 either on financial statements prepared on the basis of
32 accounting practices and principles that are reasonable in the
33 circumstances or on a fair valuation or other method that is
34 reasonable in the circumstances.

35 5. Except as provided in subsection 7, the effect of a

1 distribution under subsection 3 is measured as follows:

2 *a.* In the case of distribution by purchase, redemption,
3 or other acquisition of the corporation's shares, as of the
4 earlier of the following:

5 (1) The date cash or other property is transferred or debt
6 to a shareholder is incurred by the corporation.

7 (2) The date the shareholder ceases to be a shareholder with
8 respect to the acquired shares.

9 *b.* In the case of any other distribution of indebtedness, as
10 of the date the indebtedness is distributed.

11 *c.* In all other cases, as of the following:

12 (1) The date the distribution is authorized if the payment
13 occurs within one hundred twenty days after the date of
14 authorization.

15 (2) The date the payment is made if it occurs more than one
16 hundred twenty days after the date of authorization.

17 6. A corporation's indebtedness to a shareholder incurred
18 by reason of a distribution made in accordance with this
19 section is at parity with the corporation's indebtedness to its
20 general, unsecured creditors except to the extent subordinated
21 by agreement.

22 7. Indebtedness of a corporation, including indebtedness
23 issued as a distribution, is not considered a liability for
24 purposes of determinations under subsection 3 if its terms
25 provide that payment of principal and interest are made
26 only if and to the extent that payment of a distribution to
27 shareholders could then be made under this section. If such
28 indebtedness is issued as a distribution, each payment of
29 principal or interest is treated as a distribution, the effect
30 of which is measured on the date the payment is actually made.

31 8. This section shall not apply to distributions in
32 liquidation under subchapter XIV.

33 Sec. 56. Section 490.701, Code 2020, is amended by striking
34 the section and inserting in lieu thereof the following:

35 **490.701 Annual meeting.**

1 1. Unless directors are elected by written consent in
2 lieu of an annual meeting as permitted by section 490.704, a
3 corporation shall hold a meeting of shareholders annually, at a
4 time stated in or fixed in accordance with the bylaws, at which
5 directors shall be elected.

6 2. Unless the board of directors determines to hold the
7 meeting solely by means of remote communication in accordance
8 with section 490.709, subsection 3, annual meetings may be held
9 as follows:

10 a. In or out of this state at the place stated in or fixed
11 in accordance with the bylaws.

12 b. If no place is stated in or fixed in accordance with the
13 bylaws, at the corporation's principal office.

14 3. The failure to hold an annual meeting at the time stated
15 in or fixed in accordance with a corporation's bylaws does not
16 affect the validity of any corporate action.

17 Sec. 57. Section 490.702, Code 2020, is amended by striking
18 the section and inserting in lieu thereof the following:

19 **490.702 Special meeting.**

20 1. Except as provided in subsection 5, a corporation shall
21 hold a special meeting of shareholders upon the occurrence of
22 any of the following:

23 a. On call of its board of directors or the person or
24 persons authorized to do so by the articles of incorporation
25 or bylaws.

26 b. If the shareholders holding at least ten percent of
27 all the votes entitled to be cast on an issue proposed to be
28 considered at the proposed special meeting sign, date, and
29 deliver to the corporation one or more written demands for the
30 meeting describing the purpose or purposes for which it is
31 to be held, provided that the articles of incorporation may
32 fix a lower percentage or a higher percentage not exceeding
33 twenty-five percent of all the votes entitled to be cast on any
34 issue proposed to be considered. Unless otherwise provided in
35 the articles of incorporation, a written demand for a special

1 meeting may be revoked by a writing to that effect received
2 by the corporation before the receipt by the corporation of
3 demands sufficient in number to require the holding of a
4 special meeting.

5 2. If not otherwise fixed under section 490.703 or 490.707,
6 the record date for determining shareholders entitled to
7 demand a special meeting shall be the first date on which a
8 signed shareholder demand is delivered to the corporation. No
9 written demand for a special meeting shall be effective unless,
10 within sixty days of the earliest date on which such a demand
11 delivered to the corporation as required by this section was
12 signed, written demands signed by shareholders holding at least
13 the percentage of votes specified in or fixed in accordance
14 with subsection 1, paragraph "b", have been delivered to the
15 corporation.

16 3. Unless the board of directors determines to hold the
17 meeting solely by remote participation in accordance with
18 section 490.709, subsection 3, special meetings of shareholders
19 may be held as follows:

20 a. In or out of this state at the place stated in or fixed
21 in accordance with the bylaws.

22 b. If no place is so stated in or fixed in accordance with
23 the bylaws, at the corporation's principal office.

24 4. Only business within the purpose or purposes described in
25 the meeting notice required by section 490.705, subsection 3,
26 may be conducted at a special meeting of shareholders.

27 5. Notwithstanding subsections 1 through 4, a corporation
28 that has a class of equity securities registered pursuant to
29 section 12 of the federal Securities Exchange Act of 1934 is
30 required to hold a special meeting only upon the occurrence of
31 any of the following:

32 a. On call of its board of directors or the person or
33 persons authorized to call a special meeting by the articles of
34 incorporation or bylaws.

35 b. If the holders of at least fifty percent of all the votes

1 entitled to be cast on any issue proposed to be considered at
2 the proposed special meeting sign, date, and deliver to the
3 corporation's secretary one or more written demands for the
4 meeting describing the purpose or purposes for which it is to
5 be held.

6 Sec. 58. Section 490.703, Code 2020, is amended by striking
7 the section and inserting in lieu thereof the following:

8 **490.703 Court-ordered meeting.**

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

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

18 b. On application of one or more shareholders who signed a
19 demand for a special meeting valid under section 490.702 if any
20 of the following applies:

21 (1) Notice of the special meeting was not given within
22 thirty days after the first day on which the requisite number
23 of such demands have been delivered to the corporation.

24 (2) The special meeting was not held in accordance with the
25 notice.

26 2. The court may fix the time and place of the meeting,
27 determine the shares entitled to participate in the meeting,
28 specify a record date or dates for determining shareholders
29 entitled to notice of and to vote at the meeting, prescribe the
30 form and content of the meeting notice, fix the quorum required
31 for specific matters to be considered at the meeting, or direct
32 that the shares represented at the meeting constitute a quorum
33 for action on those matters, and enter other orders necessary
34 to accomplish the purpose or purposes of the meeting.

35 3. For purposes of subsection 1, paragraph "a",

1 "shareholder" means a record shareholder, a beneficial
2 shareholder, and an unrestricted voting trust beneficial owner.

3 Sec. 59. Section 490.704, Code 2020, is amended by striking
4 the section and inserting in lieu thereof the following:

5 **490.704 Action without meeting.**

6 1. Unless otherwise provided in the articles of
7 incorporation, any action required or permitted by this chapter
8 to be taken at a shareholders' meeting may be taken without
9 a meeting or vote, and, except as provided in subsection 5,
10 without prior notice, if one or more written consents bearing
11 the date of signature and describing the action taken are
12 signed by the holders of outstanding shares having not less
13 than ninety percent of the votes entitled to be cast at a
14 meeting at which all shares entitled to vote on the action were
15 present and voted, and are delivered to the corporation for
16 inclusion in the minutes or filing with the corporate records.

17 2. Except in the case of a corporation that has a class
18 of equity securities registered pursuant to section 12 of
19 the federal Securities Exchange Act of 1934, the articles of
20 incorporation may provide that any action required or permitted
21 by this chapter to be taken at a shareholders' meeting may be
22 taken without a meeting, and without prior notice, if consents
23 in writing setting forth the action so taken are signed by
24 the holders of outstanding shares having not less than the
25 minimum number of votes that would be required to authorize
26 or take the action at a meeting at which all shares entitled
27 to vote on the action were present and voted. However, if a
28 corporation's articles of incorporation authorize shareholders
29 to cumulate their votes when electing directors pursuant to
30 section 490.728, directors shall not be elected by less than
31 unanimous written consent. A written consent must bear the
32 date of signature of the shareholder who signs the consent and
33 be delivered to the corporation for filing by the corporation
34 with the minutes or corporate records.

35 3. If not otherwise fixed under section 490.707 and if prior

1 action by the board of directors is not required respecting
2 the action to be taken without a meeting, the record date for
3 determining the shareholders entitled to take action without
4 a meeting shall be the first date on which a signed written
5 consent is delivered to the corporation. If not otherwise
6 fixed under section 490.707, and if prior action by the board
7 of directors is required respecting the action to be taken
8 without a meeting, the record date shall be the close of
9 business on the day the resolution of the board of directors
10 taking such prior action is adopted. No written consent
11 shall be effective to take the corporate action referred to
12 therein unless, within sixty days of the earliest date on
13 which a consent delivered to the corporation as required by
14 this section was signed, written consents signed by sufficient
15 shareholders to take the action have been delivered to the
16 corporation. A written consent may be revoked by a writing
17 to that effect delivered to the corporation before unrevoked
18 written consents sufficient in number to take the corporate
19 action have been delivered to the corporation.

20 4. A consent signed pursuant to the provisions of this
21 section has the effect of a vote taken at a meeting and may
22 be described as such in any document. Unless the articles
23 of incorporation, bylaws, or a resolution of the board of
24 directors provides for a reasonable delay to permit tabulation
25 of written consents, the action taken by written consent
26 shall be effective when written consents signed by sufficient
27 shareholders to take the action have been delivered to the
28 corporation.

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

35 (1) Written consents sufficient to take the action have been

1 delivered to the corporation.

2 (2) Such later date that tabulation of consents is completed
3 pursuant to an authorization under subsection 4.

4 *b.* The notice must reasonably describe the action taken and
5 contain or be accompanied by the same material that, under any
6 provision of this chapter, would have been required to be sent
7 to nonvoting shareholders in a notice of a meeting at which the
8 proposed action would have been submitted to the shareholders
9 for action.

10 6. *a.* If action is taken by less than unanimous written
11 consent of the voting shareholders, the corporation shall give
12 its nonconsenting voting shareholders written notice of the
13 action not more than ten days after any of the following:

14 (1) Written consents sufficient to take the action have been
15 delivered to the corporation.

16 (2) Such later date that tabulation of consents is completed
17 pursuant to an authorization under subsection 4.

18 *b.* The notice must reasonably describe the action taken
19 and contain or be accompanied by the same material that, under
20 any provision of this chapter, would have been required to be
21 sent to voting shareholders in a notice of a meeting at which
22 the action would have been submitted to the shareholders for
23 action.

24 7. The notice requirements in subsections 5 and 6 shall not
25 delay the effectiveness of actions taken by written consent,
26 and a failure to comply with such notice requirements shall
27 not invalidate actions taken by written consent, provided that
28 this subsection shall not be deemed to limit judicial power
29 to fashion any appropriate remedy in favor of a shareholder
30 adversely affected by a failure to give such notice within the
31 required time period.

32 Sec. 60. Section 490.705, Code 2020, is amended by striking
33 the section and inserting in lieu thereof the following:

34 **490.705 Notice of meeting.**

35 1. A corporation shall notify shareholders of the date,

1 time, and place of each annual and special shareholders'
2 meeting no fewer than ten nor more than sixty days before
3 the meeting date. If the board of directors has authorized
4 participation by means of remote communication pursuant to
5 section 490.709 for holders of any class or series of shares,
6 the notice to the holders of such class or series of shares
7 must describe the means of remote communication to be used.
8 The notice must include the record date for determining the
9 shareholders entitled to vote at the meeting, if such date is
10 different from the record date for determining shareholders
11 entitled to notice of the meeting. Unless this chapter or the
12 articles of incorporation require otherwise, the corporation
13 is required to give notice only to shareholders entitled to
14 vote at the meeting as of the record date for determining the
15 shareholders entitled to notice of the meeting.

16 2. Unless this chapter or the articles of incorporation
17 require otherwise, the notice of an annual meeting of
18 shareholders need not include a description of the purpose or
19 purposes for which the meeting is called.

20 3. Notice of a special meeting of shareholders must include
21 a description of the purpose or purposes for which the meeting
22 is called.

23 4. If not otherwise fixed under section 490.703 or 490.707,
24 the record date for determining shareholders entitled to notice
25 of and to vote at an annual or special shareholders' meeting is
26 the day before the first notice is delivered to shareholders.

27 5. Unless the bylaws require otherwise, if an annual or
28 special shareholders' meeting is adjourned to a different
29 date, time, or place, if any, notice need not be given of the
30 new date, time, or place, if any, if the new date, time, or
31 place, if any, is announced at the meeting before adjournment.
32 However, if a new record date for the adjourned meeting is or
33 must be fixed under section 490.707, notice of the adjourned
34 meeting shall be given under this section to shareholders
35 entitled to vote at such adjourned meeting as of the record

1 date fixed for notice of such adjourned meeting.

2 Sec. 61. Section 490.706, Code 2020, is amended by striking
3 the section and inserting in lieu thereof the following:

4 **490.706 Waiver of notice.**

5 1. A shareholder may waive any notice required by this
6 chapter, or the articles of incorporation or bylaws, before or
7 after the date and time stated in the notice. The waiver must
8 be in writing, be signed by the shareholder entitled to the
9 notice, and be delivered to the corporation for filing by the
10 corporation with the minutes or corporate records.

11 2. A shareholder's attendance at a meeting does all of the
12 following:

13 a. Waives objection to lack of notice or defective notice
14 of the meeting, unless the shareholder at the beginning of the
15 meeting objects to holding the meeting or transacting business
16 at the meeting.

17 b. Waives objection to consideration of a particular matter
18 at the meeting that is not within the purpose or purposes
19 described in the meeting notice, unless the shareholder objects
20 to considering the matter when it is presented.

21 Sec. 62. Section 490.707, Code 2020, is amended by striking
22 the section and inserting in lieu thereof the following:

23 **490.707 Record date for meeting.**

24 1. The bylaws may fix or provide the manner of fixing the
25 record date or dates for one or more voting groups to determine
26 the shareholders entitled to notice of a shareholders' meeting,
27 to demand a special meeting, to vote, or to take any other
28 action. If the bylaws do not fix or provide for fixing a record
29 date, the board of directors may fix the record date.

30 2. A record date fixed under this section shall not be more
31 than seventy days before the meeting or action requiring a
32 determination of shareholders and shall not be retroactive.

33 3. A determination of shareholders entitled to notice of
34 or to vote at a shareholders' meeting is effective for any
35 adjournment of the meeting unless the board of directors fixes

1 a new record date or dates, which it shall do if the meeting is
2 adjourned to a date more than one hundred twenty days after the
3 date fixed for the original meeting.

4 4. If a court orders a meeting adjourned to a date more than
5 one hundred twenty days after the date fixed for the original
6 meeting, it may provide that the original record date or dates
7 continue in effect or it may fix a new record date or dates.

8 5. The record date or dates for a shareholders' meeting
9 fixed by or in the manner provided in the bylaws or by the
10 board of directors shall be the record date for determining
11 shareholders entitled both to notice of and to vote at
12 the shareholders' meeting unless, in the case of a record
13 date fixed by the board of directors and to the extent not
14 prohibited by the bylaws, the board, at the time it fixes the
15 record date for shareholders entitled to notice of the meeting,
16 fixes a later record date on or before the date of the meeting
17 to determine the shareholders entitled to vote at the meeting.

18 Sec. 63. Section 490.708, Code 2020, is amended by striking
19 the section and inserting in lieu thereof the following:

20 **490.708 Conduct of meeting.**

21 1. At each meeting of shareholders, a chair shall preside.
22 The chair shall be appointed as provided in the bylaws or, in
23 the absence of such provision, by the board of directors.

24 2. The chair, unless the articles of incorporation or bylaws
25 provide otherwise, shall determine the order of business and
26 shall have the authority to establish rules for the conduct of
27 the meeting.

28 3. Any rules adopted for, and the conduct of, the meeting
29 shall be fair to shareholders.

30 4. The chair of the meeting shall announce at the meeting
31 when the polls close for each matter voted upon. If no
32 announcement is made, the polls shall be deemed to have closed
33 upon the final adjournment of the meeting. After the polls
34 close, no ballots, proxies, or votes nor any revocations or
35 changes to such ballots, proxies, or votes may be accepted.

1 Sec. 64. Section 490.709, Code 2020, is amended by striking
2 the section and inserting in lieu thereof the following:

3 **490.709 Remote participation in shareholders' meetings.**

4 1. Shareholders of any class or series of shares may
5 participate in any meeting of shareholders by means of remote
6 communication to the extent the board of directors authorizes
7 such participation for such class or series. Participation as
8 a shareholder by means of remote communication shall be subject
9 to such guidelines and procedures as the board of directors
10 adopts, and shall be in conformity with subsection 2.

11 2. Shareholders participating in a shareholders' meeting
12 by means of remote communication shall be deemed present and
13 may vote at such a meeting if the corporation has implemented
14 reasonable measures to do all of the following:

15 a. Verify that each person participating remotely as a
16 shareholder is a shareholder.

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

22 3. Unless the bylaws require the meeting of shareholders to
23 be held at a place, the board of directors may determine that
24 any meeting of shareholders shall not be held at any place and
25 shall instead be held solely by means of remote communication,
26 but only if the corporation implements the measures specified
27 in subsection 2.

28 Sec. 65. Section 490.720, Code 2020, is amended by striking
29 the section and inserting in lieu thereof the following:

30 **490.720 Shareholders' list for meeting.**

31 1. After fixing a record date for a meeting, a corporation
32 shall prepare an alphabetical list of the names of all its
33 shareholders who are entitled to notice of a shareholders'
34 meeting. If the board of directors fixes a different record
35 date under section 490.707, subsection 5, to determine the

1 shareholders entitled to vote at the meeting, a corporation
2 also shall prepare an alphabetical list of the names of all
3 its shareholders who are entitled to vote at the meeting. A
4 list must be arranged by voting group and within each voting
5 group by class or series of shares, and show the address of and
6 number of shares held by each shareholder. Nothing contained
7 in this subsection shall require the corporation to include
8 on such list the electronic mail address or other electronic
9 contact information of a shareholder.

10 2. *a.* The shareholders' list for notice shall be available
11 for inspection by any shareholder, beginning two business
12 days after notice of the meeting is given for which the
13 list was prepared and continuing through the meeting. The
14 shareholders' list for notice shall be made available at any
15 of the following:

16 (1) The corporation's principal office or at a place
17 identified in the meeting notice in the city where the meeting
18 will be held.

19 (2) A reasonably accessible electronic network, provided
20 that the information required to gain access to such list is
21 provided with the notice of the meeting. In the event that
22 the corporation determines to make the list available on
23 an electronic network, the corporation may take reasonable
24 steps to ensure that such information is available only to
25 shareholders of the corporation.

26 *b.* A shareholders' list for voting shall be similarly
27 available for inspection promptly after the record date for
28 voting. A shareholder, or the shareholder's agent or attorney,
29 is entitled on written demand to inspect and, subject to the
30 requirements of section 490.1602, subsection 3, to copy a list,
31 during regular business hours and at the shareholder's expense,
32 during the period it is available for inspection.

33 3. If the meeting is to be held at a place, the corporation
34 shall make the list of shareholders entitled to vote available
35 at the meeting, and any shareholder, or the shareholder's

1 agent or attorney, is entitled to inspect the list at any time
2 during the meeting or any adjournment. If the meeting is to be
3 held solely by means of remote communication, then such list
4 shall also be open to such inspection during the meeting on a
5 reasonably accessible electronic network, and the information
6 required to access such list shall be provided with the notice
7 of the meeting.

8 4. If the corporation refuses to allow a shareholder, or
9 the shareholder's agent or attorney, to inspect a shareholders'
10 list before or at the meeting, or copy a list as permitted
11 by subsection 2, the district court of the county where a
12 corporation's principal office or, if none in this state,
13 its registered office, is located, on application of the
14 shareholder, may summarily order the inspection or copying at
15 the corporation's expense and may postpone the meeting for
16 which the list was prepared until the inspection or copying is
17 complete.

18 5. Refusal or failure to prepare or make available the
19 shareholders' list does not affect the validity of action taken
20 at the meeting.

21 Sec. 66. Section 490.721, Code 2020, is amended by striking
22 the section and inserting in lieu thereof the following:

23 **490.721 Voting entitlement of shares.**

24 1. Except as provided in subsections 2 and 4 or unless the
25 articles of incorporation provide otherwise, each outstanding
26 share, regardless of class or series, is entitled to one vote
27 on each matter voted on at a shareholders' meeting. Only
28 shares are entitled to vote.

29 2. Shares of a corporation are not entitled to vote if they
30 are owned by or otherwise belong to the corporation directly,
31 or indirectly through an entity of which a majority of the
32 voting power is held directly or indirectly by the corporation
33 or which is otherwise controlled by the corporation.

34 3. Shares held by the corporation in a fiduciary capacity
35 for the benefit of any person are entitled to vote unless

1 they are held for the benefit of, or otherwise belong to, the
2 corporation directly, or indirectly through an entity of which
3 a majority of the voting power is held directly or indirectly
4 by the corporation or which is otherwise controlled by the
5 corporation.

6 4. Redeemable shares are not entitled to vote after
7 delivery of written notice of redemption is effective and a
8 sum sufficient to redeem the shares has been deposited with a
9 bank, trust company, or other financial institution under an
10 irrevocable obligation to pay the holders the redemption price
11 on surrender of the shares.

12 5. As used in this section, "*voting power*" means the current
13 power to vote in the election of directors of a corporation or
14 to elect, select, or appoint governors of another entity.

15 Sec. 67. Section 490.722, Code 2020, is amended by striking
16 the section and inserting in lieu thereof the following:

17 **490.722 Proxies.**

18 1. A shareholder may vote the shareholder's shares in person
19 or by proxy.

20 2. A shareholder, or the shareholder's agent or
21 attorney-in-fact, may appoint a proxy to vote or otherwise
22 act for the shareholder by signing an appointment form, or
23 by an electronic transmission. An electronic transmission
24 must contain or be accompanied by information from which the
25 recipient can determine the date of the transmission and that
26 the transmission was authorized by the sender or the sender's
27 agent or attorney-in-fact.

28 3. An appointment of a proxy is effective when a signed
29 appointment form or an electronic transmission of the
30 appointment is received by the inspector of election or
31 the officer or agent of the corporation authorized to count
32 votes. An appointment is valid for the term provided in the
33 appointment form, and, if no term is provided, is valid for
34 eleven months unless the appointment is irrevocable under
35 subsection 4.

1 4. An appointment of a proxy is revocable unless the
2 appointment form or electronic transmission states that it is
3 irrevocable and the appointment is coupled with an interest.
4 Appointments coupled with an interest include, but are not
5 limited to, the appointment of any of the following:
6 a. A pledgee.
7 b. A person who purchased or agreed to purchase the shares.
8 c. A creditor of the corporation who extended the
9 corporation credit under terms requiring the appointment.
10 d. An employee of the corporation whose employment contract
11 requires the appointment.
12 e. A party to a voting agreement created under section
13 490.731.

14 5. The death or incapacity of the shareholder appointing
15 a proxy does not affect the right of the corporation to
16 accept the proxy's authority unless notice of the death or
17 incapacity is received by the secretary or other officer or
18 agent authorized to tabulate votes before the proxy exercises
19 the proxy's authority under the appointment.

20 6. An appointment made irrevocable under subsection 4
21 is revoked when the interest with which it is coupled is
22 extinguished.

23 7. Unless it otherwise provides, an appointment made
24 irrevocable under subsection 4 continues in effect after
25 a transfer of the shares and a transferee takes subject
26 to the appointment, except that a transferee for value of
27 shares subject to an irrevocable appointment may revoke the
28 appointment if the transferee did not know of its existence
29 when acquiring the shares and the existence of the irrevocable
30 appointment was not noted conspicuously on the certificate
31 representing the shares or on the information statement for
32 shares without certificates.

33 8. Subject to section 490.724 and to any express limitation
34 on the proxy's authority stated in the appointment form or
35 electronic transmission, a corporation is entitled to accept

1 the proxy's vote or other action as that of the shareholder
2 making the appointment.

3 Sec. 68. Section 490.723, Code 2020, is amended by striking
4 the section and inserting in lieu thereof the following:

5 **490.723 Shares held by intermediaries and nominees.**

6 1. A corporation's board of directors may establish a
7 procedure under which a person on whose behalf shares are
8 registered in the name of an intermediary or nominee may elect
9 to be treated by the corporation as the record shareholder by
10 filing with the corporation a beneficial ownership certificate.
11 The terms, conditions, and limitations of this treatment shall
12 be specified in the procedure. To the extent such person is
13 treated under such procedure as having rights or privileges
14 that the record shareholder otherwise would have, the record
15 shareholder shall not have those rights or privileges.

16 2. The procedure must specify all of the following:

17 a. The types of intermediaries or nominees to which it
18 applies.

19 b. The rights or privileges that the corporation recognizes
20 in a person with respect to whom a beneficial ownership
21 certificate is filed.

22 c. The manner in which the procedure is selected which must
23 include that the beneficial ownership certificate be signed or
24 assented to by or on behalf of the record shareholder and the
25 person on whose behalf the shares are held.

26 d. The information that must be provided when the procedure
27 is selected.

28 e. The period for which selection of the procedure is
29 effective.

30 f. Requirements for notice to the corporation with respect
31 to the arrangement.

32 g. The form and contents of the beneficial ownership
33 certificate.

34 3. The procedure may specify any other aspects of the rights
35 and duties created by the filing of a beneficial ownership

1 certificate.

2 Sec. 69. Section 490.724, Code 2020, is amended by striking
3 the section and inserting in lieu thereof the following:

4 **490.724 Acceptance of votes and other instruments.**

5 1. If the name signed on a vote, ballot, consent, waiver,
6 shareholder demand, or proxy appointment corresponds to the
7 name of a shareholder, the corporation, if acting in good
8 faith, is entitled to accept the vote, ballot, consent, waiver,
9 shareholder demand, or proxy appointment and give it effect as
10 the act of the shareholder.

11 2. If the name signed on a vote, ballot, consent, waiver,
12 shareholder demand, or proxy appointment does not correspond to
13 the name of its shareholder, the corporation, if acting in good
14 faith, is nevertheless entitled to accept the vote, ballot,
15 consent, waiver, shareholder demand, or proxy appointment and
16 give it effect as the act of the shareholder if any of the
17 following applies:

18 a. The shareholder is an entity and the name signed purports
19 to be that of an officer or agent of the entity.

20 b. The name signed purports to be that of an administrator,
21 executor, guardian, or conservator representing the shareholder
22 and, if the corporation requests, evidence of fiduciary status
23 acceptable to the corporation has been presented with respect
24 to the vote, ballot, consent, waiver, shareholder demand, or
25 proxy appointment.

26 c. The name signed purports to be that of a receiver
27 or trustee in bankruptcy of the shareholder and, if the
28 corporation requests, evidence of this status acceptable
29 to the corporation has been presented with respect to the
30 vote, ballot, consent, waiver, shareholder demand, or proxy
31 appointment.

32 d. The name signed purports to be that of a pledgee,
33 beneficial owner, or attorney-in-fact of the shareholder
34 and, if the corporation requests, evidence acceptable to
35 the corporation of the signatory's authority to sign for

1 the shareholder has been presented with respect to the
2 vote, ballot, consent, waiver, shareholder demand, or proxy
3 appointment.

4 e. Two or more persons are the shareholder as co-tenants or
5 fiduciaries and the name signed purports to be the name of at
6 least one of the co-owners and the person signing appears to be
7 acting on behalf of all the co-owners.

8 3. The corporation is entitled to reject a vote, ballot,
9 consent, waiver, shareholder demand, or proxy appointment if
10 the person authorized to accept or reject such instrument,
11 acting in good faith, has reasonable basis for doubt about
12 the validity of the signature on it or about the signatory's
13 authority to sign for the shareholder.

14 4. Neither the corporation or any person authorized by it,
15 nor an inspector of election appointed under section 490.729,
16 that accepts or rejects a vote, ballot, consent, waiver,
17 shareholder demand, or proxy appointment in good faith and
18 in accordance with the standards of this section or section
19 490.722, subsection 2, is liable in damages to the shareholder
20 for the consequences of the acceptance or rejection.

21 5. Corporate action based on the acceptance or rejection
22 of a vote, ballot, consent, waiver, shareholder demand, or
23 proxy appointment under this section is valid unless a court of
24 competent jurisdiction determines otherwise.

25 6. If an inspector of election has been appointed under
26 section 490.729, the inspector of election also has the
27 authority to request information and make determinations
28 under subsections 1, 2, and 3. Any determination made by the
29 inspector of election under those subsections is controlling.

30 Sec. 70. Section 490.725, Code 2020, is amended by striking
31 the section and inserting in lieu thereof the following:

32 **490.725 Quorum and voting requirements for voting groups.**

33 1. Shares entitled to vote as a separate voting group
34 may take action on a matter at a meeting only if a quorum of
35 those shares exists with respect to that matter. Unless the

1 articles of incorporation or bylaws provide otherwise, shares
2 representing a majority of the votes entitled to be cast on
3 the matter by the voting group constitutes a quorum of that
4 voting group for action on that matter. Whenever this chapter
5 requires a particular quorum for a specified action, the
6 articles of incorporation shall not provide for a lower quorum.

7 2. Once a share is represented for any purpose at a meeting,
8 it is deemed present for quorum purposes for the remainder of
9 the meeting and for any adjournment of that meeting unless a
10 new record date is or must be fixed for that adjourned meeting.

11 3. If a quorum exists, action on a matter, other than the
12 election of directors, by a voting group is approved if the
13 votes cast within the voting group favoring the action exceed
14 the votes cast opposing the action, unless the articles of
15 incorporation require a greater number of affirmative votes.

16 4. An amendment of the articles of incorporation adding,
17 changing, or deleting a quorum or voting requirement for a
18 voting group greater than specified in subsection 1 or 3 is
19 governed by section 490.727.

20 5. The election of directors is governed by section 490.728.

21 6. Whenever a provision of this chapter provides for voting
22 of classes or series as separate voting groups, the rules
23 provided in section 490.1004, subsection 3, for amendments of
24 the articles of incorporation apply to that provision.

25 Sec. 71. Section 490.726, Code 2020, is amended by striking
26 the section and inserting in lieu thereof the following:

27 **490.726 Action by single or multiple voting groups.**

28 1. If the articles of incorporation or this chapter provide
29 for voting by a single voting group on a matter, action on
30 that matter is taken when voted upon by that voting group as
31 provided in section 490.725.

32 2. If the articles of incorporation or this chapter provide
33 for voting by two or more voting groups on a matter, action
34 on that matter is taken only when voted upon by each of those
35 voting groups counted separately as provided in section

1 490.725. Action may be taken by different voting groups on a
2 matter at different times.

3 Sec. 72. Section 490.727, Code 2020, is amended by striking
4 the section and inserting in lieu thereof the following:

5 **490.727 Modifying quorum or voting requirements.**

6 An amendment to the articles of incorporation or bylaws
7 that adds, changes, or deletes a quorum or voting requirement
8 shall meet the same quorum requirement and be adopted by the
9 same vote and voting groups required to take action under the
10 quorum and voting requirements then in effect or proposed to be
11 adopted, whichever is greater.

12 Sec. 73. Section 490.728, Code 2020, is amended by striking
13 the section and inserting in lieu thereof the following:

14 **490.728 Voting for directors — cumulative voting.**

15 1. Unless otherwise provided in the articles of
16 incorporation, directors are elected by a plurality of the
17 votes cast by the shares entitled to vote in the election at a
18 meeting at which a quorum is present.

19 2. Shareholders do not have a right to cumulate their votes
20 for directors unless the articles of incorporation so provide.

21 3. A statement included in the articles of incorporation
22 that “[all] [a designated voting group of] shareholders are
23 entitled to cumulate their votes for directors”, or words of
24 similar import, means that the shareholders designated are
25 entitled to multiply the number of votes they are entitled to
26 cast by the number of directors for whom they are entitled to
27 vote and cast the product for a single candidate or distribute
28 the product among two or more candidates.

29 4. Shares otherwise entitled to vote cumulatively shall not
30 be voted cumulatively at a particular meeting unless any of the
31 following applies:

32 a. The meeting notice or proxy statement accompanying
33 the notice states conspicuously that cumulative voting is
34 authorized.

35 b. A shareholder who has the right to cumulate the

1 shareholder's votes gives notice to the corporation not less
2 than forty-eight hours before the time set for the meeting of
3 the shareholder's intent to cumulate votes during the meeting,
4 and if one shareholder gives this notice all other shareholders
5 in the same voting group participating in the election are
6 entitled to cumulate their votes without giving further notice.

7 Sec. 74. Section 490.729, Code 2020, is amended by striking
8 the section and inserting in lieu thereof the following:

9 **490.729 Inspectors of election.**

10 1. A corporation that has a class of equity securities
11 registered pursuant to section 12 of the federal Securities
12 Exchange Act of 1934 shall, and any other corporation
13 may, appoint one or more inspectors to act at a meeting of
14 shareholders in connection with determining voting results.
15 Each inspector shall verify in writing that the inspector
16 will faithfully execute the duties of inspector with strict
17 impartiality and according to the best of the inspector's
18 ability. An inspector may be an officer or employee of the
19 corporation. The inspectors may appoint or retain other
20 persons to assist the inspectors in the performance of the
21 duties of inspector under subsection 2, and may rely on
22 information provided by such persons and other persons,
23 including those appointed to tabulate votes, unless the
24 inspectors believe reliance is unwarranted.

25 2. The inspectors shall do all of the following:

26 a. Ascertain the number of shares outstanding and the voting
27 power of each.

28 b. Determine the shares represented at a meeting.

29 c. Determine the validity of proxy appointments and ballots.

30 d. Count all votes.

31 e. Make a written report of the results.

32 3. In performing their duties, the inspectors may examine
33 any of the following:

34 a. The proxy appointment forms and any other information
35 provided in accordance with section 490.722, subsection 2.

1 *b.* Any envelope or related writing submitted with those
2 appointment forms.

3 *c.* Any ballots.

4 *d.* Any evidence or other information specified in section
5 490.724.

6 *e.* The relevant books and records of the corporation
7 relating to its shareholders and their entitlement to vote,
8 including any securities position list provided by a depository
9 clearing agency.

10 4. *a.* The inspectors also may consider other information
11 that they believe is relevant and reliable for the purpose
12 of performing any of the duties assigned to them pursuant to
13 subsection 2, including for all of the following purposes:

14 (1) Evaluating inconsistent, incomplete, or erroneous
15 information.

16 (2) Reconciling information submitted on behalf of banks,
17 brokers, their nominees, or similar persons that indicates
18 more votes being cast than a proxy authorized by the record
19 shareholder is entitled to cast.

20 *b.* If the inspectors consider other information allowed by
21 this subsection, they shall in their report under subsection
22 2 specify the information considered by them, including the
23 purpose or purposes for which the information was considered,
24 the person or persons from whom they obtained the information,
25 when the information was obtained, the means by which the
26 information was obtained, and the basis for the inspectors'
27 belief that such information is relevant and reliable.

28 5. Determinations of law by the inspectors of election are
29 subject to de novo review by a court in a proceeding under
30 section 490.749 or other judicial proceeding.

31 Sec. 75. Section 490.730, Code 2020, is amended by striking
32 the section and inserting in lieu thereof the following:

33 **490.730 Voting trusts.**

34 1. One or more shareholders may create a voting trust,
35 conferring on a trustee the right to vote or otherwise act for

1 them, by signing an agreement setting out the provisions of the
2 trust, which may include anything consistent with its purpose,
3 and transferring their shares to the trustee. When a voting
4 trust agreement is signed, the trustee shall prepare a list of
5 the names and addresses of all voting trust beneficial owners,
6 together with the number and class of shares each transferred
7 to the trust, and deliver copies of the list and agreement to
8 the corporation at its principal office.

9 2. A voting trust becomes effective on the date the first
10 shares subject to the trust are registered in the trustee's
11 name.

12 3. Limits, if any, on the duration of a voting trust shall
13 be as set forth in the voting trust. A voting trust that became
14 effective between December 31, 1989, and June 30, 2014, both
15 dates inclusive, is governed by the provisions of this section
16 concerning duration then in effect, unless the voting trust
17 is amended to provide otherwise by unanimous agreement of the
18 parties to the voting trust.

19 Sec. 76. Section 490.731, Code 2020, is amended by striking
20 the section and inserting in lieu thereof the following:

21 **490.731 Voting agreement.**

22 1. Two or more shareholders may provide for the manner in
23 which they will vote their shares by signing an agreement for
24 that purpose. A voting agreement created under this section is
25 not subject to the provisions of section 490.730.

26 2. A voting agreement created under this section is
27 specifically enforceable.

28 Sec. 77. Section 490.732, Code 2020, is amended by striking
29 the section and inserting in lieu thereof the following:

30 **490.732 Shareholder agreement.**

31 1. An agreement among the shareholders of a corporation that
32 complies with this section is effective among the shareholders
33 and the corporation even though it is inconsistent with one or
34 more other provisions of this chapter in that it does any of
35 the following:

1 *a.* Eliminates the board of directors or restricts the
2 discretion or powers of the board of directors.

3 *b.* Governs the authorization or making of distributions,
4 regardless of whether they are in proportion to ownership of
5 shares, subject to the limitations in section 490.640.

6 *c.* Establishes who shall be directors or officers of the
7 corporation, or their terms of office or manner of selection
8 or removal.

9 *d.* Governs, in general or in regard to specific matters,
10 the exercise or division of voting power by or between
11 the shareholders and directors or by or among any of them,
12 including use of weighted voting rights or director proxies.

13 *e.* Establishes the terms and conditions of any agreement for
14 the transfer or use of property or the provision of services
15 between the corporation and any shareholder, director, officer,
16 or employee of the corporation, or among any of them.

17 *f.* Transfers to one or more shareholders or other persons
18 all or part of the authority to exercise the corporate powers
19 or to manage the business and affairs of the corporation,
20 including the resolution of any issue about which there exists
21 a deadlock among directors or shareholders.

22 *g.* Requires dissolution of the corporation at the request
23 of one or more of the shareholders or upon the occurrence of a
24 specified event or contingency.

25 *h.* Otherwise governs the exercise of the corporate powers or
26 the management of the business and affairs of the corporation
27 or the relationship among the shareholders, the directors, and
28 the corporation, or among any of them, and is not contrary to
29 public policy.

30 2. An agreement authorized by this section shall satisfy all
31 of the following requirements:

32 *a.* Be as set forth in any of the following:

33 (1) The articles of incorporation or bylaws and approved by
34 all persons who are shareholders at the time of the agreement.

35 (2) A written agreement that is signed by all persons who

1 are shareholders at the time of the agreement and is made known
2 to the corporation.

3 *b.* Be subject to amendment only by all persons who are
4 shareholders at the time of the amendment, unless the agreement
5 provides otherwise.

6 3. The existence of an agreement authorized by this section
7 shall be noted conspicuously on the front or back of each
8 certificate for outstanding shares or on the information
9 statement required by section 490.626, subsection 2. If at the
10 time of the agreement the corporation has shares outstanding
11 represented by certificates, the corporation shall recall the
12 outstanding certificates and issue substitute certificates that
13 comply with this subsection. The failure to note the existence
14 of the agreement on the certificate or information statement
15 shall not affect the validity of the agreement or any action
16 taken pursuant to it. Any purchaser of shares who, at the time
17 of purchase, did not have knowledge of the existence of the
18 agreement shall be entitled to rescission of the purchase. A
19 purchaser shall be deemed to have knowledge of the existence
20 of the agreement if its existence is noted on the certificate
21 or information statement for the shares in compliance with
22 this subsection and, if the shares are not represented by a
23 certificate, the information statement is delivered to the
24 purchaser at or before the time of purchase of the shares. An
25 action to enforce the right of rescission authorized by this
26 subsection shall be commenced within the earlier of ninety days
27 after discovery of the existence of the agreement or two years
28 after the time of purchase of the shares.

29 4. If the agreement ceases to be effective for any reason,
30 the board of directors may, if the agreement is contained or
31 referred to in the corporation's articles of incorporation or
32 bylaws, adopt an amendment to the articles of incorporation or
33 bylaws, without shareholder action, to delete the agreement and
34 any references to it.

35 5. An agreement authorized by this section that limits the

1 discretion or powers of the board of directors shall relieve
2 the directors of, and impose upon the person or persons in
3 whom such discretion or powers are vested, liability for acts
4 or omissions imposed by law on directors to the extent that
5 the discretion or powers of the directors are limited by the
6 agreement.

7 6. The existence or performance of an agreement authorized
8 by this section shall not be a ground for imposing personal
9 liability on any shareholder for the acts or debts of the
10 corporation even if the agreement or its performance treats the
11 corporation as if it were a partnership or results in failure
12 to observe the corporate formalities otherwise applicable to
13 the matters governed by the agreement.

14 7. Incorporators or subscribers for shares may act as
15 shareholders with respect to an agreement authorized by this
16 section if no shares have been issued when the agreement is
17 made.

18 8. Limits, if any, on the duration of an agreement
19 authorized by this section must be set forth in the agreement.
20 An agreement that became effective between January 1, 2003,
21 and June 30, 2014, both dates inclusive, unless the agreement
22 provided otherwise, remains governed by the provisions of this
23 section concerning duration then in effect.

24 Sec. 78. Section 490.740, Code 2020, is amended by striking
25 the section and inserting in lieu thereof the following:

26 **490.740 Part definitions.**

27 As used in this part:

28 1. "*Derivative proceeding*" means a civil suit in the right
29 of a domestic corporation or, to the extent provided in section
30 490.747, in the right of a foreign corporation.

31 2. "*Shareholder*" means a record shareholder, a beneficial
32 shareholder, and an unrestricted voting trust beneficial owner.

33 Sec. 79. Section 490.743, Code 2020, is amended by striking
34 the section and inserting in lieu thereof the following:

35 **490.743 Stay of proceedings.**

1 If the corporation commences an inquiry into the allegations
2 made in the demand or complaint, the court may stay any
3 derivative proceeding for such period as the court deems
4 appropriate.

5 Sec. 80. Section 490.744, Code 2020, is amended by striking
6 the section and inserting in lieu thereof the following:

7 **490.744 Dismissal.**

8 1. A derivative proceeding shall be dismissed by the court
9 on motion by the corporation if one of the groups specified
10 in subsection 2 or 5 has determined in good faith, after
11 conducting a reasonable inquiry upon which its conclusions are
12 based, that the maintenance of the derivative proceeding is
13 not in the best interests of the corporation. A corporation
14 moving to dismiss on this basis shall submit in support of the
15 motion a short and concise statement of the reasons for its
16 determination.

17 2. Unless a panel is appointed pursuant to subsection 5,
18 the determination in subsection 1 shall be made by any of the
19 following:

20 a. A majority vote of qualified directors present at a
21 meeting of the board of directors if the qualified directors
22 constitute a quorum.

23 b. A majority vote of a committee consisting of two or more
24 qualified directors appointed by majority vote of qualified
25 directors present at a meeting of the board of directors,
26 regardless of whether such qualified directors constitute a
27 quorum.

28 3. a. If a derivative proceeding is commenced after
29 a determination has been made rejecting a demand by a
30 shareholder, the complaint shall allege with particularity
31 facts establishing any of the following:

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

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

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

6 4. If a majority of the board of directors consisted
7 of qualified directors at the time the determination was
8 made, the plaintiff shall have the burden of proving that
9 the requirements of subsection 1 have not been met; if not,
10 the corporation shall have the burden of proving that the
11 requirements of subsection 1 have been met.

12 5. Upon motion by the corporation, the court may appoint
13 a panel of one or more individuals to make a determination
14 whether the maintenance of the derivative proceeding is in the
15 best interests of the corporation. In such case, the plaintiff
16 shall have the burden of proving that the requirements of
17 subsection 1 have not been met.

18 Sec. 81. Section 490.745, Code 2020, is amended by striking
19 the section and inserting in lieu thereof the following:

20 **490.745 Discontinuance or settlement.**

21 A derivative proceeding shall not be discontinued or settled
22 without the court's approval. If the court determines that a
23 proposed discontinuance or settlement will substantially affect
24 the interests of the corporation's shareholders or a class or
25 series of shareholders, the court shall direct that notice be
26 given to the shareholders affected.

27 Sec. 82. Section 490.746, Code 2020, is amended by striking
28 the section and inserting in lieu thereof the following:

29 **490.746 Payment of expenses.**

30 On termination of the derivative proceeding, the court may
31 do any of the following:

32 1. Order the corporation to pay the plaintiff's expenses
33 incurred in the proceeding if it finds that the proceeding has
34 resulted in a substantial benefit to the corporation.

35 2. Order the plaintiff to pay any defendant's expenses

1 incurred in defending the proceeding if it finds that the
2 proceeding was commenced or maintained without reasonable cause
3 or for an improper purpose.

4 3. Order a party to pay an opposing party's expenses
5 incurred because of the filing of a pleading, motion, or other
6 paper, if it finds that any of the following apply:

7 a. The pleading, motion, or other paper was not well
8 grounded in fact, after reasonable inquiry, or warranted by
9 existing law or a good faith argument for the extension,
10 modification, or reversal of existing law.

11 b. The pleading, motion, or other paper was interposed for
12 an improper purpose, such as to harass or cause unnecessary
13 delay or needless increase in the cost of litigation.

14 Sec. 83. Section 490.748, Code 2020, is amended by striking
15 the section and inserting in lieu thereof the following:

16 **490.748 Shareholder action to appoint custodian or receiver.**

17 1. The district court of the county where a corporation's
18 principal office or, if none in this state, its registered
19 office, is located may appoint one or more persons to be
20 custodians, or, if the corporation is insolvent, to be
21 receivers, of and for a corporation in a proceeding by a
22 shareholder where it is established that any of the following
23 applies:

24 a. The directors are deadlocked in the management of
25 the corporate affairs, the shareholders are unable to break
26 the deadlock, and irreparable injury to the corporation is
27 threatened or being suffered.

28 b. The directors or those in control of the corporation are
29 acting fraudulently and irreparable injury to the corporation
30 is threatened or being suffered.

31 2. a. The district court may issue injunctions, appoint a
32 temporary custodian or temporary receiver with all the powers
33 and duties the district court directs, take other action to
34 preserve the corporate assets wherever located, and carry on
35 the business of the corporation until a full hearing is held.

1 **b.** The district court shall hold a full hearing, after
2 notifying all parties to the proceeding and any interested
3 persons designated by the district court, before appointing a
4 custodian or receiver.

5 **c.** The district court has jurisdiction over the corporation
6 and all of its property, wherever located.

7 **3.** The district court may appoint an individual or domestic
8 or foreign corporation, registered to do business in this
9 state, as a custodian or receiver and may require the custodian
10 or receiver to post bond, with or without sureties, in an
11 amount the district court directs.

12 **4.** The district court shall describe the powers and duties
13 of the custodian or receiver in its appointing order, which may
14 be amended from time to time. Among other powers, all of the
15 following apply:

16 **a.** A custodian may exercise all of the powers of the
17 corporation, through or in place of its board of directors, to
18 the extent necessary to manage the business and affairs of the
19 corporation.

20 **b.** A receiver may do any of the following:

21 (1) Dispose of all or any part of the assets of the
22 corporation wherever located, at a public or private sale, if
23 authorized by the district court.

24 (2) Sue and defend in the receiver's own name as receiver in
25 all courts of this state.

26 **5.** The district court during a custodianship may
27 redesignate the custodian a receiver, and during a receivership
28 may redesignate the receiver a custodian, if doing so is in the
29 best interests of the corporation.

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

35 **7.** As used in this section, "*shareholder*" means a record

1 shareholder, a beneficial shareholder, and an unrestricted
2 voting trust beneficial owner.

3 Sec. 84. NEW SECTION. 490.749 **Judicial determination of**
4 **corporate offices and review of elections and shareholder votes.**

5 1. Upon application of or in a proceeding commenced by
6 a person specified in subsection 2, the district court may
7 determine all of the following:

8 a. The result or validity of the election, appointment,
9 removal, or resignation of a director or officer of the
10 corporation.

11 b. The right of an individual to hold the office of director
12 or officer of the corporation.

13 c. The result or validity of any vote by the shareholders
14 of the corporation.

15 d. The right of a director to membership on a committee of
16 the board of directors.

17 e. The right of a person to nominate or an individual to
18 be nominated as a candidate for election or appointment as
19 a director of the corporation, and any right under a bylaw
20 adopted pursuant to section 490.206, subsection 3, or any
21 comparable right under any provision of the articles of
22 incorporation, contract, or applicable law.

23 2. An application or proceeding pursuant to subsection 1 may
24 be filed or commenced by any of the following persons:

25 a. The corporation.

26 b. Any record shareholder, beneficial shareholder, or
27 unrestricted voting trust beneficial owner of the corporation.

28 c. A director of the corporation, an individual claiming
29 the office of director, or a director whose membership on a
30 committee of the board of directors is contested, in each case
31 who is seeking a determination of a right to such office or
32 membership.

33 d. An officer of the corporation or an individual claiming
34 to be an officer of the corporation, in each case who is
35 seeking a determination of a right to such office.

1 e. A person claiming a right covered by subsection 1,
2 paragraph "e", and who is seeking a determination of such right.

3 3. In connection with any application or proceeding under
4 subsection 1, the following shall be named as defendants,
5 unless such person made the application or commenced the
6 proceeding:

7 a. The corporation.

8 b. Any individual whose right to office or membership on a
9 committee of the board of directors is contested.

10 c. Any individual claiming the office or membership at
11 issue.

12 d. Any person claiming a right covered by subsection 1,
13 paragraph "e", that is at issue.

14 4. In connection with any application or proceeding under
15 subsection 1, service of process may be made upon each of the
16 persons specified in subsection 3, by any of the following:

17 a. Service of process on the corporation addressed to such
18 person in any manner provided by statute of this state or by
19 rule of the applicable court for service on the corporation.

20 b. Service of process on the person in any manner provided
21 by statute of this state or by rule of the applicable court.

22 5. When service of process is made upon a person other than
23 the corporation by service upon the corporation pursuant to
24 subsection 4, paragraph "a", the plaintiff and the corporation
25 or its registered agent shall promptly provide written notice
26 of such service, together with copies of all process and the
27 application or complaint, to the person at the person's last
28 known residence or business address, or as permitted by statute
29 of this state or by rule of the applicable court.

30 6. In connection with any application or proceeding under
31 subsection 1, the court shall dispose of the application or
32 proceeding on an expedited basis and also may do any of the
33 following:

34 a. Order such additional or further notice as the court
35 deems proper under the circumstances.

1 *b.* Order that additional persons be joined as parties to
2 the proceeding if the court determines that such joinder is
3 necessary for a just adjudication of matters before the court.

4 *c.* Order an election or meeting be held in accordance with
5 the provisions of section 490.703, subsection 2, or otherwise.

6 *d.* Appoint a master to conduct an election or meeting.

7 *e.* Enter temporary, preliminary, or permanent injunctive
8 relief.

9 *f.* Resolve solely for the purpose of this proceeding any
10 legal or factual issues necessary for the resolution of any of
11 the matters specified in subsection 1, including the right and
12 power of persons claiming to own shares to vote at any meeting
13 of the shareholders.

14 *g.* Order such other relief as the court determines is
15 equitable, just, and proper.

16 7. It is not necessary to make shareholders a party to
17 a proceeding or application pursuant to this section unless
18 the shareholder is a required defendant under subsection
19 3, paragraph "d", relief is sought against the shareholder
20 individually, or the court orders joinder pursuant to
21 subsection 6, paragraph "b".

22 8. Nothing in this section limits, restricts, or abolishes
23 the subject matter jurisdiction or powers of the court
24 as existed before the enactment of this section, and an
25 application or proceeding pursuant to this section is not the
26 exclusive remedy or proceeding available with respect to the
27 matters specified in subsection 1.

28 Sec. 85. Section 490.801, Code 2020, is amended by striking
29 the section and inserting in lieu thereof the following:

30 **490.801 Requirement for and functions of board of directors.**

31 1. Except as may be provided in an agreement authorized
32 under section 490.732, each corporation shall have a board of
33 directors.

34 2. Except as may be provided in an agreement authorized
35 under section 490.732, and subject to any limitation in

1 the articles of incorporation permitted by section 490.202,
2 subsection 2, all corporate powers shall be exercised by or
3 under the authority of the board of directors, and the business
4 and affairs of the corporation shall be managed by or under
5 the direction, and subject to the oversight, of the board of
6 directors.

7 Sec. 86. Section 490.802, Code 2020, is amended by striking
8 the section and inserting in lieu thereof the following:

9 **490.802 Qualifications of directors.**

10 1. The articles of incorporation or bylaws may prescribe
11 qualifications for directors or for nominees for directors.
12 Qualifications must be reasonable as applied to the corporation
13 and be lawful.

14 2. A requirement that is based on a past, prospective,
15 or current action, or expression of opinion, by a nominee
16 or director that could limit the ability of a nominee or
17 director to discharge his or her duties as a director is not a
18 permissible qualification under this section. Notwithstanding
19 the foregoing, qualifications may include not being or having
20 been subject to specified criminal, civil, or regulatory
21 sanctions or not having been removed as a director by judicial
22 action or for cause.

23 3. A director need not be a resident of this state or a
24 shareholder unless the articles of incorporation or bylaws so
25 prescribe.

26 4. A qualification for nomination for director prescribed
27 before a person's nomination shall apply to such person at
28 the time of nomination. A qualification for nomination for
29 director prescribed after a person's nomination shall not apply
30 to such person with respect to such nomination.

31 5. A qualification for director prescribed before a
32 director has been elected or appointed may apply only at the
33 time an individual becomes a director or may apply during a
34 director's term. A qualification prescribed after a director
35 has been elected or appointed shall not apply to that director

1 before the end of that director's term.

2 Sec. 87. Section 490.803, Code 2020, is amended by striking
3 the section and inserting in lieu thereof the following:

4 **490.803 Number and election of directors.**

5 1. A board of directors shall consist of one or more
6 individuals, with the number specified in or fixed in
7 accordance with the articles of incorporation or bylaws.

8 2. The number of directors may be increased or decreased
9 from time to time by amendment to, or in the manner provided
10 in, the articles of incorporation or bylaws.

11 3. Directors are elected at the first annual shareholders'
12 meeting and at each annual shareholders' meeting thereafter
13 unless elected by written consent in lieu of an annual meeting
14 as permitted by section 490.704 or unless their terms are
15 staggered under section 490.806.

16 Sec. 88. Section 490.804, Code 2020, is amended by striking
17 the section and inserting in lieu thereof the following:

18 **490.804 Election of directors by certain classes of series**
19 **of shares.**

20 If the articles of incorporation or action by the board of
21 directors pursuant to section 490.602 authorize dividing the
22 shares into classes or series, the articles of incorporation
23 may also authorize the election of all or a specified number
24 of directors by the holders of one or more authorized classes
25 or series of shares. A class or series, or multiple classes
26 or series, of shares entitled to elect one or more directors
27 is a separate voting group for purposes of the election of
28 directors.

29 Sec. 89. Section 490.805, Code 2020, is amended by striking
30 the section and inserting in lieu thereof the following:

31 **490.805 Terms of directors generally.**

32 1. The terms of the initial directors of a corporation
33 expire at the first shareholders' meeting at which directors
34 are elected.

35 2. a. The terms of all other directors expire at the

1 next, or if their terms are staggered in accordance with
2 section 490.806, at the applicable second or third, annual
3 shareholders' meeting following their election.

4 b. Paragraph "a" does not apply in any of the following
5 circumstances:

6 (1) To the extent provided in section 490.1022 if a bylaw
7 electing to be governed by that section is in effect.

8 (2) A shorter term is specified in the articles of
9 incorporation in the event of a director nominee failing to
10 receive a specified vote for election.

11 3. A decrease in the number of directors does not shorten
12 an incumbent director's term.

13 4. The term of a director elected to fill a vacancy expires
14 at the next shareholders' meeting at which directors are
15 elected.

16 5. Except to the extent otherwise provided in the articles
17 of incorporation or under section 490.1022, if a bylaw electing
18 to be governed by that section is in effect, despite the
19 expiration of a director's term, the director continues to
20 serve until the director's successor is elected and qualifies
21 or there is a decrease in the number of directors.

22 Sec. 90. Section 490.806, Code 2020, is amended by striking
23 the section and inserting in lieu thereof the following:

24 **490.806 Staggered terms for directors.**

25 The articles of incorporation may provide for staggering the
26 terms of directors by dividing the total number of directors
27 into two or three groups, with each group containing one-half
28 or one-third of the total, as near as may be practicable.

29 In that event, the terms of directors in the first group
30 expire at the first annual shareholders' meeting after their
31 election, the terms of the second group expire at the second
32 annual shareholders' meeting after their election, and the
33 terms of the third group, if any, expire at the third annual
34 shareholders' meeting after their election. At each annual
35 shareholders' meeting held thereafter, directors shall be

1 elected for a term of two years or three years, as the case may
2 be, to succeed those whose terms expire.

3 Sec. 91. Section 490.807, Code 2020, is amended by striking
4 the section and inserting in lieu thereof the following:

5 **490.807 Resignation of directors.**

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

9 2. A resignation is effective as provided in section
10 490.141, subsection 9, unless the resignation provides for a
11 delayed effectiveness, including effectiveness determined upon
12 a future event or events. A resignation that is conditioned
13 upon failing to receive a specified vote for election as a
14 director may provide that it is irrevocable.

15 Sec. 92. Section 490.808, Code 2020, is amended by striking
16 the section and inserting in lieu thereof the following:

17 **490.808 Removal of directors by shareholders.**

18 1. The shareholders may remove one or more directors with or
19 without cause unless the articles of incorporation provide that
20 directors may be removed only for cause.

21 2. If a director is elected by a voting group of
22 shareholders, only the shareholders of that voting group may
23 participate in the vote to remove that director.

24 3. A director may be removed if the number of votes cast
25 to remove exceeds the number of votes cast not to remove the
26 director, except to the extent the articles of incorporation
27 or bylaws require a greater number. However, if cumulative
28 voting is authorized, a director shall not be removed if, in
29 the case of a meeting, the number of votes sufficient to elect
30 the director under cumulative voting is voted against removal
31 and, if action is taken by less than unanimous written consent,
32 voting shareholders entitled to the number of votes sufficient
33 to elect the director under cumulative voting do not consent
34 to the removal.

35 4. A director may be removed by the shareholders only at a

1 meeting called for the purpose of removing the director, and
2 the meeting notice must state that removal of the director is a
3 purpose of the meeting.

4 Sec. 93. Section 490.809, Code 2020, is amended by striking
5 the section and inserting in lieu thereof the following:

6 **490.809 Removal of directors by judicial proceeding.**

7 1. The district court of the county where a corporation's
8 principal office or, if none in this state, its registered
9 office, is located may remove a director from office or
10 may order other relief, including barring the director
11 from reelection for a period prescribed by the court, in a
12 proceeding commenced by or in the right of the corporation if
13 the court finds that all of the following apply:

14 a. The director engaged in fraudulent conduct with respect
15 to the corporation or its shareholders, grossly abused the
16 position of director, or intentionally inflicted harm on the
17 corporation.

18 b. Considering the director's course of conduct and the
19 inadequacy of other available remedies, removal or such other
20 relief would be in the best interest of the corporation.

21 2. A shareholder proceeding on behalf of the corporation
22 under subsection 1 shall comply with all of the requirements of
23 subchapter VII, part D, except section 490.741, subsection 1.

24 Sec. 94. Section 490.810, Code 2020, is amended by striking
25 the section and inserting in lieu thereof the following:

26 **490.810 Vacancy on board of directors.**

27 1. Unless the articles of incorporation provide otherwise,
28 if a vacancy occurs on a board of directors, including a
29 vacancy resulting from an increase in the number of directors,
30 the vacancy may be filled in any of the following manners:

31 a. The shareholders may fill the vacancy.

32 b. The board of directors may fill the vacancy.

33 c. If the directors remaining in office are less than a
34 quorum, they may fill the vacancy by the affirmative vote of a
35 majority of all the directors remaining in office.

1 2. If the vacant office was held by a director elected by
2 a voting group of shareholders, only the holders of shares of
3 that voting group are entitled to vote to fill the vacancy
4 if it is filled by the shareholders, and only the remaining
5 directors elected by that voting group, even if less than a
6 quorum, are entitled to fill the vacancy if it is filled by the
7 directors.

8 3. A vacancy that will occur at a specific later date, by
9 reason of a resignation effective at a later date under section
10 490.807, subsection 2, or otherwise, may be filled before the
11 vacancy occurs but the new director shall not take office until
12 the vacancy occurs.

13 Sec. 95. Section 490.820, Code 2020, is amended by striking
14 the section and inserting in lieu thereof the following:

15 **490.820 Meetings.**

16 1. The board of directors may hold regular or special
17 meetings in or out of this state.

18 2. Unless restricted by the articles of incorporation
19 or bylaws, any director may participate in any meeting
20 of the board of directors through the use of any means of
21 communication by which all directors participating may
22 simultaneously hear each other during the meeting. A director
23 participating in a meeting by this means is deemed to be
24 present in person at the meeting.

25 Sec. 96. Section 490.821, Code 2020, is amended by striking
26 the section and inserting in lieu thereof the following:

27 **490.821 Action without meeting.**

28 1. Except to the extent that the articles of incorporation
29 or bylaws require that action by the board of directors be
30 taken at a meeting, action required or permitted by this
31 chapter to be taken by the board of directors may be taken
32 without a meeting if each director signs a consent describing
33 the action to be taken and delivers it to the corporation.

34 2. Action taken under this section is the act of the board
35 of directors when one or more consents signed by all the

1 directors are delivered to the corporation. The consent may
2 specify the time at which the action taken is to be effective.
3 A director's consent may be withdrawn by a revocation signed by
4 the director and delivered to the corporation before delivery
5 to the corporation of unrevoked written consents signed by all
6 the directors.

7 3. A consent signed under this section has the effect of
8 action taken at a meeting of the board of directors and may be
9 described as such in any document.

10 Sec. 97. Section 490.822, Code 2020, is amended by striking
11 the section and inserting in lieu thereof the following:

12 **490.822 Notice of meeting.**

13 1. Unless the articles of incorporation or bylaws provide
14 otherwise, regular meetings of the board of directors may be
15 held without notice of the date, time, place, or purpose of the
16 meeting.

17 2. Unless the articles of incorporation or bylaws provide
18 for a longer or shorter period, special meetings of the board
19 of directors shall be preceded by at least two days' notice of
20 the date, time, and place of the meeting. The notice need not
21 describe the purpose of the special meeting unless required by
22 the articles of incorporation or bylaws.

23 Sec. 98. Section 490.823, Code 2020, is amended by striking
24 the section and inserting in lieu thereof the following:

25 **490.823 Waiver of notice.**

26 1. A director may waive any notice required by this chapter,
27 the articles of incorporation, or the bylaws before or after
28 the date and time stated in the notice. Except as provided
29 by subsection 2, the waiver must be in writing, signed by
30 the director entitled to the notice, and delivered to the
31 corporation for filing by the corporation with the minutes or
32 corporate records.

33 2. A director's attendance at or participation in a meeting
34 waives any required notice to the director of the meeting
35 unless all of the following apply:

1 *a.* The director at the beginning of the meeting, or promptly
2 upon arrival, objects to holding the meeting or transacting
3 business at the meeting.

4 *b.* The director does not, after objecting, vote for or
5 assent to action taken at the meeting.

6 Sec. 99. Section 490.824, Code 2020, is amended by striking
7 the section and inserting in lieu thereof the following:

8 **490.824 Quorum and voting.**

9 1. Unless the articles of incorporation or bylaws provide
10 for a greater or lesser number, or unless otherwise expressly
11 provided in this chapter, a quorum of a board of directors
12 consists of a majority of the number of directors specified in
13 or fixed in accordance with the articles of incorporation or
14 bylaws.

15 2. The quorum of the board of directors specified in
16 or fixed in accordance with the articles of incorporation
17 or bylaws shall not consist of less than one-third of the
18 specified or fixed number of directors.

19 3. If a quorum is present when a vote is taken, the
20 affirmative vote of a majority of directors present is the act
21 of the board of directors unless the articles of incorporation
22 or bylaws require the vote of a greater number of directors or
23 unless otherwise expressly provided in this chapter.

24 4. *a.* A director who is present at a meeting of the board
25 of directors or a committee when corporate action is taken is
26 deemed to have assented to the action taken unless one or more
27 of the following occurs:

28 (1) The director objects at the beginning of the meeting, or
29 promptly upon arrival, to holding it or transacting business
30 at the meeting.

31 (2) The dissent or abstention from the action taken is
32 entered in the minutes of the meeting.

33 (3) The director delivers written notice of the director's
34 dissent or abstention to the presiding officer of the meeting
35 before its adjournment or to the corporation immediately after

1 adjournment of the meeting.

2 *b.* The right of dissent or abstention is not available to a
3 director who votes in favor of the action taken.

4 Sec. 100. Section 490.825, Code 2020, is amended by striking
5 the section and inserting in lieu thereof the following:

6 **490.825 Committees of the board.**

7 1. Unless this chapter, the articles of incorporation,
8 or the bylaws provide otherwise, a board of directors may
9 establish one or more board committees composed exclusively
10 of one or more directors to perform functions of the board of
11 directors.

12 2. *a.* The establishment of a board committee and
13 appointment of members to it shall be approved by the greater
14 of the following:

15 (1) A majority of all the directors in office when the
16 action is taken.

17 (2) The number of directors required by the articles of
18 incorporation or bylaws to take action under section 490.824.

19 *b.* Paragraph "a" applies unless, in either case, this
20 chapter or the articles of incorporation provide otherwise.

21 3. Sections 490.820 through 490.824 apply to board
22 committees and their members.

23 4. A board committee may exercise the powers of the board
24 of directors under section 490.801, to the extent specified by
25 the board of directors or in the articles of incorporation or
26 bylaws, except that a board committee shall not do any of the
27 following:

28 *a.* Authorize or approve distributions, except according to
29 a formula or method, or within limits, prescribed by the board
30 of directors.

31 *b.* Approve or propose to shareholders action that this
32 chapter requires be approved by shareholders.

33 *c.* Fill vacancies on the board of directors or, subject to
34 subsection 5, on any board committees.

35 *d.* Adopt, amend, or repeal bylaws.

1 5. The board of directors may appoint one or more directors
2 as alternate members of any board committee to replace any
3 absent or disqualified member during the member's absence
4 or disqualification. If the articles of incorporation, the
5 bylaws, or the resolution creating the board committee so
6 provide, the member or members present at any board committee
7 meeting and not disqualified from voting may, by unanimous
8 action, appoint another director to act in place of an absent
9 or disqualified member during that member's absence or
10 disqualification.

11 Sec. 101. Section 490.830, Code 2020, is amended by striking
12 the section and inserting in lieu thereof the following:

13 **490.830 Standards of conduct for directors.**

14 1. Each member of the board of directors, when discharging
15 the duties of a director, shall act in conformity with all of
16 the following:

17 a. In good faith.

18 b. In a manner the director reasonably believes to be in the
19 best interests of the corporation.

20 2. The members of the board of directors or a board
21 committee, when becoming informed in connection with their
22 decision-making function or devoting attention to their
23 oversight function, shall discharge their duties with the care
24 that a person in a like position would reasonably believe
25 appropriate under similar circumstances.

26 3. In discharging board or board committee duties, a
27 director shall disclose, or cause to be disclosed, to the other
28 board or committee members information which the director
29 knows is not already known by them but known by the director
30 to be material to the discharge of their decision-making or
31 oversight functions, except that disclosure is not required to
32 the extent that the director reasonably believes that doing so
33 would violate a duty imposed under law, a legally enforceable
34 obligation of confidentiality, or a professional ethics rule.

35 4. In discharging board or board committee duties, a

1 director who does not have knowledge that makes reliance
2 unwarranted is entitled to rely on the performance by any of
3 the persons specified in subsection 6, paragraph "a" or "c", to
4 whom the board may have delegated, formally or informally by
5 course of conduct, the authority or duty to perform one or more
6 of the board's functions that are delegable under applicable
7 law.

8 5. In discharging board or board committee duties, a
9 director who does not have knowledge that makes reliance
10 unwarranted is entitled to rely on information, opinions,
11 reports, or statements, including financial statements and
12 other financial data, prepared or presented by any of the
13 persons specified in subsection 6.

14 6. A director is entitled to rely, in accordance with
15 subsection 4 or 5, on any of the following:

16 a. One or more officers or employees of the corporation whom
17 the director reasonably believes to be reliable and competent
18 in the functions performed or the information, opinions,
19 reports, or statements provided.

20 b. Legal counsel, public accountants, or other persons
21 retained by the corporation as to matters involving skills
22 or expertise the director reasonably believes are any of the
23 following:

24 (1) Matters within the particular person's professional or
25 expert competence.

26 (2) Matters as to which the particular person merits
27 confidence.

28 c. A board committee of which the director is not a member
29 if the director reasonably believes the committee merits
30 confidence.

31 Sec. 102. Section 490.831, Code 2020, is amended by striking
32 the section and inserting in lieu thereof the following:

33 **490.831 Standards of liability for directors.**

34 1. A director shall not be liable to the corporation or its
35 shareholders for any decision to take or not to take action,

1 or any failure to take any action, as a director, unless the
2 party asserting liability in a proceeding establishes all of
3 the following:

4 a. No defense interposed by the director based on any of the
5 following precludes liability:

6 (1) A provision in the articles of incorporation authorized
7 by section 490.202, subsection 2, paragraph "d" or "f".

8 (2) The protection afforded by section 490.861 for action
9 taken in compliance with section 490.862 or section 490.863.

10 (3) The protection afforded by section 490.870.

11 b. That the challenged conduct consisted or was the result
12 of any of the following:

13 (1) Action not in good faith.

14 (2) A decision that satisfies any of the following:

15 (a) That which the director did not reasonably believe to be
16 in the best interests of the corporation.

17 (b) As to which the director was not informed to an
18 extent the director reasonably believed appropriate in the
19 circumstances.

20 (3) A lack of objectivity due to the director's familial,
21 financial, or business relationship with, or a lack of
22 independence due to the director's domination or control by,
23 another person having a material interest in the challenged
24 conduct, which also meets all of the following criteria:

25 (a) Which relationship or which domination or control could
26 reasonably be expected to have affected the director's judgment
27 respecting the challenged conduct in a manner adverse to the
28 corporation.

29 (b) After a reasonable expectation to such effect has been
30 established, the director shall not have established that the
31 challenged conduct was reasonably believed by the director to
32 be in the best interests of the corporation.

33 (4) A sustained failure of the director to devote attention
34 to ongoing oversight of the business and affairs of the
35 corporation, or a failure to devote timely attention, by

1 making, or causing to be made, appropriate inquiry, when
2 particular facts and circumstances of significant concern
3 materialize that would alert a reasonably attentive director
4 to the need for such inquiry.

5 (5) Receipt of a financial benefit to which the director was
6 not entitled or any other breach of the director's duties to
7 deal fairly with the corporation and its shareholders that is
8 actionable under applicable law.

9 2. *a.* The party seeking to hold the director liable for
10 money damages shall also have the burden of establishing all
11 of the following:

12 (1) That harm to the corporation or its shareholders has
13 been suffered.

14 (2) The harm suffered was proximately caused by the
15 director's challenged conduct.

16 *b.* A party seeking to hold the director liable for other
17 money payment under a legal remedy, such as compensation for
18 the unauthorized use of corporate assets, shall also have
19 whatever persuasion burden may be called for to establish that
20 the payment sought is appropriate in the circumstances.

21 *c.* A party seeking to hold the director liable for other
22 money payment under an equitable remedy, such as profit
23 recovery by or disgorgement to the corporation, shall also
24 have whatever persuasion burden may be called for to establish
25 that the equitable remedy sought is appropriate in the
26 circumstances.

27 3. This section shall not do any of the following:

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

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

1 section 490.833 or a transactional interest under section
2 490.861.

3 *c.* Affect any rights to which the corporation or a
4 shareholder may be entitled under another statute of this state
5 or the United States.

6 Sec. 103. Section 490.833, Code 2020, is amended by striking
7 the section and inserting in lieu thereof the following:

8 **490.833 Directors' liability for unlawful distributions.**

9 1. A director who votes for or assents to a distribution in
10 excess of what may be authorized and made pursuant to section
11 490.640, subsection 1, or section 490.1409, subsection 1, is
12 personally liable to the corporation for the amount of the
13 distribution that exceeds what could have been distributed
14 without violating section 490.640, subsection 1, or section
15 490.1409, subsection 1, if the party asserting liability
16 establishes that when taking the action the director did not
17 comply with section 490.830.

18 2. A director held liable under subsection 1 for an unlawful
19 distribution is entitled to all of the following:

20 *a.* Contribution from every other director who could be held
21 liable under subsection 1 for the unlawful distribution.

22 *b.* Recoupment from each shareholder of the prorata portion
23 of the amount of the unlawful distribution the shareholder
24 accepted, knowing the distribution was made in violation of
25 section 490.640, subsection 1, or section 490.1409, subsection
26 1.

27 3. *a.* A proceeding to enforce the liability of a director
28 under subsection 1 is barred unless it is commenced within two
29 years after any of the following:

30 (1) The date on which the effect of the distribution was
31 measured under section 490.640, subsection 5 or 8.

32 (2) The date as of which the violation of section 490.640,
33 subsection 1, occurred as the consequence of disregard of a
34 restriction in the articles of incorporation.

35 (3) The date on which the distribution of assets to

1 shareholders under section 490.1409, subsection 1, was made.

2 *b.* A proceeding to enforce contribution or recoupment
3 under subsection 2 is barred unless it is commenced within
4 one year after the liability of the claimant has been finally
5 adjudicated under subsection 1.

6 Sec. 104. Section 490.840, Code 2020, is amended by striking
7 the section and inserting in lieu thereof the following:

8 **490.840 Officers.**

9 1. A corporation has the officers described in its bylaws
10 or appointed by the board of directors in accordance with the
11 bylaws.

12 2. The board of directors may elect individuals to fill one
13 or more offices of the corporation. An officer may appoint one
14 or more officers if authorized by the bylaws or the board of
15 directors.

16 3. The bylaws or the board of directors shall assign to an
17 officer responsibility for maintaining and authenticating the
18 records of the corporation required to be kept under section
19 490.1601, subsection 1.

20 4. The same individual may simultaneously hold more than one
21 office in a corporation.

22 Sec. 105. Section 490.842, Code 2020, is amended by striking
23 the section and inserting in lieu thereof the following:

24 **490.842 Standards of conduct for officers.**

25 1. An officer, when performing in such capacity, has the
26 duty to act in conformity with all of the following:

27 *a.* In good faith.

28 *b.* With the care that a person in a like position would
29 reasonably exercise under similar circumstances.

30 *c.* In a manner the officer reasonably believes to be in the
31 best interests of the corporation.

32 2. The duty of an officer includes the obligation to do all
33 of the following:

34 *a.* Inform the superior officer to whom, or the board of
35 directors or the board committee to which, the officer reports

1 of information about the affairs of the corporation known to
2 the officer, within the scope of the officer's functions, and
3 known to the officer to be material to such superior officer,
4 board, or committee.

5 *b.* Inform the officer's superior officer, or another
6 appropriate person within the corporation, or the board of
7 directors, or a board committee, of any actual or probable
8 material violation of law involving the corporation or material
9 breach of duty to the corporation by an officer, employee,
10 or agent of the corporation, that the officer believes has
11 occurred or is likely to occur.

12 3. In discharging the officer's duties, an officer who does
13 not have knowledge that makes reliance unwarranted is entitled
14 to rely on any of the following:

15 *a.* The performance of properly delegated responsibilities
16 by one or more employees of the corporation whom the officer
17 reasonably believes to be reliable and competent in performing
18 the responsibilities delegated.

19 *b.* Information, opinions, reports, or statements, including
20 financial statements and other financial data, prepared or
21 presented by one or more employees of the corporation whom the
22 officer reasonably believes to be reliable and competent in
23 the matters presented or by legal counsel, public accountants,
24 or other persons retained by the corporation as to matters
25 involving skills or expertise the officer reasonably believes
26 are any of the following:

27 (1) Matters within the particular person's professional or
28 expert competence.

29 (2) Matters as to which the particular person merits
30 confidence.

31 4. An officer shall not be liable to the corporation or its
32 shareholders for any decision to take or not to take action,
33 or any failure to take any action, as an officer, if the duties
34 of the office are performed in compliance with this section.
35 Whether an officer who does not comply with this section shall

1 have liability will depend in such instance on applicable
2 law, including those principles of section 490.831 that have
3 relevance.

4 Sec. 106. Section 490.843, Code 2020, is amended by striking
5 the section and inserting in lieu thereof the following:

6 **490.843 Resignation and removal of officers.**

7 1. An officer may resign at any time by delivering a written
8 notice to the board of directors, or its chairperson, or to
9 the appointing officer or the secretary. A resignation is
10 effective as provided in section 490.141, subsection 9, unless
11 the notice provides for a delayed effectiveness, including
12 effectiveness determined upon a future event or events. If
13 effectiveness of a resignation is stated to be delayed and the
14 board of directors or the appointing officer accepts the delay,
15 the board of directors or the appointing officer may fill the
16 pending vacancy before the delayed effectiveness but the new
17 officer shall not take office until the vacancy occurs.

18 2. An officer may be removed at any time with or without
19 cause by any of the following:

20 a. The board of directors.

21 b. The appointing officer, unless the bylaws or the board
22 of directors provide otherwise.

23 c. Any other officer if authorized by the bylaws or the
24 board of directors.

25 3. As used in this section, "*appointing officer*" means the
26 officer, including any successor to that officer, who appointed
27 the officer resigning or being removed.

28 Sec. 107. Section 490.844, Code 2020, is amended by striking
29 the section and inserting in lieu thereof the following:

30 **490.844 Contract rights of officers.**

31 1. The election or appointment of an officer does not itself
32 create contract rights.

33 2. An officer's removal does not affect the officer's
34 contract rights, if any, with the corporation. An officer's
35 resignation does not affect the corporation's contract rights,

1 if any, with the officer.

2 Sec. 108. Section 490.850, Code 2020, is amended by striking
3 the section and inserting in lieu thereof the following:

4 **490.850 Part definitions.**

5 As used in this part:

6 1. "*Corporation*" includes any domestic or foreign
7 predecessor entity of a corporation in a merger.

8 2. "*Director*" or "*officer*" means an individual who is or
9 was a director or officer, respectively, of a corporation
10 or who, while a director or officer of the corporation, is
11 or was serving at the corporation's request as a director,
12 officer, manager, partner, trustee, employee, or agent of
13 another entity or employee benefit plan. A director or
14 officer is considered to be serving an employee benefit plan
15 at the corporation's request if the individual's duties to
16 the corporation also impose duties on, or otherwise involve
17 services by, the individual to the plan or to participants in
18 or beneficiaries of the plan. "*Director*" or "*officer*" includes,
19 unless the context requires otherwise, the estate or personal
20 representative of a director or officer.

21 3. "*Liability*" means the obligation to pay a judgment,
22 settlement, penalty, fine, including an excise tax assessed
23 with respect to an employee benefit plan, or expenses incurred
24 with respect to a proceeding.

25 4. a. "*Official capacity*" means the following:

26 (1) When used with respect to a director, the office of
27 director in a corporation.

28 (2) When used with respect to an officer, as contemplated
29 in section 490.856, the office in a corporation held by the
30 officer.

31 b. "*Official capacity*" does not include service for any
32 other domestic or foreign corporation or any joint venture,
33 trust, employee benefit plan, or other entity.

34 5. "*Party*" means an individual who was, is, or is threatened
35 to be made a defendant or respondent in a proceeding.

1 6. "Proceeding" means any threatened, pending, or completed
2 action, suit, or proceeding, whether civil, criminal,
3 administrative, arbitrative, or investigative and whether
4 formal or informal.

5 Sec. 109. Section 490.851, Code 2020, is amended by striking
6 the section and inserting in lieu thereof the following:

7 **490.851 Permissible indemnification.**

8 1. Except as otherwise provided in this section, a
9 corporation may indemnify an individual who is a party to
10 a proceeding because the individual is a director against
11 liability incurred in the proceeding if any of the following
12 apply:

13 a. All of the following apply:

14 (1) The director's conduct was in good faith.

15 (2) The director reasonably believed:

16 (a) In the case of conduct in an official capacity, that
17 the director's conduct was in the best interests of the
18 corporation.

19 (b) In all other cases, that the director's conduct was at
20 least not opposed to the best interests of the corporation.

21 (3) In the case of any criminal proceeding, the director
22 had no reasonable cause to believe the director's conduct was
23 unlawful.

24 b. The director engaged in conduct for which broader
25 indemnification has been made permissible or obligatory under a
26 provision of the articles of incorporation, as authorized by
27 section 490.202, subsection 2, paragraph "e".

28 2. A director's conduct with respect to an employee benefit
29 plan for a purpose the director reasonably believed to be in
30 the interests of the participants in, and the beneficiaries
31 of, the plan is conduct that satisfies the requirement of
32 subsection 1, paragraph "a", subparagraph (2), subparagraph
33 division (b).

34 3. The termination of a proceeding by judgment, order,
35 settlement, or conviction, or upon a plea of nolo contendere

1 or its equivalent, is not, of itself, determinative that
2 the director did not meet the relevant standard of conduct
3 described in this section.

4 4. Unless ordered by a court under section 490.854,
5 subsection 1, paragraph "c", a corporation shall not indemnify a
6 director in any of the following circumstances:

7 a. In connection with a proceeding by or in the right of the
8 corporation, except for expenses incurred in connection with
9 the proceeding if it is determined that the director has met
10 the relevant standard of conduct under subsection 1.

11 b. In connection with any proceeding with respect to conduct
12 for which the director was adjudged liable on the basis of
13 receiving a financial benefit to which the director was not
14 entitled, regardless of whether it involved action in the
15 director's official capacity.

16 Sec. 110. Section 490.852, Code 2020, is amended by striking
17 the section and inserting in lieu thereof the following:

18 **490.852 Mandatory indemnification.**

19 A corporation shall indemnify a director who was wholly
20 successful, on the merits or otherwise, in the defense of
21 any proceeding to which the director was a party because the
22 director is or was a director of the corporation against
23 expenses incurred by the director in connection with the
24 proceeding.

25 Sec. 111. Section 490.853, Code 2020, is amended by striking
26 the section and inserting in lieu thereof the following:

27 **490.853 Advance for expenses.**

28 1. A corporation may, before final disposition of a
29 proceeding, advance funds to pay for or reimburse expenses
30 incurred in connection with the proceeding by an individual
31 who is a party to the proceeding because that individual is a
32 director, if the director delivers to the corporation a signed
33 written undertaking of the director to repay any funds advanced
34 and all of the following apply:

35 a. The director is not entitled to mandatory indemnification

1 under section 490.852.

2 *b.* It is ultimately determined under section 490.854 or
3 490.855 that the director is not entitled to indemnification.

4 2. The undertaking required by subsection 1 must be an
5 unlimited general obligation of the director but need not be
6 secured and may be accepted without reference to the financial
7 ability of the director to make repayment.

8 3. Authorizations under this section shall be made by any
9 of the following:

10 *a.* By the board of directors as follows:

11 (1) If there are two or more qualified directors, by a
12 majority vote of all of the qualified directors, a majority
13 of whom shall for such purpose constitute a quorum, or by a
14 majority of the members of a committee consisting solely of two
15 or more qualified directors appointed by such a vote.

16 (2) If there are fewer than two qualified directors,
17 by the vote necessary for action by the board of directors
18 in accordance with section 490.824, subsection 3, in which
19 authorization directors who are not qualified directors may
20 participate.

21 *b.* By the shareholders, but shares owned by or voted under
22 the control of a director who at the time is not a qualified
23 director shall not be voted on the authorization.

24 Sec. 112. Section 490.854, Code 2020, is amended by striking
25 the section and inserting in lieu thereof the following:

26 **490.854 Court-ordered indemnification and advance for**
27 **expenses.**

28 1. A person who is a party to a proceeding because the
29 person is a director may apply for indemnification or an
30 advance for expenses to the court conducting the proceeding
31 or to another court of competent jurisdiction. After receipt
32 of an application and after giving any notice it considers
33 necessary, the court shall do any of the following:

34 *a.* Order indemnification if the court determines that the
35 director is entitled to mandatory indemnification under section

1 490.852.

2 *b.* Order indemnification or advance for expenses if
3 the court determines that the director is entitled to
4 indemnification or advance for expenses pursuant to a provision
5 authorized by section 490.858, subsection 1.

6 *c.* (1) Order indemnification or advance for expenses if the
7 court determines, in view of all the relevant circumstances,
8 that it is fair and reasonable to do any of the following:

9 (a) Indemnify the director.

10 (b) Advance expenses to the director.

11 (2) The court shall order indemnification or advance for
12 expenses, even if in the case of subparagraph (1), subparagraph
13 division (a) or (b), the director has not met the relevant
14 standard of conduct set forth in section 490.851, subsection 1,
15 failed to comply with section 490.853 or was adjudged liable
16 in a proceeding referred to in section 490.851, subsection 4,
17 paragraph "a" or "b". However, if the director was adjudged
18 so liable the director's indemnification shall be limited to
19 expenses incurred in connection with the proceeding.

20 2. If the court determines that the director is entitled
21 to indemnification under subsection 1, paragraph "a", or to
22 indemnification or advance for expenses under subsection 1,
23 paragraph "b", it shall also order the corporation to pay the
24 director's expenses incurred in connection with obtaining
25 court-ordered indemnification or advance for expenses.

26 If the court determines that the director is entitled to
27 indemnification or advance for expenses under subsection 1,
28 paragraph "c", it may also order the corporation to pay the
29 director's expenses to obtain court-ordered indemnification or
30 advance for expenses.

31 Sec. 113. Section 490.855, Code 2020, is amended by striking
32 the section and inserting in lieu thereof the following:

33 **490.855 Determination and authorization of indemnification.**

34 1. A corporation shall not indemnify a director under
35 section 490.851 unless authorized for a specific proceeding

1 after a determination has been made that indemnification is
2 permissible because the director has met the relevant standard
3 of conduct set forth in section 490.851.

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

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

10 b. By special legal counsel selected in one of the following
11 manners:

12 (1) In the manner prescribed in paragraph "a".

13 (2) If there are fewer than two qualified directors,
14 selected by the board of directors, in which selection
15 directors who are not qualified directors may participate.

16 c. By the shareholders, but shares owned by or voted under
17 the control of a director who at the time is not a qualified
18 director shall not be voted on the determination.

19 3. Authorization of indemnification shall be made in
20 the same manner as the determination that indemnification is
21 permissible, except that if there are fewer than two qualified
22 directors or if the determination is made by special legal
23 counsel, authorization of indemnification shall be made by
24 those entitled to select special legal counsel under subsection
25 2, paragraph "b", subparagraph (2).

26 Sec. 114. Section 490.856, Code 2020, is amended by striking
27 the section and inserting in lieu thereof the following:

28 **490.856 Indemnification of officers.**

29 1. A corporation may indemnify and advance expenses under
30 this part to an officer who is a party to a proceeding because
31 the person is an officer, according to all of the following:

32 a. To the same extent as a director.

33 b. If the person is an officer but not a director, to
34 such further extent as may be provided by the articles of
35 incorporation or bylaws, or by a resolution adopted or a

1 contract approved by the board of directors or shareholders,
2 except for any of the following:

3 (1) Liability in connection with a proceeding by or in the
4 right of the corporation other than for expenses incurred in
5 connection with the proceeding.

6 (2) Liability arising out of conduct that constitutes any
7 of the following:

8 (a) Receipt by the officer of a financial benefit to which
9 the officer is not entitled.

10 (b) An intentional infliction of harm on the corporation or
11 the shareholders.

12 (c) An intentional violation of criminal law.

13 2. The provisions of subsection 1, paragraph "b", shall
14 apply to an officer who is also a director, if the officer is
15 made a party to the proceeding based on an act or omission
16 solely as an officer.

17 3. An officer who is not a director is entitled to mandatory
18 indemnification under section 490.852, and may apply to a court
19 under section 490.854 for indemnification or an advance for
20 expenses, in each case to the same extent to which a director
21 may be entitled to indemnification or advance for expenses
22 under those sections.

23 Sec. 115. Section 490.857, Code 2020, is amended by striking
24 the section and inserting in lieu thereof the following:

25 **490.857 Insurance.**

26 A corporation may purchase and maintain insurance on
27 behalf of an individual who is a director or officer of
28 the corporation, or who, while a director or officer of the
29 corporation, serves at the corporation's request as a director,
30 officer, partner, trustee, employee, or agent of another
31 domestic or foreign corporation, or a joint venture, trust,
32 employee benefit plan, or other entity, against liability
33 asserted against or incurred by the individual in that capacity
34 or arising from the individual's status as a director or
35 officer, regardless of whether the corporation would have power

1 to indemnify or advance expenses to the individual against the
2 same liability under this part.

3 Sec. 116. Section 490.858, Code 2020, is amended by striking
4 the section and inserting in lieu thereof the following:

5 **490.858 Variation by corporate action — application of part.**

6 1. A corporation may, by a provision in its articles
7 of incorporation or bylaws or in a resolution adopted or a
8 contract approved by the board of directors or shareholders,
9 obligate itself in advance of the act or omission giving rise
10 to a proceeding to provide indemnification in accordance
11 with section 490.851 or advance funds to pay for or
12 reimburse expenses in accordance with section 490.853. Any
13 such obligatory provision shall be deemed to satisfy the
14 requirements for authorization referred to in section 490.853,
15 subsection 3, and in section 490.855, subsection 3. Any
16 such provision that obligates the corporation to provide
17 indemnification to the fullest extent permitted by law shall be
18 deemed to obligate the corporation to advance funds to pay for
19 or reimburse expenses in accordance with section 490.853 to the
20 fullest extent permitted by law, unless the provision expressly
21 provides otherwise.

22 2. A right of indemnification or to advances for expenses
23 created by this part or under subsection 1 and in effect at
24 the time of an act or omission shall not be eliminated or
25 impaired with respect to such act or omission by an amendment
26 of the articles of incorporation or bylaws or a resolution
27 of the board of directors or shareholders, adopted after the
28 occurrence of such act or omission, unless, in the case of
29 a right created under subsection 1, the provision creating
30 such right and in effect at the time of such act or omission
31 explicitly authorizes such elimination or impairment after such
32 act or omission has occurred.

33 3. Any provision pursuant to subsection 1 shall not obligate
34 the corporation to indemnify or advance expenses to a director
35 of a predecessor of the corporation, pertaining to conduct

1 with respect to the predecessor, unless otherwise expressly
2 provided. Any provision for indemnification or advance for
3 expenses in the articles of incorporation, or bylaws, or a
4 resolution of the board of directors or shareholders of a
5 predecessor of the corporation in a merger or in a contract
6 to which the predecessor is a party, existing at the time the
7 merger takes effect, shall be governed by section 490.1107,
8 subsection 1, paragraph "d".

9 4. Subject to subsection 2, a corporation may, by a
10 provision in its articles of incorporation, limit any of the
11 rights to indemnification or advance for expenses created by or
12 pursuant to this part.

13 5. This part does not limit a corporation's power to pay
14 or reimburse expenses incurred by a director or an officer in
15 connection with appearing as a witness in a proceeding at a
16 time when the director or officer is not a party.

17 6. This part does not limit a corporation's power to
18 indemnify, advance expenses to, or provide or maintain
19 insurance on behalf of an employee or agent.

20 Sec. 117. Section 490.860, Code 2020, is amended by striking
21 the section and inserting in lieu thereof the following:

22 **490.860 Part definitions.**

23 As used in this part, unless otherwise specified:

24 1. "Control", including the term "controlled by", means any
25 of the following:

26 a. Having the power, directly or indirectly, to elect or
27 remove a majority of the members of the board of directors
28 or other governing body of an entity, whether through the
29 ownership of voting shares or interests, by contract, or
30 otherwise.

31 b. Being subject to a majority of the risk of loss from the
32 entity's activities or entitled to receive a majority of the
33 entity's residual returns.

34 2. "Director's conflicting interest transaction" means
35 a transaction effected or proposed to be effected by the

1 corporation, or by an entity controlled by the corporation, to
2 which, or respecting which, any of the following applies:

3 *a.* To which, at the relevant time, the director is a party.

4 *b.* Respecting which, at the relevant time, the director
5 had knowledge and a material financial interest known to the
6 director.

7 *c.* Respecting which, at the relevant time, the director knew
8 that a related person was a party or had a material financial
9 interest.

10 3. "*Fair to the corporation*" means, for purposes of section
11 490.861, subsection 2, paragraph "*c*", that the transaction
12 as a whole was beneficial to the corporation, taking into
13 appropriate account whether it was all of the following:

14 *a.* Fair in terms of the director's dealings with the
15 corporation.

16 *b.* Comparable to what might have been obtainable in an arm's
17 length transaction, given the consideration paid or received
18 by the corporation.

19 4. "*Material financial interest*" means a financial interest
20 in a transaction that would reasonably be expected to impair
21 the objectivity of the director's judgment when participating
22 in action on the authorization of the transaction.

23 5. "*Related person*" means any of the following:

24 *a.* The individual's spouse.

25 *b.* A child, stepchild, grandchild, parent, stepparent,
26 grandparent, sibling, stepsibling, half sibling, aunt,
27 uncle, niece, or nephew, or spouse of any such person, of the
28 individual or of the individual's spouse.

29 *c.* A natural person living in the same home as the
30 individual.

31 *d.* An entity, other than the corporation or an entity
32 controlled by the corporation, controlled by the individual or
33 any person specified in this subsection.

34 *e.* Any of the following:

35 (1) A domestic or foreign business or nonprofit

1 corporation, other than the corporation or an entity controlled
2 by the corporation, of which the individual is a director.

3 (2) A domestic or foreign unincorporated entity of which the
4 individual is a general partner or a member of the governing
5 body.

6 (3) A domestic or foreign individual, trust, or estate
7 for whom or of which the individual is a trustee, guardian,
8 personal representative, or like fiduciary.

9 f. A person that is, or an entity that is controlled by, an
10 employer of the individual.

11 6. "*Relevant time*" means the following:

12 a. The time at which directors' action respecting the
13 transaction is taken in compliance with section 490.862.

14 b. If the transaction is not brought before the board
15 of directors or a board committee for action under section
16 490.862, at the time the corporation or an entity controlled
17 by the corporation becomes legally obligated to consummate the
18 transaction.

19 7. "*Required disclosure*" means disclosure of all of the
20 following:

21 a. The existence and nature of the director's conflicting
22 interest.

23 b. All facts known to the director respecting the subject
24 matter of the transaction that a director free of such
25 conflicting interest would reasonably believe to be material in
26 deciding whether to proceed with the transaction.

27 Sec. 118. Section 490.861, Code 2020, is amended by striking
28 the section and inserting in lieu thereof the following:

29 **490.861 Judicial action.**

30 1. A transaction effected or proposed to be effected by the
31 corporation, or by an entity controlled by the corporation,
32 shall not be the subject of equitable relief, or give rise to
33 an award of damages or other sanctions against a director of
34 the corporation, in a proceeding by a shareholder or by or in
35 the right of the corporation, on the ground that the director

1 has an interest respecting the transaction, if it is not a
2 director's conflicting interest transaction.

3 2. A director's conflicting interest transaction shall
4 not be the subject of equitable relief, or give rise to an
5 award of damages or other sanctions against a director of the
6 corporation, in a proceeding by a shareholder or by or in the
7 right of the corporation, on the ground that the director has
8 an interest respecting the transaction, if any of the following
9 apply:

10 a. Directors' action respecting the transaction was taken in
11 compliance with section 490.862 at any time.

12 b. Shareholders' action respecting the transaction was taken
13 in compliance with section 490.863 at any time.

14 c. The transaction, judged according to the circumstances
15 at the relevant time, is established to have been fair to the
16 corporation.

17 Sec. 119. Section 490.862, Code 2020, is amended by striking
18 the section and inserting in lieu thereof the following:

19 **490.862 Directors' action.**

20 1. Directors' action respecting a director's conflicting
21 interest transaction is effective for purposes of section
22 490.861, subsection 2, paragraph "a", if the transaction has
23 been authorized by the affirmative vote of a majority, but
24 no fewer than two, of the qualified directors who voted on
25 the transaction, after required disclosure by the conflicted
26 director of information not already known by such qualified
27 directors, or after modified disclosure in compliance with
28 subsection 2, provided that all of the following apply:

29 a. The qualified directors have deliberated and voted
30 outside the presence of and without the participation by any
31 other director.

32 b. Where the action has been taken by a board committee,
33 all members of the committee were qualified directors, and any
34 of the following apply:

35 (1) The committee was composed of all the qualified

1 directors on the board of directors.

2 (2) The members of the committee were appointed by the
3 affirmative vote of a majority of the qualified directors on
4 the board of directors.

5 2. Notwithstanding subsection 1, when a transaction is
6 a director's conflicting interest transaction only because a
7 related person described in section 490.860, subsection 5,
8 paragraph "e" or "f", is a party to or has a material financial
9 interest in the transaction, the conflicted director is not
10 obligated to make required disclosure to the extent that the
11 director reasonably believes that doing so would violate a
12 duty imposed under law, a legally enforceable obligation of
13 confidentiality, or a professional ethics rule, provided that
14 the conflicted director discloses to the qualified directors
15 voting on the transaction all of the following:

16 a. All information required to be disclosed that is not so
17 violative.

18 b. The existence and nature of the director's conflicting
19 interest.

20 c. The nature of the conflicted director's duty not to
21 disclose the confidential information.

22 3. A majority, but no fewer than two, of all the qualified
23 directors on the board of directors, or on the board committee,
24 constitutes a quorum for purposes of action that complies with
25 this section.

26 4. Where directors' action under this section does not
27 satisfy a quorum or voting requirement applicable to the
28 authorization of the transaction by reason of the articles of
29 incorporation or bylaws, or a provision of law, independent
30 action to satisfy those authorization requirements shall be
31 taken by the board of directors or a board committee, in
32 which action directors who are not qualified directors may
33 participate.

34 Sec. 120. Section 490.863, Code 2020, is amended by striking
35 the section and inserting in lieu thereof the following:

1 **490.863 Shareholders' action.**

2 1. *a.* Shareholders' action respecting a director's
3 conflicting interest transaction is effective for purposes of
4 section 490.861, subsection 2, paragraph "b", if a majority of
5 the votes cast by the holders of all qualified shares are in
6 favor of the transaction after all of the following occur:

7 (1) Notice to shareholders describing the action to be taken
8 respecting the transaction.

9 (2) Provision to the corporation of the information
10 referred to in subsection 2.

11 (3) Communication to the shareholders entitled to vote
12 on the transaction of the information that is the subject of
13 required disclosure, to the extent the information is not known
14 by them.

15 *b.* In the case of shareholders' action at a meeting, the
16 shareholders entitled to vote shall be determined as of the
17 record date for notice of the meeting.

18 2. A director who has a conflicting interest respecting
19 the transaction shall, before the shareholders' vote, inform
20 the secretary or other officer or agent of the corporation
21 authorized to tabulate votes, in writing, of the number of
22 shares that the director knows are not qualified shares under
23 subsection 3, and the identity of the holders of those shares.

24 3. As used in this section:

25 *a.* "Holder" means and "held by" refers to shares held
26 by a record shareholder, a beneficial shareholder, or an
27 unrestricted voting trust beneficial owner.

28 *b.* "Qualified shares" means all shares entitled to be
29 voted with respect to the transaction except for shares that
30 the secretary or other officer or agent of the corporation
31 authorized to tabulate votes either knows, or under subsection
32 2 is notified, are held by any of the following:

33 (1) A director who has a conflicting interest respecting the
34 transaction.

35 (2) A related person of the director, excluding a person

1 described in section 490.860, subsection 5, paragraph "f".

2 4. A majority of the votes entitled to be cast by the
3 holders of all qualified shares constitutes a quorum for
4 purposes of compliance with this section. Subject to the
5 provisions of subsection 5, shareholders' action that otherwise
6 complies with this section is not affected by the presence of
7 holders, or by the voting, of shares that are not qualified
8 shares.

9 5. If a shareholders' vote does not comply with subsection
10 1 solely because of a director's failure to comply with
11 subsection 2, and if the director establishes that the failure
12 was not intended to influence and did not in fact determine the
13 outcome of the vote, the court may take such action respecting
14 the transaction and the director, and may give such effect,
15 if any, to the shareholders' vote, as the court considers
16 appropriate in the circumstances.

17 6. Where shareholders' action under this section does
18 not satisfy a quorum or voting requirement applicable to the
19 authorization of the transaction by reason of the articles of
20 incorporation or bylaws, or a provision of law, independent
21 action to satisfy those authorization requirements shall be
22 taken by the shareholders, in which action shares that are not
23 qualified shares may participate.

24 Sec. 121. Section 490.870, Code 2020, is amended by striking
25 the section and inserting in lieu thereof the following:

26 **490.870 Business opportunities.**

27 1. If a director or officer pursues or takes advantage of
28 a business opportunity directly, or indirectly through or on
29 behalf of another person, that action shall not be the subject
30 of equitable relief, or give rise to an award of damages or
31 other sanctions against the director, officer, or other person,
32 in a proceeding by or in the right of the corporation on the
33 ground that the opportunity should have first been offered to
34 the corporation, if any of the following apply:

35 a. Before the director, officer, or other person becomes

1 legally obligated respecting the opportunity, the director or
2 officer brings it to the attention of the corporation and any
3 of the following apply:

4 (1) Action by qualified directors disclaiming the
5 corporation's interest in the opportunity is taken in
6 compliance with the same procedures as are set forth in section
7 490.862.

8 (2) Shareholders' action disclaiming the corporation's
9 interest in the opportunity is taken in compliance with the
10 procedures set forth in section 490.863, in either case as if
11 the decision being made concerned a director's conflicting
12 interest transaction; except that, rather than making required
13 disclosure as defined in section 490.860, the director or
14 officer shall have made prior disclosure to those acting on
15 behalf of the corporation of all material facts concerning the
16 business opportunity known to the director or officer.

17 *b.* The duty to offer the corporation the business
18 opportunity has been limited or eliminated pursuant to a
19 provision of the articles of incorporation adopted, and where
20 required, made effective by action of qualified directors, in
21 accordance with section 490.202, subsection 2, paragraph "f".

22 2. In any proceeding seeking equitable relief or other
23 remedies based upon an alleged improper pursuit or taking
24 advantage of a business opportunity by a director or officer,
25 directly, or indirectly through or on behalf of another
26 person, the fact that the director or officer did not employ
27 the procedure described in subsection 1, paragraph "a",
28 subparagraph (1) or (2), before pursuing or taking advantage
29 of the opportunity shall not create an implication that the
30 opportunity should have been first presented to the corporation
31 or alter the burden of proof otherwise applicable to establish
32 that the director or officer breached a duty to the corporation
33 in the circumstances.

34 Sec. 122. Section 490.901, Code 2020, is amended by striking
35 the section and inserting in lieu thereof the following:

1 **490.901 Subchapter definitions.**

2 1. As used in this subchapter:

3 *a.* "Conversion" means a transaction pursuant to part C.

4 *b.* "Converted entity" means the converting entity as it
5 continues in existence after a conversion.

6 *c.* "Converting entity" means the domestic corporation or
7 eligible entity that approves a plan of conversion pursuant to
8 section 490.932 or the foreign eligible entity that approves a
9 conversion pursuant to the organic law of the eligible entity.

10 *d.* "Domesticated corporation" means the domesticating
11 corporation as it continues in existence after a domestication.

12 *e.* "Domesticating corporation" means the domestic
13 corporation that approves a plan of domestication pursuant
14 to section 490.921 or the foreign corporation that approves
15 a domestication pursuant to the organic law of the foreign
16 corporation.

17 *f.* "Domestication" means a transaction pursuant to part B.

18 *g.* "Protected agreement" means any of the following:

19 (1) A document evidencing indebtedness of a domestic
20 corporation or eligible entity and any related agreement in
21 effect immediately before the enactment date.

22 (2) An agreement that is binding on a domestic corporation
23 or eligible entity immediately before the enactment date.

24 (3) The articles of incorporation or bylaws of a domestic
25 corporation or the organic rules of a domestic eligible entity,
26 in each case in effect immediately before the enactment date.

27 (4) An agreement that is binding on any of the shareholders,
28 members, interest holders, directors, or other governors of a
29 domestic corporation or eligible entity, in their capacities as
30 such, immediately before the enactment date.

31 2. As used in subsection 1 and sections 490.920 and
32 490.930, "enactment date" means July 1, 2021, as it relates to
33 domestications and July 1, 2008, as it relates to conversions.

34 Sec. 123. Section 490.902, Code 2020, is amended by striking
35 the section and inserting in lieu thereof the following:

1 **490.902 Excluded transactions.**

2 This subchapter shall not be used to effect a transaction
3 that converts a company organized on the mutual principle to
4 one organized on the basis of share ownership.

5 Sec. 124. NEW SECTION. **490.903 Required approvals.**

6 If a domestic or foreign corporation or eligible entity
7 shall not be a party to a merger without the approval of the
8 superintendent of banking, the commissioner of insurance,
9 or the Iowa utility board, and the applicable statutes or
10 regulations do not specifically deal with transactions under
11 this subchapter but do require such approval for mergers,
12 a corporation or eligible entity shall not be a party to a
13 transaction under this subchapter without the prior approval of
14 that agency or official.

15 Sec. 125. NEW SECTION. **490.904 Relationship of subchapter
16 to other laws.**

17 A transaction effected under this subchapter shall not
18 create or impair a right, duty, or obligation of a person under
19 the statutory law of this state other than this subchapter
20 relating to a change in control, business combination,
21 control-share acquisition, or similar transaction involving
22 a domesticating or converting domestic corporation, unless
23 the approval of the plan of domestication or conversion is by
24 a vote of the shareholders or the board of directors which
25 would be sufficient to create or impair the right, duty, or
26 obligation directly under that law.

27 Sec. 126. NEW SECTION. **490.920 Domestication.**

28 1. By complying with the provisions of this part applicable
29 to foreign corporations, a foreign corporation may become a
30 domestic corporation if the domestication is permitted by the
31 organic law of the foreign corporation.

32 2. By complying with the provisions of this part, a domestic
33 corporation may become a foreign corporation pursuant to a
34 plan of domestication if the domestication is permitted by the
35 organic law of the foreign corporation.

1 3. The plan of domestication must include all of the
2 following:

3 a. The name of the domesticating corporation.

4 b. The name and jurisdiction of formation of the
5 domesticated corporation.

6 c. The manner and basis of reclassifying the shares of the
7 domesticating corporation into shares or other securities,
8 obligations, rights to acquire shares or other securities,
9 cash, other property, or any combination of the foregoing.

10 d. The proposed articles of incorporation and bylaws of the
11 domesticated corporation.

12 e. The other terms and conditions of the domestication.

13 4. In addition to the requirements of subsection 3, a plan
14 of domestication may contain any other provision not prohibited
15 by law.

16 5. The terms of a plan of domestication may be made
17 dependent upon facts objectively ascertainable outside the plan
18 in accordance with section 490.120, subsection 11.

19 6. If a protected agreement of a domestic domesticating
20 corporation in effect immediately before the domestication
21 becomes effective contains a provision applying to a merger
22 of the corporation and the agreement does not refer to a
23 domestication of the corporation, the provision applies to a
24 domestication of the corporation as if the domestication were a
25 merger until such time as the provision is first amended after
26 the enactment date.

27 Sec. 127. NEW SECTION. 490.921 Action on a plan of
28 domestication.

29 In the case of a domestication of a domestic corporation
30 into a foreign jurisdiction, the plan of domestication shall be
31 adopted in the following manner:

32 1. The plan of domestication shall first be adopted by the
33 board of directors.

34 2. a. The plan of domestication shall then be approved by
35 the shareholders. In submitting the plan of domestication to

1 the shareholders for approval, the board of directors shall
2 recommend that the shareholders approve the plan, unless any of
3 the following applies:

4 (1) The board of directors makes a determination that
5 because of conflicts of interest or other special circumstances
6 it should not make such a recommendation.

7 (2) Section 490.826 applies.

8 b. If paragraph "a", subparagraph (1) or (2) applies, the
9 board shall inform the shareholders of the basis for its so
10 proceeding.

11 3. The board of directors may set conditions for approval
12 of the plan of domestication by the shareholders or the
13 effectiveness of the plan of domestication.

14 4. If the approval of the shareholders is to be given at
15 a meeting, the corporation shall notify each shareholder,
16 regardless of whether entitled to vote, of the meeting of
17 shareholders at which the plan of domestication is to be
18 submitted for approval. The notice must state that the
19 purpose, or one of the purposes, of the meeting is to consider
20 the plan of domestication and must contain or be accompanied
21 by a copy or summary of the plan. The notice must include
22 or be accompanied by a copy of the articles of incorporation
23 and the bylaws as they will be in effect immediately after the
24 domestication.

25 5. Unless the articles of incorporation, bylaws, or the
26 board of directors acting pursuant to subsection 3, require
27 a greater vote or a greater quorum, approval of the plan of
28 domestication requires all of the following:

29 a. The approval of the shareholders at a meeting at which a
30 quorum exists consisting of a majority of the votes entitled
31 to be cast on the plan.

32 b. Except as provided in subsection 6, the approval of
33 each class or series of shares voting as a separate voting
34 group at a meeting at which a quorum of the voting group exists
35 consisting of a majority of the votes entitled to be cast on

1 the plan by that voting group.

2 6. The articles of incorporation may expressly limit or
3 eliminate the separate voting rights provided in subsection
4 5, paragraph "b", as to any class or series of shares, except
5 when the articles of incorporation of the foreign corporation
6 resulting from the domestication include what would be in
7 effect an amendment that would entitle the class or series to
8 vote as a separate group under section 490.1004 if it were
9 a proposed amendment of the articles of incorporation of the
10 domestic domesticating corporation.

11 7. If as a result of a domestication one or more
12 shareholders of a domestic domesticating corporation would
13 become subject to interest holder liability, approval of the
14 plan of domestication shall require the signing in connection
15 with the domestication, by each such shareholder, of a separate
16 written consent to become subject to such interest holder
17 liability, unless in the case of a shareholder that already has
18 interest holder liability with respect to the domesticating
19 corporation, the terms and conditions of the interest holder
20 liability with respect to the domesticated corporation are
21 substantially identical to those of the existing interest
22 holder liability, other than for changes that eliminate or
23 reduce such interest holder liability.

24 Sec. 128. NEW SECTION. 490.922 Articles of domestication
25 — effectiveness.

26 1. After a plan of domestication of a domestic corporation
27 has been adopted and approved as required by this chapter, or a
28 foreign corporation that is the domesticating corporation has
29 approved a domestication as required under its organic law,
30 articles of domestication shall be signed by the domesticating
31 corporation. The articles must set forth all of the following:

32 a. The name of the domesticating corporation and its
33 jurisdiction of formation.

34 b. The name and jurisdiction of formation of the
35 domesticated corporation.

1 c. If the domesticating corporation is a domestic
2 corporation, a statement that the plan of domestication
3 was approved in accordance with this subchapter or, if the
4 domesticating corporation is a foreign corporation, a statement
5 that the domestication was approved in accordance with its
6 organic law.

7 2. If the domesticated corporation is a domestic
8 corporation, the articles of domestication must attach
9 articles of incorporation of the domesticated corporation that
10 satisfy the requirements of section 490.202. Provisions that
11 would not be required to be included in restated articles of
12 incorporation may be omitted from the articles of incorporation
13 attached to the articles of domestication.

14 3. The articles of domestication shall be delivered to the
15 secretary of state for filing, and shall take effect at the
16 effective date determined in accordance with section 490.123.

17 4. If the domesticated corporation is a domestic
18 corporation, the domestication becomes effective when the
19 articles of domestication are effective. If the domesticated
20 corporation is a foreign corporation, the domestication becomes
21 effective on the later of the following:

22 a. The date and time provided by the organic law of the
23 domesticated corporation.

24 b. When the articles of domestication are effective.

25 5. If the domesticating corporation is a foreign
26 corporation that is registered to do business in this state
27 under subchapter XV, its registration statement shall
28 be canceled automatically when the domestication becomes
29 effective.

30 Sec. 129. NEW SECTION. 490.923 Amendment of plan of
31 domestication — abandonment.

32 1. A plan of domestication of a domestic corporation may be
33 amended by any of the following manners:

34 a. In the same manner as the plan was approved, if the plan
35 does not provide for the manner in which it may be amended.

1 *b.* In the manner provided in the plan, except that a
2 shareholder that was entitled to vote on or consent to approval
3 of the plan is entitled to vote on or consent to any amendment
4 of the plan that will change any of the following:

5 (1) The amount or kind of shares or other securities,
6 obligations, rights to acquire shares or other securities,
7 cash, other property, or any combination of the foregoing, to
8 be received by any of the shareholders of the domesticating
9 corporation under the plan.

10 (2) The articles of incorporation or bylaws of the
11 domesticated corporation that will be in effect immediately
12 after the domestication becomes effective, except for changes
13 that do not require approval of the shareholders of the
14 domesticated corporation under its organic law or its proposed
15 articles of incorporation or bylaws as set forth in the plan.

16 (3) Any of the other terms or conditions of the plan, if the
17 change would adversely affect the shareholder in any material
18 respect.

19 2. After a plan of domestication has been adopted and
20 approved by a domestic corporation as required by this part,
21 and before the articles of domestication have become effective,
22 the plan may be abandoned by the corporation without action by
23 its shareholders in accordance with any procedures set forth in
24 the plan or, if no such procedures are set forth in the plan, in
25 the manner determined by the board of directors.

26 3. If a domestication is abandoned after the articles of
27 domestication have been delivered to the secretary of state for
28 filing but before the articles of domestication have become
29 effective, articles of abandonment, signed by the domesticating
30 corporation, must be delivered to the secretary of state for
31 filing before the articles of domestication become effective.
32 The articles of abandonment take effect upon filing, and the
33 domestication shall be deemed abandoned and shall not become
34 effective. The articles of abandonment must contain all of the
35 following:

1 *a.* The name of the domesticating corporation.

2 *b.* The date on which the articles of domestication were
3 filed by the secretary of state.

4 *c.* A statement that the domestication has been abandoned in
5 accordance with this section.

6 Sec. 130. NEW SECTION. **490.924 Effect of domestication.**

7 1. When a domestication becomes effective all of the
8 following apply:

9 *a.* All property owned by, and every contract right possessed
10 by, the domesticating corporation are the property and contract
11 rights of the domesticated corporation without transfer,
12 reversion, or impairment.

13 *b.* All debts, obligations, and other liabilities of the
14 domesticating corporation are the debts, obligations, and other
15 liabilities of the domesticated corporation.

16 *c.* The name of the domesticated corporation may but need not
17 be substituted for the name of the domesticating corporation in
18 any pending proceeding.

19 *d.* The articles of incorporation and bylaws of the
20 domesticated corporation become effective.

21 *e.* The shares of the domesticating corporation are
22 reclassified into shares or other securities, obligations,
23 rights to acquire shares or other securities, cash, or other
24 property in accordance with the terms of the domestication, and
25 the shareholders of the domesticating corporation are entitled
26 only to the rights provided to them by those terms and to any
27 appraisal rights they may have under the organic law of the
28 domesticating corporation.

29 *f.* The domesticated corporation is all of the following:

30 (1) Incorporated under and subject to the organic law of the
31 domesticated corporation.

32 (2) The same corporation without interruption as the
33 domesticating corporation.

34 (3) Deemed to have been incorporated on the date the
35 domesticating corporation was originally incorporated.

1 2. When a domestication of a domestic corporation into
2 a foreign jurisdiction becomes effective, the domesticated
3 corporation is deemed to have done all of the following:

4 *a.* Appointed the secretary of state as its agent for
5 service of process in a proceeding to enforce the rights of
6 shareholders who exercise appraisal rights in connection with
7 the domestication.

8 *b.* Agreed that it will promptly pay the amount, if any, to
9 which such shareholders are entitled under subchapter XIII.

10 3. Except as otherwise provided in the organic law or
11 organic rules of a domesticating foreign corporation, the
12 interest holder liability of a shareholder in a foreign
13 corporation that is domesticated into this state who had
14 interest holder liability in respect of such domesticating
15 corporation before the domestication becomes effective shall
16 be as follows:

17 *a.* The domestication does not discharge that prior
18 interest holder liability with respect to any interest holder
19 liabilities that arose before the domestication becomes
20 effective.

21 *b.* The provisions of the organic law of the domesticating
22 corporation shall continue to apply to the collection or
23 discharge of any interest holder liabilities preserved by
24 paragraph "a", as if the domestication had not occurred.

25 *c.* The shareholder shall have such rights of contribution
26 from other persons as are provided by the organic law of the
27 domesticating corporation with respect to any interest holder
28 liabilities preserved by paragraph "a", as if the domestication
29 had not occurred.

30 *d.* The shareholder shall not, by reason of such prior
31 interest holder liability, have interest holder liability with
32 respect to any interest holder liabilities that are incurred
33 after the domestication becomes effective.

34 4. A shareholder who becomes subject to interest holder
35 liability in respect of the domesticated corporation as a

1 result of the domestication shall have such interest holder
2 liability only in respect of interest holder liabilities that
3 arise after the domestication becomes effective.

4 5. A domestication does not constitute or cause the
5 dissolution of the domesticating corporation.

6 6. Property held for charitable purposes under the
7 laws of this state by a domestic or foreign corporation
8 immediately before a domestication shall not, as a result of
9 the transaction, be diverted from the objects for which it was
10 donated, granted, devised, or otherwise transferred except
11 and to the extent permitted by or pursuant to the laws of
12 this state addressing cy pres or dealing with nondiversion of
13 charitable assets.

14 7. A bequest, devise, gift, grant, or promise contained
15 in a will or other instrument of donation, subscription, or
16 conveyance which is made to the domesticating corporation and
17 which takes effect or remains payable after the domestication
18 inures to the domesticated corporation.

19 8. A trust obligation that would govern property if
20 transferred to the domesticating corporation applies to
21 property that is transferred to the domesticated corporation
22 after the domestication takes effect.

23 Sec. 131. NEW SECTION. 490.930 Conversion.

24 1. By complying with this subchapter, a domestic
25 corporation may become any of the following:

26 a. A domestic eligible entity.

27 b. A foreign eligible entity if the conversion is permitted
28 by the organic law of the foreign entity.

29 2. By complying with this part and applicable provisions
30 of its organic law, a domestic eligible entity may become a
31 domestic corporation. If procedures for the approval of a
32 conversion are not provided by the organic law or organic rules
33 of a domestic eligible entity, the conversion shall be adopted
34 and approved in the same manner as a merger of that eligible
35 entity. If the organic law or organic rules of a domestic

1 eligible entity do not provide procedures for the approval
2 of either a conversion or a merger, a plan of conversion may
3 nonetheless be adopted and approved by the unanimous consent
4 of all the interest holders of such eligible entity. In
5 either such case, the conversion thereafter may be effected as
6 provided in the other provisions of this part; and for purposes
7 of applying this subchapter in such a case all of the following
8 apply:

9 *a.* The eligible entity, its members or interest holders,
10 eligible interests and organic rules taken together, shall be
11 deemed to be a domestic business corporation, shareholders,
12 shares and articles of incorporation, respectively and vice
13 versa, as the context may require.

14 *b.* If the business and affairs of the eligible entity are
15 managed by a person or persons that are not identical to the
16 members or interest holders, that person or persons shall be
17 deemed to be the board of directors.

18 3. By complying with the provisions of this part applicable
19 to foreign entities, a foreign eligible entity may become a
20 domestic corporation if the organic law of the foreign eligible
21 entity permits it to become a business corporation in another
22 jurisdiction.

23 4. If a protected agreement of a domestic converting
24 corporation in effect immediately before the conversion becomes
25 effective contains a provision applying to a merger of the
26 corporation that is a converting entity and the agreement does
27 not refer to a conversion of the corporation, the provision
28 applies to a conversion of the corporation as if the conversion
29 were a merger, until such time as the provision is first
30 amended after the enactment date.

31 Sec. 132. NEW SECTION. 490.931 Plan of conversion.

32 1. A domestic corporation may convert to a domestic or
33 foreign eligible entity under this part by approving a plan of
34 conversion. The plan of conversion must include all of the
35 following:

1 *a.* The name of the converting corporation.

2 *b.* The name, jurisdiction of formation, and type of entity
3 of the converted entity.

4 *c.* The manner and basis of converting the shares of
5 the domestic corporation into eligible interests or other
6 securities, obligations, rights to acquire eligible interests
7 or other securities, cash, other property, or any combination
8 of the foregoing.

9 *d.* The other terms and conditions of the conversion.

10 *e.* The full text, as it will be in effect immediately after
11 the conversion becomes effective, of the organic rules of the
12 converted entity which are to be in writing.

13 2. In addition to the requirements of subsection 1, a plan
14 of conversion may contain any other provision not prohibited
15 by law.

16 3. The terms of a plan of conversion may be made dependent
17 upon facts objectively ascertainable outside the plan in
18 accordance with section 490.120, subsection 11.

19 Sec. 133. NEW SECTION. 490.932 Action on a plan of
20 conversion.

21 In the case of a conversion of a domestic corporation to a
22 domestic or foreign eligible entity, the plan of conversion
23 shall be adopted in the following manner:

24 1. The plan of conversion shall first be adopted by the
25 board of directors.

26 2. *a.* The plan of conversion shall then be approved by
27 the shareholders. In submitting the plan of conversion to the
28 shareholders for their approval, the board of directors must
29 recommend that the shareholders approve the plan, unless any of
30 the following applies:

31 (1) The board of directors makes a determination that
32 because of conflicts of interest or other special circumstances
33 it should not make such a recommendation.

34 (2) Section 490.826 applies.

35 *b.* If paragraph "a", subparagraph (1) or (2) applies, the

1 board of directors shall inform the shareholders of the basis
2 for its so proceeding.

3 3. The board of directors may set conditions for approval of
4 the plan of conversion by the shareholders or the effectiveness
5 of the plan of conversion.

6 4. If the approval of the shareholders is to be given at
7 a meeting, the corporation shall notify each shareholder,
8 regardless of whether entitled to vote, of the meeting of
9 shareholders at which the plan of conversion is to be submitted
10 for approval. The notice must state that the purpose, or one
11 of the purposes, of the meeting is to consider the plan of
12 conversion and must contain or be accompanied by a copy or
13 summary of the plan. The notice must include or be accompanied
14 by a copy of the organic rules of the converted entity which
15 are to be in writing as they will be in effect immediately
16 after the conversion.

17 5. Unless the articles of incorporation, bylaws, or the
18 board of directors acting pursuant to subsection 3, require
19 a greater vote or a greater quorum, approval of the plan of
20 conversion requires all of the following:

21 a. The approval of the shareholders at a meeting at which a
22 quorum exists consisting of a majority of the votes entitled
23 to be cast on the plan.

24 b. Except as provided in subsection 6, the approval of
25 each class or series of shares voting as a separate voting
26 group at a meeting at which a quorum of the voting group exists
27 consisting of a majority of the votes entitled to be cast on
28 the plan by that voting group.

29 6. If as a result of the conversion one or more shareholders
30 of the converting domestic corporation would become subject to
31 interest holder liability, approval of the plan of conversion
32 shall require the signing in connection with the transaction,
33 by each such shareholder, of a separate written consent to
34 become subject to such interest holder liability.

35 Sec. 134. NEW SECTION. 490.933 Articles of conversion —

1 **effectiveness.**

2 1. Articles of conversion shall be signed by the converting
3 entity after either a plan of conversion of a domestic
4 corporation has been adopted and approved as required by this
5 chapter or a domestic or foreign eligible entity that is the
6 converting entity has approved a conversion as required under
7 its organic law. The articles of conversion must do all of the
8 following:

9 a. State the name, jurisdiction of formation, and type of
10 entity of the converting entity.

11 b. State the name, jurisdiction of formation, and type of
12 entity of the converted entity.

13 c. (1) If the converting entity is a domestic corporation,
14 state that the plan of conversion was approved in accordance
15 with this part.

16 (2) If the converting entity is an eligible entity, state
17 that the conversion was approved by the eligible entity in
18 accordance with its organic law.

19 (3) If the converting entity is a domestic eligible entity
20 the organic law of which does not provide for approval of the
21 conversion, state that the conversion was approved by the
22 domestic eligible entity in accordance with this part.

23 d. (1) If the converted entity is a domestic business
24 corporation, or a domestic nonprofit corporation or filing
25 entity, have attached the public organic record of the
26 converted entity, except that provisions that would not be
27 required to be included in a restated public organic record may
28 be omitted.

29 (2) If the converted entity is a domestic limited liability
30 partnership, have attached the filing required to become a
31 limited liability partnership.

32 2. If the converted entity is a domestic corporation,
33 its articles of incorporation must satisfy the requirements
34 of section 490.202, except that provisions that would not be
35 required to be included in restated articles of incorporation

1 may be omitted from the articles of incorporation. If the
2 converted entity is a domestic eligible entity, its public
3 organic record, if any, must satisfy the requirements of the
4 organic law of this state, except that the public organic
5 record does not need to be signed.

6 3. The articles of conversion shall be delivered to the
7 secretary of state for filing, and shall take effect at the
8 effective date determined in accordance with section 490.123.

9 4. If a converted entity is a domestic entity, the
10 conversion becomes effective when the articles of conversion
11 are effective. With respect to a conversion in which the
12 converted entity is a foreign eligible entity, the conversion
13 itself shall become effective at the later of the following:

14 a. The date and time provided by the organic law of that
15 eligible entity.

16 b. When the articles of conversion become effective.

17 5. Articles of conversion under this section may be combined
18 with any required conversion filing under the organic law
19 of a domestic eligible entity that is the converting entity
20 or converted entity if the combined filing satisfies the
21 requirements of both this section and the other organic law.

22 6. If the converting entity is a foreign eligible entity
23 that is registered to do business in this state under a
24 provision of law similar to subchapter XV, its registration
25 statement or other type of foreign qualification shall be
26 canceled automatically on the effective date of its conversion.

27 Sec. 135. NEW SECTION. 490.934 Amendment of plan of
28 conversion — abandonment.

29 1. A plan of conversion of a converting entity that is a
30 domestic corporation may be amended in any of the following
31 manners:

32 a. In the same manner as the plan was approved, if the plan
33 does not provide for the manner in which it may be amended.

34 b. In the manner provided in the plan, except that
35 shareholders that were entitled to vote on or consent to

1 approval of the plan are entitled to vote on or consent to any
2 amendment of the plan that will change any of the following:

3 (1) The amount or kind of eligible interests or other
4 securities, obligations, rights to acquire eligible interests
5 or other securities, cash, other property, or any combination
6 of the foregoing, to be received by any of the shareholders of
7 the converting corporation under the plan.

8 (2) The organic rules of the converted entity that will be
9 in effect immediately after the conversion becomes effective,
10 except for changes that do not require approval of the eligible
11 interest holders of the converted entity under its organic law
12 or organic rules.

13 (3) Any other terms or conditions of the plan, if the
14 change would adversely affect such shareholders in any material
15 respect.

16 2. After a plan of conversion has been approved by a
17 converting entity that is a domestic corporation in the manner
18 required by this part and before the articles of conversion
19 become effective, the plan may be abandoned by the corporation
20 without action by its shareholders in accordance with any
21 procedures set forth in the plan or, if no such procedures are
22 set forth in the plan, in the manner determined by the board of
23 directors.

24 3. If a conversion is abandoned after the articles of
25 conversion have been delivered to the secretary of state for
26 filing and before the articles of conversion become effective,
27 articles of abandonment, signed by the converting entity,
28 must be delivered to the secretary of state for filing before
29 the articles of conversion become effective. The articles
30 of abandonment take effect on filing, and the conversion is
31 abandoned and does not become effective. The articles of
32 abandonment must contain all of the following:

33 a. The name of the converting entity.

34 b. The date on which the articles of conversion were filed
35 by the secretary of state.

1 *c.* A statement that the conversion has been abandoned in
2 accordance with this section.

3 Sec. 136. NEW SECTION. 490.935 **Effect of conversion.**

4 1. When a conversion becomes effective all of the following
5 shall apply:

6 *a.* All property owned by, and every contract right possessed
7 by, the converting entity remain the property and contract
8 rights of the converted entity without transfer, reversion, or
9 impairment.

10 *b.* All debts, obligations, and other liabilities of the
11 converting entity remain the debts, obligations, and other
12 liabilities of the converted entity.

13 *c.* The name of the converted entity may but need not be
14 substituted for the name of the converting entity in any
15 pending action or proceeding.

16 *d.* If the converted entity is a filing entity or a domestic
17 business corporation or a domestic or foreign nonprofit
18 corporation, its public organic record and its private organic
19 rules become effective.

20 *e.* If the converted entity is a nonfiling entity, its
21 private organic rules become effective.

22 *f.* If the converted entity is a limited liability
23 partnership, the filing required to become a limited liability
24 partnership and its private organic rules become effective.

25 *g.* The shares or eligible interests of the converting
26 entity are reclassified into shares, eligible interests or
27 other securities, obligations, rights to acquire shares,
28 eligible interests or other securities, cash, or other property
29 in accordance with the terms of the conversion, and the
30 shareholders or interest holders of the converting entity are
31 entitled only to the rights provided to them by those terms and
32 to any appraisal rights they may have under the organic law of
33 the converting entity.

34 *h.* The converted entity is all of the following:

35 (1) Incorporated or organized under and subject to the

1 organic law of the converted entity.

2 (2) The same entity without interruption as the converting
3 entity.

4 (3) Deemed to have been incorporated or otherwise
5 organized on the date that the converting entity was originally
6 incorporated or organized.

7 2. When a conversion of a domestic corporation to a foreign
8 eligible entity becomes effective, the converted entity is
9 deemed to have done all of the following:

10 a. Appointed the secretary of state as its agent for
11 service of process in a proceeding to enforce the rights of
12 shareholders who exercise appraisal rights in connection with
13 the conversion.

14 b. Agreed that it will promptly pay the amount, if any, to
15 which such shareholders are entitled under subchapter XIII.

16 3. Except as otherwise provided in the articles of
17 incorporation of a domestic corporation or the organic law or
18 organic rules of a foreign corporation or a domestic or foreign
19 eligible entity, a shareholder or eligible interest holder who
20 becomes subject to interest holder liability in respect of a
21 domestic corporation or eligible entity as a result of the
22 conversion shall have such interest holder liability only in
23 respect of interest holder liabilities that arise after the
24 conversion becomes effective.

25 4. Except as otherwise provided in the organic law or the
26 organic rules of the eligible entity, the interest holder
27 liability of an interest holder in a converting eligible entity
28 that converts to a domestic corporation who had interest holder
29 liability in respect of such converting eligible entity before
30 the conversion becomes effective shall be as follows:

31 a. The conversion does not discharge that prior interest
32 holder liability with respect to any interest holder
33 liabilities that arose before the conversion became effective.

34 b. The provisions of the organic law of the eligible entity
35 shall continue to apply to the collection or discharge of any

1 interest holder liabilities preserved by paragraph "a", as if
2 the conversion had not occurred.

3 c. The eligible interest holder shall have such rights of
4 contribution from other persons as are provided by the organic
5 law of the eligible entity with respect to any interest holder
6 liabilities preserved by paragraph "a", as if the conversion had
7 not occurred.

8 d. The eligible interest holder shall not, by reason of such
9 prior interest holder liability, have interest holder liability
10 with respect to any interest holder liabilities that arise
11 after the conversion becomes effective.

12 5. A conversion does not require the converting entity
13 to wind up its affairs and does not constitute or cause the
14 dissolution or termination of the entity.

15 6. Property held for charitable purposes under the laws of
16 this state by a corporation or a domestic or foreign eligible
17 entity immediately before a conversion shall not, as a result
18 of the transaction, be diverted from the objects for which it
19 was donated, granted, devised, or otherwise transferred except
20 and to the extent permitted by or pursuant to the laws of
21 this state addressing cy pres or dealing with nondiversion of
22 charitable assets.

23 7. A bequest, devise, gift, grant, or promise contained
24 in a will or other instrument of donation, subscription, or
25 conveyance which is made to the converting entity and which
26 takes effect or remains payable after the conversion inures to
27 the converted entity.

28 8. A trust obligation that would govern property if
29 transferred to the converting entity applies to property that
30 is transferred to the converted entity after the conversion
31 takes effect.

32 Sec. 137. Section 490.1003, Code 2020, is amended by
33 striking the section and inserting in lieu thereof the
34 following:

35 **490.1003 Amendment by board of directors and shareholders.**

1 If a corporation has issued shares, an amendment to the
2 articles of incorporation shall be adopted in the following
3 manner:

4 1. The proposed amendment shall first be adopted by the
5 board of directors.

6 2. *a.* Except as provided in sections 490.1005, 490.1007,
7 and 490.1008, the amendment shall then be approved by the
8 shareholders. In submitting the proposed amendment to the
9 shareholders for approval, the board of directors shall
10 recommend that the shareholders approve the amendment, unless
11 any of the following applies:

12 (1) The board of directors makes a determination that
13 because of conflicts of interest or other special circumstances
14 it should not make such a recommendation.

15 (2) Section 490.826 applies.

16 *b.* If paragraph "a", subparagraph (1) or (2) applies, the
17 board must inform the shareholders of the basis for its so
18 proceeding.

19 3. The board of directors may set conditions for the
20 approval of the amendment by the shareholders or the
21 effectiveness of the amendment.

22 4. If the amendment is required to be approved by the
23 shareholders, and the approval is to be given at a meeting,
24 the corporation shall notify each shareholder, regardless of
25 whether entitled to vote, of the meeting of shareholders at
26 which the amendment is to be submitted for approval. The
27 notice must state that the purpose, or one of the purposes,
28 of the meeting is to consider the amendment. The notice must
29 contain or be accompanied by a copy of the amendment.

30 5. Unless the articles of incorporation or bylaws, or the
31 board of directors acting pursuant to subsection 3, require a
32 greater vote or a greater quorum, approval of the amendment
33 requires the approval of the shareholders at a meeting at which
34 a quorum consisting of a majority of the votes entitled to
35 be cast on the amendment exists, and, if any class or series

1 of shares is entitled to vote as a separate group on the
2 amendment, except as provided in section 490.1004, subsection
3 3, the approval of each such separate voting group at a meeting
4 at which a quorum of the voting group exists consisting of a
5 majority of the votes entitled to be cast on the amendment by
6 that voting group.

7 6. a. If as a result of an amendment of the articles
8 of incorporation one or more shareholders of a domestic
9 corporation would become subject to new interest holder
10 liability, approval of the amendment requires the signing in
11 connection with the amendment, by each such shareholder, of a
12 separate written consent to become subject to such new interest
13 holder liability.

14 b. Paragraph "a" does not apply in the case of a shareholder
15 that already has interest holder liability and the terms and
16 conditions of the new interest holder liability are any of the
17 following:

18 (1) Substantially identical to those of the existing
19 interest holder liability.

20 (2) Substantially identical to those of the existing
21 interest holder liability, other than changes that eliminate or
22 reduce such interest holder liability.

23 7. As used in subsection 6 and section 490.1009, "*new*
24 *interest holder liability*" means interest holder liability
25 of a person resulting from an amendment of the articles of
26 incorporation if any of the following applies:

27 a. The person did not have interest holder liability before
28 the amendment becomes effective.

29 b. The person had interest holder liability before the
30 amendment becomes effective, the terms and conditions of which
31 are changed when the amendment becomes effective.

32 Sec. 138. Section 490.1004, Code 2020, is amended by
33 striking the section and inserting in lieu thereof the
34 following:

35 **490.1004 Voting on amendments by voting groups.**

1 1. The holders of the outstanding shares of a class are
2 entitled to vote as a separate voting group, if shareholder
3 voting is otherwise required by this chapter, on a proposed
4 amendment to the articles of incorporation if the amendment
5 would do any of the following:

6 a. Effect an exchange or reclassification of all or part of
7 the shares of the class into shares of another class.

8 b. Effect an exchange or reclassification, or create the
9 right of exchange, of all or part of the shares of another
10 class into shares of the class.

11 c. Change the rights, preferences, or limitations of all or
12 part of the shares of the class.

13 d. Change the shares of all or part of the class into a
14 different number of shares of the same class.

15 e. Create a new class of shares having rights or preferences
16 with respect to distributions that are prior or superior to the
17 shares of the class.

18 f. Increase the rights, preferences, or number of authorized
19 shares of any class that, after giving effect to the amendment,
20 have rights or preferences with respect to distributions that
21 are prior or superior to the shares of the class.

22 g. Limit or deny an existing preemptive right of all or part
23 of the shares of the class.

24 h. Cancel or otherwise affect rights to distributions that
25 have accumulated but not yet been authorized on all or part of
26 the shares of the class.

27 2. If a proposed amendment would affect a series of a class
28 of shares in one or more of the ways described in subsection 1,
29 the holders of shares of that series are entitled to vote as a
30 separate voting group on the proposed amendment.

31 3. If a proposed amendment that entitles the holders of
32 two or more classes or series of shares to vote as separate
33 voting groups under this section would affect those two or more
34 classes or series in the same or a substantially similar way,
35 the holders of shares of all the classes or series so affected

1 shall vote together as a single voting group on the proposed
2 amendment, unless otherwise provided in the articles of
3 incorporation or added as a condition by the board of directors
4 pursuant to section 490.1003, subsection 3.

5 4. A class or series of shares is entitled to the voting
6 rights granted by this section even if the articles of
7 incorporation provide that the shares are nonvoting shares.

8 Sec. 139. Section 490.1006, Code 2020, is amended by
9 striking the section and inserting in lieu thereof the
10 following:

11 **490.1006 Articles of amendment.**

12 1. After an amendment to the articles of incorporation
13 has been adopted and approved in the manner required by this
14 chapter and by the articles of incorporation, the corporation
15 shall deliver to the secretary of state, for filing, articles
16 of amendment, which must set forth all of the following:

17 a. The name of the corporation.

18 b. The text of each amendment adopted, or the information
19 required by section 490.120, subsection 11, paragraph "e".

20 c. If an amendment provides for an exchange,
21 reclassification, or cancellation of issued shares,
22 provisions for implementing the amendment, if not contained in
23 the amendment itself, which may be made dependent upon facts
24 objectively ascertainable outside the articles of amendment in
25 accordance with section 490.120, subsection 11, paragraph "e".

26 d. The date of each amendment's adoption.

27 e. For an amendment, the following:

28 (1) If it was adopted by the incorporators or board of
29 directors without shareholder approval, a statement that the
30 amendment was duly adopted by the incorporators or by the board
31 of directors, as the case may be, and that shareholder approval
32 was not required.

33 (2) If it required approval by the shareholders, a statement
34 that the amendment was duly approved by the shareholders in
35 the manner required by this chapter and by the articles of

1 incorporation.

2 (3) If being filed pursuant to section 490.120, subsection
3 11, paragraph "e", a statement to that effect.

4 2. Articles of amendment shall take effect at the effective
5 date determined in accordance with section 490.123.

6 Sec. 140. Section 490.1007, Code 2020, is amended by
7 striking the section and inserting in lieu thereof the
8 following:

9 **490.1007 Restated articles of incorporation.**

10 1. A corporation's board of directors may restate its
11 articles of incorporation at any time, without shareholder
12 approval, to consolidate all amendments into a single document.

13 2. If the restated articles include one or more new
14 amendments that require shareholder approval, the amendments
15 shall be adopted and approved as provided in section 490.1003.

16 3. A corporation that restates its articles of
17 incorporation shall deliver to the secretary of state for
18 filing articles of restatement setting forth all of the
19 following:

20 a. The name of the corporation.

21 b. The text of the restated articles of incorporation.

22 c. A statement that the restated articles consolidate all
23 amendments into a single document.

24 d. If a new amendment is included in the restated articles,
25 the statements required under section 490.1006 with respect to
26 the new amendment.

27 4. Duly adopted restated articles of incorporation
28 supersede the original articles of incorporation and all
29 amendments to the articles of incorporation.

30 5. The secretary of state may certify restated articles of
31 incorporation as the articles of incorporation currently in
32 effect, without including the statements required by subsection
33 3, paragraph "d".

34 Sec. 141. Section 490.1009, Code 2020, is amended by
35 striking the section and inserting in lieu thereof the

1 following:

2 **490.1009 Effect of amendment.**

3 1. An amendment to the articles of incorporation does not
4 affect a cause of action existing against or in favor of the
5 corporation, a proceeding to which the corporation is a party,
6 or the existing rights of persons other than the shareholders.
7 An amendment changing a corporation's name does not affect a
8 proceeding brought by or against the corporation in its former
9 name.

10 2. A shareholder who becomes subject to new interest holder
11 liability in respect of the corporation as a result of an
12 amendment to the articles of incorporation shall have that new
13 interest holder liability only in respect of interest holder
14 liabilities that arise after the amendment becomes effective.

15 3. Except as otherwise provided in the articles of
16 incorporation of the corporation, the interest holder liability
17 of a shareholder who had interest holder liability in respect
18 of the corporation before the amendment becomes effective and
19 has new interest holder liability after the amendment becomes
20 effective shall be as follows:

21 *a.* The amendment does not discharge that prior interest
22 holder liability with respect to any interest holder
23 liabilities that arose before the amendment becomes effective.

24 *b.* The provisions of the articles of incorporation of
25 the corporation relating to interest holder liability as in
26 effect immediately prior to the amendment shall continue to
27 apply to the collection or discharge of any interest holder
28 liabilities preserved by paragraph "a", as if the amendment had
29 not occurred.

30 *c.* The shareholder shall have such rights of contribution
31 from other persons as are provided by the articles of
32 incorporation relating to interest holder liability as in
33 effect immediately prior to the amendment with respect to any
34 interest holder liabilities preserved by paragraph "a", as if
35 the amendment had not occurred.

1 *d.* The shareholder shall not, by reason of such prior
2 interest holder liability, have interest holder liability with
3 respect to any interest holder liabilities that arise after the
4 amendment becomes effective.

5 Sec. 142. Section 490.1020, Code 2020, is amended by
6 striking the section and inserting in lieu thereof the
7 following:

8 **490.1020 Authority to amend.**

9 1. A corporation's shareholders may amend or repeal the
10 corporation's bylaws.

11 2. A corporation's board of directors may amend or repeal
12 the corporation's bylaws unless any of the following apply:

13 *a.* The articles of incorporation, section 490.1021, or, if
14 applicable, section 490.1022, reserve that power exclusively to
15 the shareholders in whole or part.

16 *b.* Except as provided in section 490.206, subsection 4,
17 the shareholders in amending, repealing, or adopting a bylaw
18 expressly provide that the board of directors shall not amend,
19 repeal, or adopt that bylaw.

20 3. A shareholder of the corporation does not have a vested
21 property right resulting from any provision in the bylaws.

22 Sec. 143. Section 490.1021, Code 2020, is amended by
23 striking the section and inserting in lieu thereof the
24 following:

25 **490.1021 Bylaw increasing quorum or voting requirement for**
26 **directors.**

27 1. A bylaw that increases a quorum or voting requirement
28 for the board of directors or that requires a meeting of
29 shareholders to be held at a place may be amended or repealed
30 as follows:

31 *a.* If originally adopted by the shareholders, only by the
32 shareholders, unless the bylaw otherwise provides.

33 *b.* If adopted by the board of directors, either by the
34 shareholders or by the board of directors.

35 2. A bylaw adopted or amended by the shareholders that

1 increases a quorum or voting requirement for the board of
2 directors may provide that it can be amended or repealed only
3 by a specified vote of either the shareholders or the board of
4 directors.

5 3. Action by the board of directors under subsection 1
6 to amend or repeal a bylaw that changes a quorum or voting
7 requirement for the board of directors shall meet the same
8 quorum requirement and be adopted by the same vote required to
9 take action under the quorum and voting requirement then in
10 effect or proposed to be adopted, whichever is greater.

11 Sec. 144. NEW SECTION. 490.1022 Bylaw provisions relating
12 to the election of directors.

13 1. Unless the articles of incorporation specifically
14 prohibit the adoption of a bylaw pursuant to this section,
15 alter the vote specified in section 490.728, subsection 1, or
16 provide for cumulative voting, a corporation may elect in its
17 bylaws to be governed in the election of directors as follows:

18 a. Each vote entitled to be cast may be voted for or against
19 up to that number of candidates that is equal to the number
20 of directors to be elected, or a shareholder may indicate an
21 abstention, but without cumulating the votes.

22 b. To be elected, a nominee shall have received a plurality
23 of the votes cast by holders of shares entitled to vote
24 in the election at a meeting at which a quorum is present,
25 provided that a nominee who is elected but receives more votes
26 against than for election shall serve as a director for a term
27 that shall terminate on the date that is the earlier of the
28 following:

29 (1) (a) Ninety days from the date on which the voting
30 results are determined pursuant to section 490.729, subsection
31 2, paragraph "e".

32 (b) The date on which an individual is selected by the
33 board of directors to fill the office held by such director,
34 which selection shall be deemed to constitute the filling of a
35 vacancy by the board to which section 490.810 applies.

1 (2) Subject to subsection 1, paragraph "c", a nominee who is
2 elected but receives more votes against than for election shall
3 not serve as a director beyond the ninety-day period provided
4 in subparagraph division (a).

5 c. The board of directors may select any qualified
6 individual to fill the office held by a director who received
7 more votes against than for election.

8 2. a. Subsection 1 does not apply to an election of
9 directors by a voting group if any of the following applies:

10 (1) At the expiration of the time fixed under a provision
11 requiring advance notification of director candidates.

12 (2) Absent such a provision, at a time fixed by the board of
13 directors which is not more than fourteen days before notice
14 is given of the meeting at which the election is to occur,
15 there are more candidates for election by the voting group than
16 the number of directors to be elected, one or more of whom are
17 properly proposed by shareholders.

18 b. An individual shall not be considered a candidate for
19 purposes of paragraph "a", if the board of directors determines
20 before the notice of meeting is given that such individual's
21 candidacy does not create a bona fide election contest.

22 3. A bylaw electing to be governed by this section may be
23 repealed under any of the following circumstances:

24 a. If originally adopted by the shareholders, only by the
25 shareholders, unless the bylaw otherwise provides.

26 b. If adopted by the board of directors, by the board of
27 directors or the shareholders.

28 Sec. 145. Section 490.1101, Code 2020, is amended by
29 striking the section and inserting in lieu thereof the
30 following:

31 **490.1101 Subchapter definitions.**

32 As used in this subchapter:

33 1. "Acquired entity" means the domestic or foreign
34 corporation or eligible entity that will have all of one or
35 more classes or series of its shares or eligible interests

1 acquired in a share exchange.

2 2. "*Acquiring entity*" means the domestic or foreign
3 corporation or eligible entity that will acquire all of one or
4 more classes or series of shares or eligible interests of the
5 acquired entity in a share exchange.

6 3. "*New interest holder liability*" means interest holder
7 liability of a person, resulting from a merger or share
8 exchange, that is any of the following:

9 a. In respect of an entity which is different from the
10 entity in which the person held shares or eligible interests
11 immediately before the merger or share exchange became
12 effective.

13 b. In respect of the same entity as the one in which the
14 person held shares or eligible interests immediately before
15 the merger or share exchange became effective if any of the
16 following apply:

17 (1) The person did not have interest holder liability
18 immediately before the merger or share exchange became
19 effective.

20 (2) The person had interest holder liability immediately
21 before the merger or share exchange became effective, the terms
22 and conditions of which were changed when the merger or share
23 exchange became effective.

24 4. "*Party to a merger*" means any domestic or foreign
25 corporation or eligible entity that will merge under a plan of
26 merger but does not include a survivor created by the merger.

27 5. "*Survivor*" in a merger means the domestic or foreign
28 corporation or eligible entity into which one or more other
29 corporations or eligible entities are merged.

30 Sec. 146. Section 490.1102, Code 2020, is amended by
31 striking the section and inserting in lieu thereof the
32 following:

33 **490.1102 Merger.**

34 1. By complying with this subchapter, all of the following
35 apply:

1 *a.* One or more domestic business corporations may merge
2 with one or more domestic or foreign business corporations or
3 eligible entities pursuant to a plan of merger, resulting in
4 a survivor.

5 *b.* Two or more foreign business corporations or domestic or
6 foreign eligible entities may merge, resulting in a survivor
7 that is a domestic business corporation created in the merger.

8 2. By complying with the provisions of this subchapter
9 applicable to foreign entities, a foreign business corporation
10 or a foreign eligible entity may be a party to a merger with
11 a domestic business corporation, or may be created as the
12 survivor in a merger in which a domestic business corporation
13 is a party, but only if the merger is permitted by the organic
14 law of the foreign business corporation or eligible entity.

15 3. If the organic law or organic rules of a domestic
16 eligible entity do not provide procedures for the approval
17 of a merger, a plan of merger may nonetheless be adopted
18 and approved by the unanimous consent of all of the interest
19 holders of such eligible entity, and the merger may thereafter
20 be effected as provided in the other provisions of this
21 subchapter; and for the purposes of applying this subchapter in
22 such a case all of the following shall apply:

23 *a.* The eligible entity, its members or interest holders,
24 eligible interests and articles of incorporation or other
25 organic rules taken together shall be deemed to be a domestic
26 business corporation, shareholders, shares and articles of
27 incorporation, respectively and vice versa as the context may
28 require.

29 *b.* If the business and affairs of the eligible entity are
30 managed by a person or persons that are not identical to the
31 members or interest holders, that group shall be deemed to be
32 the board of directors.

33 4. The plan of merger must include all of the following:

34 *a.* As to each party to the merger, its name, jurisdiction of
35 formation, and type of entity.

1 *b.* The survivor's name, jurisdiction of formation, and type
2 of entity, and, if the survivor is to be created in the merger,
3 a statement to that effect.

4 *c.* The terms and conditions of the merger.

5 *d.* The manner and basis of converting the shares of
6 each merging domestic or foreign business corporation and
7 eligible interests of each merging domestic or foreign eligible
8 entity into shares or other securities, eligible interests,
9 obligations, rights to acquire shares, other securities or
10 eligible interests, cash, other property, or any combination
11 of the foregoing.

12 *e.* The articles of incorporation of any domestic or foreign
13 business or nonprofit corporation, or the public organic
14 record of any domestic or foreign unincorporated entity, to be
15 created by the merger, or if a new domestic or foreign business
16 or nonprofit corporation or unincorporated entity is not to
17 be created by the merger, any amendments to the survivor's
18 articles of incorporation or other public organic record.

19 *f.* Any other provisions required by the laws under which any
20 party to the merger is organized or by which it is governed, or
21 by the articles of incorporation or organic rules of any such
22 party.

23 5. In addition to the requirements of subsection 4, a plan
24 of merger may contain any other provision not prohibited by
25 law.

26 6. Terms of a plan of merger may be made dependent on facts
27 objectively ascertainable outside the plan in accordance with
28 section 490.120, subsection 11.

29 7. A plan of merger may be amended only with the consent of
30 each party to the merger, except as provided in the plan. A
31 domestic party to a merger may approve an amendment to a plan
32 in any of the following manners:

33 *a.* In the same manner as the plan was approved, if the plan
34 does not provide for the manner in which it may be amended.

35 *b.* In the manner provided in the plan, except that

1 shareholders, members, or interest holders that were entitled
2 to vote on or consent to approval of the plan are entitled
3 to vote on or consent to any amendment of the plan that will
4 change any of the following:

5 (1) The amount or kind of shares or other securities,
6 eligible interests, obligations, rights to acquire shares,
7 other securities or eligible interests, cash, or other property
8 to be received under the plan by the shareholders, members, or
9 interest holders of any party to the merger.

10 (2) The articles of incorporation of any domestic or foreign
11 business or nonprofit corporation, or the organic rules of
12 any unincorporated entity, that will be the survivor of the
13 merger, except for changes permitted by section 490.1005 or by
14 comparable provisions of the organic law of any such foreign
15 corporation or domestic or foreign nonprofit corporation or
16 unincorporated entity.

17 (3) Any of the other terms or conditions of the plan if the
18 change would adversely affect such shareholders, members, or
19 interest holders in any material respect.

20 Sec. 147. Section 490.1103, Code 2020, is amended by
21 striking the section and inserting in lieu thereof the
22 following:

23 **490.1103 Share exchange.**

24 1. By complying with this subchapter all of the following
25 apply:

26 a. A domestic corporation may acquire all of the shares of
27 one or more classes or series of shares of another domestic or
28 foreign corporation, or all of the eligible interests of one or
29 more classes or series of interests of a domestic or foreign
30 eligible entity, in exchange for shares or other securities,
31 eligible interests, obligations, rights to acquire shares or
32 other securities or eligible interests, cash, other property,
33 or any combination of the foregoing, pursuant to a plan of
34 share exchange.

35 b. All of the shares of one or more classes or series of

1 shares of a domestic corporation may be acquired by another
2 domestic or foreign corporation or eligible entity, in
3 exchange for shares or other securities, eligible interests,
4 obligations, rights to acquire shares or other securities or
5 eligible interests, cash, other property, or any combination of
6 the foregoing, pursuant to a plan of share exchange.

7 2. A foreign corporation or eligible entity may be the
8 acquired entity in a share exchange only if the share exchange
9 is permitted by the organic law of that corporation or other
10 entity.

11 3. If the organic law or organic rules of a domestic
12 eligible entity do not provide procedures for the approval
13 of a share exchange, a plan of share exchange may be adopted
14 and approved, and the share exchange effected, in accordance
15 with the procedures, if any, for a merger. If the organic
16 law or organic rules of a domestic eligible entity do not
17 provide procedures for the approval of either a share exchange
18 or a merger, a plan of share exchange may nonetheless be
19 adopted and approved by the unanimous consent of all of the
20 interest holders of such eligible entity whose interests will
21 be exchanged under the plan of share exchange, and the share
22 exchange may thereafter be effected as provided in the other
23 provisions of this subchapter; and for purposes of applying
24 this subchapter in such a case all of the following apply:

25 a. The eligible entity, its interest holders, interests,
26 and articles of incorporation or other organic rules taken
27 together shall be deemed to be a domestic business corporation,
28 shareholders, shares and articles of incorporation,
29 respectively and vice versa as the context may require.

30 b. If the business and affairs of the eligible entity are
31 managed by a person or persons that are not identical to the
32 members or interest holders, that person or those persons shall
33 be deemed to be the board of directors.

34 4. The plan of share exchange must include all of the
35 following:

1 *a.* The name of each domestic or foreign corporation or other
2 eligible entity the shares or eligible interests of which will
3 be acquired and the name of the domestic or foreign corporation
4 or eligible entity that will acquire those shares or eligible
5 interests.

6 *b.* The terms and conditions of the share exchange.

7 *c.* The manner and basis of exchanging shares of a domestic
8 or foreign corporation or eligible interests in a domestic or
9 foreign eligible entity the shares or eligible interests of
10 which will be acquired under the share exchange for shares or
11 other securities, eligible interests, obligations, rights to
12 acquire shares, other securities, or eligible interests, cash,
13 other property, or any combination of the foregoing.

14 *d.* Any other provisions required by the organic law
15 governing the acquired entity or its articles of incorporation
16 or organic rules.

17 5. The terms of a plan of share exchange may be made
18 dependent on facts objectively ascertainable outside the plan
19 in accordance with section 490.120, subsection 11.

20 6. A plan of share exchange may be amended only with the
21 consent of each party to the share exchange, except as provided
22 in the plan. A domestic entity may approve an amendment to a
23 plan in any of the following manners:

24 *a.* In the same manner as the plan was approved, if the plan
25 does not provide for the manner in which it may be amended.

26 *b.* In the manner provided in the plan, except that
27 shareholders, members, or interest holders that were entitled
28 to vote on or consent to approval of the plan are entitled
29 to vote on or consent to any amendment of the plan that will
30 change any of the following:

31 (1) The amount or kind of shares or other securities,
32 eligible interests, obligations, rights to acquire shares,
33 other securities or eligible interests, cash, or other property
34 to be received under the plan by the shareholders, members, or
35 interest holders of the acquired entity.

1 (2) Any of the other terms or conditions of the plan if the
2 change would adversely affect such shareholders, members, or
3 interest holders in any material respect.

4 Sec. 148. Section 490.1104, Code 2020, is amended by
5 striking the section and inserting in lieu thereof the
6 following:

7 **490.1104 Action on a plan of merger or share exchange.**

8 In the case of a domestic corporation that is a party to a
9 merger or the acquired entity in a share exchange, the plan
10 of merger or share exchange shall be adopted in the following
11 manner:

12 1. The plan of merger or share exchange shall first be
13 adopted by the board of directors.

14 2. *a.* Except as provided in subsections 8, 10, and 12, and
15 in section 490.1105, the plan of merger or share exchange shall
16 then be approved by the shareholders. In submitting the plan
17 of merger or share exchange to the shareholders for approval,
18 the board of directors shall recommend that the shareholders
19 approve the plan, or, in the case of an offer referred to in
20 subsection 10, paragraph "b", that the shareholders tender
21 their shares to the offeror in response to the offer, unless
22 any of the following apply:

23 (1) The board of directors makes a determination that
24 because of conflicts of interest or other special circumstances
25 it should not make such a recommendation.

26 (2) Section 490.826 applies.

27 *b.* If either paragraph "a", subparagraph (1) or (2),
28 applies, the board shall inform the shareholders of the basis
29 for its so proceeding.

30 3. The board of directors may set conditions for the
31 approval of the plan of merger or share exchange by the
32 shareholders or the effectiveness of the plan of merger or
33 share exchange.

34 4. If the plan of merger or share exchange is required
35 to be approved by the shareholders, and if the approval is

1 to be given at a meeting, the corporation shall notify each
2 shareholder, regardless of whether entitled to vote, of the
3 meeting of shareholders at which the plan is to be submitted
4 for approval. The notice must state that the purpose, or one
5 of the purposes, of the meeting is to consider the plan and
6 must contain or be accompanied by a copy or summary of the
7 plan. If the corporation is to be merged into an existing
8 foreign or domestic corporation or eligible entity, the notice
9 must also include or be accompanied by a copy or summary of the
10 articles of incorporation and bylaws or the organic rules of
11 that corporation or eligible entity. If the corporation is to
12 be merged with a domestic or foreign corporation or eligible
13 entity and a new domestic or foreign corporation or eligible
14 entity is to be created pursuant to the merger, the notice
15 must include or be accompanied by a copy or a summary of the
16 articles of incorporation and bylaws or the organic rules of
17 the new corporation or eligible entity.

18 5. Unless the articles of incorporation, bylaws, or the
19 board of directors acting pursuant to subsection 3, require
20 a greater vote or a greater quorum, approval of the plan
21 of merger or share exchange requires the approval of the
22 shareholders at a meeting at which a quorum exists consisting
23 of a majority of the votes entitled to be cast on the plan,
24 and, if any class or series of shares is entitled to vote as
25 a separate group on the plan of merger or share exchange, the
26 approval of each such separate voting group at a meeting at
27 which a quorum of the voting group is present consisting of
28 a majority of the votes entitled to be cast on the merger or
29 share exchange by that voting group.

30 6. Subject to subsection 7, separate voting by voting groups
31 is required for each of the following:

32 a. On a plan of merger, by each class or series of shares
33 that are any of the following:

34 (1) To be converted under the plan of merger into shares,
35 other securities, eligible interests, obligations, rights to

1 acquire shares, other securities or eligible interests, cash,
2 other property, or any combination of the foregoing.

3 (2) Entitled to vote as a separate group on a provision in
4 the plan that constitutes a proposed amendment to the articles
5 of incorporation of a surviving corporation that requires
6 action by separate voting groups under section 490.1004.

7 *b.* On a plan of share exchange, by each class or series
8 of shares included in the exchange, with each class or series
9 constituting a separate voting group.

10 *c.* On a plan of merger or share exchange, if the voting
11 group is entitled under the articles of incorporation to
12 vote as a voting group to approve a plan of merger or share
13 exchange, respectively.

14 7. The articles of incorporation may expressly limit or
15 eliminate the separate voting rights provided in subsection 6,
16 paragraph "a", subparagraph (1), and subsection 6, paragraph
17 "b", as to any class or series of shares, except when all of the
18 following apply:

19 *a.* The plan of merger or share exchange includes what is
20 or would be in effect an amendment subject to subsection 6,
21 paragraph "a", subparagraph (2).

22 *b.* The plan of merger or share exchange will not effect a
23 substantive business combination.

24 8. Unless the articles of incorporation otherwise provide,
25 approval by the corporation's shareholders of a plan of
26 merger is not required if all of the following conditions are
27 satisfied:

28 *a.* The corporation will survive the merger.

29 *b.* Except for amendments permitted by section 490.1005, its
30 articles of incorporation will not be changed.

31 *c.* Each shareholder of the corporation whose shares were
32 outstanding immediately before the effective date of the merger
33 or share exchange will hold the same number of shares, with
34 identical preferences, rights, and limitations, immediately
35 after the effective date of the merger.

1 *d.* The issuance in the merger of shares or other securities
2 convertible into or rights exercisable for shares does not
3 require a vote under section 490.621, subsection 6.

4 9. *a.* If, as a result of a merger or share exchange, one
5 or more shareholders of a domestic corporation would become
6 subject to new interest holder liability, approval of the plan
7 of merger or share exchange requires the signing in connection
8 with the transaction, by each such shareholder, of a separate
9 written consent to become subject to such new interest holder
10 liability.

11 *b.* Paragraph "a" does not apply in the case of a shareholder
12 that already has interest holder liability with respect to such
13 domestic corporation, if all of the following apply:

14 (1) The new interest holder liability is with respect to
15 a domestic or foreign corporation, which may be a different
16 or the same domestic corporation in which the person is a
17 shareholder.

18 (2) The terms and conditions of the new interest holder
19 liability are substantially identical to those of the existing
20 interest holder liability, other than for changes that
21 eliminate or reduce such interest holder liability.

22 10. Unless the articles of incorporation otherwise provide,
23 approval by the shareholders of a plan of merger or share
24 exchange is not required if all of the following apply:

25 *a.* The plan of merger or share exchange expressly permits or
26 requires the merger or share exchange to be effected under this
27 subsection and provides that, if the merger or share exchange
28 is to be effected under this subsection, the merger or share
29 exchange will be effected as soon as practicable following the
30 satisfaction of the requirement set forth in paragraph "f".

31 *b.* Another party to the merger, the acquiring entity in
32 the share exchange, or a parent of another party to the merger
33 or the acquiring entity in the share exchange, makes an offer
34 to purchase, on the terms provided in the plan of merger or
35 share exchange, any and all of the outstanding shares of the

1 corporation that, absent this subsection, would be entitled to
2 vote on the plan of merger or share exchange, except that the
3 offer may exclude shares of the corporation that are owned at
4 the commencement of the offer by the corporation, the offeror,
5 or any parent of the offeror, or by any wholly owned subsidiary
6 of any of the foregoing.

7 *c.* The offer discloses that the plan of merger or share
8 exchange provides that the merger or share exchange will be
9 effected as soon as practicable following the satisfaction of
10 the requirement set forth in paragraph "*f*" and that the shares
11 of the corporation that are not tendered in response to the
12 offer will be treated as set forth in paragraph "*h*".

13 *d.* The offer remains open for at least ten days.

14 *e.* The offeror purchases all shares properly tendered in
15 response to the offer and not properly withdrawn.

16 *f.* The shares listed below are collectively entitled to cast
17 at least the minimum number of votes on the merger or share
18 exchange that, absent this subsection, would be required by
19 this subchapter and by the articles of incorporation for the
20 approval of the merger or share exchange by the shareholders
21 and by any other voting group entitled to vote on the merger
22 or share exchange at a meeting at which all shares entitled to
23 vote on the approval were present and voted:

24 (1) Shares purchased by the offeror in accordance with the
25 offer.

26 (2) Shares otherwise owned by the offeror or by any parent
27 of the offeror or any wholly owned subsidiary of any of the
28 foregoing.

29 (3) Shares subject to an agreement that they are to be
30 transferred, contributed, or delivered to the offeror, any
31 parent of the offeror, or any wholly owned subsidiary of any of
32 the foregoing in exchange for shares or eligible interests in
33 such offeror, parent, or subsidiary.

34 *g.* The offeror or a wholly owned subsidiary of the offeror
35 merges with or into, or effects a share exchange in which it

1 acquires shares of, the corporation.

2 *h.* Each outstanding share of each class or series of shares
3 of the corporation that the offeror is offering to purchase
4 in accordance with the offer, and that is not purchased in
5 accordance with the offer, is to be converted in the merger
6 into, or into the right to receive, or is to be exchanged
7 in the share exchange for, or for the right to receive,
8 the same amount and kind of securities, eligible interests,
9 obligations, rights, cash, or other property to be paid or
10 exchanged in accordance with the offer for each share of
11 that class or series of shares that is tendered in response
12 to the offer, except that shares of the corporation that are
13 owned by the corporation or that are described in paragraph
14 *f*, subparagraph (2) or (3), need not be converted into or
15 exchanged for the consideration described in this paragraph
16 *h*.

17 11. As used in subsection 10:

18 *a.* *Offer* means the offer referred to in subsection 10,
19 paragraph *b*.

20 *b.* *Offeror* means the person making the offer.

21 *c.* *Parent* of an entity means a person that owns, directly
22 or indirectly, through one or more wholly owned subsidiaries,
23 all of the outstanding shares of or eligible interests in that
24 entity.

25 *d.* Shares tendered in response to the offer shall be deemed
26 to have been "purchased" in accordance with the offer at the
27 earliest time as of which the following applies:

28 (1) The offeror has irrevocably accepted those shares for
29 payment.

30 (2) Either of the following applies:

31 (a) In the case of shares represented by certificates, the
32 offeror, or the offeror's designated depository or other agent,
33 has physically received the certificates representing those
34 shares.

35 (b) In the case of shares without certificates, those shares

1 have been transferred into the account of the offeror or its
2 designated depository or other agent, or an agent's message
3 relating to those shares has been received by the offeror or
4 its designated depository or other agent.

5 *e. "Wholly owned subsidiary"* of a person means an entity of
6 or in which that person owns, directly or indirectly, through
7 one or more wholly owned subsidiaries, all of the outstanding
8 shares or eligible interests.

9 12. Unless the articles of incorporation otherwise provide,
10 all of the following applies:

11 *a.* Approval of a plan of share exchange by the shareholders
12 of a domestic corporation is not required if the corporation is
13 the acquiring entity in the share exchange.

14 *b.* Shares not to be exchanged under the plan of share
15 exchange are not entitled to vote on the plan.

16 Sec. 149. Section 490.1105, Code 2020, is amended by
17 striking the section and inserting in lieu thereof the
18 following:

19 **490.1105 Merger between parent and subsidiary or between**
20 **subsidiaries.**

21 1. A domestic or foreign parent entity that owns shares of
22 a domestic corporation which carry at least ninety percent of
23 the voting power of each class and series of the outstanding
24 shares of the subsidiary that has voting power may do any of
25 the following:

26 *a.* Merge the subsidiary into itself, if it is a domestic
27 or foreign corporation or eligible entity, or into another
28 domestic or foreign corporation or eligible entity in which the
29 parent entity owns at least ninety percent of the voting power
30 of each class and series of the outstanding shares or eligible
31 interests which have voting power.

32 *b.* Merge itself, if it is a domestic or foreign corporation
33 or eligible entity, into such subsidiary, in either case
34 without the approval of the board of directors or shareholders
35 of the subsidiary, unless the articles of incorporation

1 or organic rules of the parent entity or the articles of
2 incorporation of the subsidiary corporation otherwise provide.

3 *c.* Section 490.1104, subsection 9, applies to a merger under
4 this section. The articles of merger relating to a merger
5 under this section do not need to be signed by the subsidiary.

6 2. A parent entity shall, within ten days after the
7 effective date of a merger approved under subsection 1, notify
8 each of the subsidiary's shareholders that the merger has
9 become effective.

10 3. Except as provided in subsections 1 and 2, a merger
11 between a parent entity and a domestic subsidiary corporation
12 shall be governed by the provisions of this subchapter
13 applicable to mergers generally.

14 Sec. 150. Section 490.1106, Code 2020, is amended by
15 striking the section and inserting in lieu thereof the
16 following:

17 **490.1106 Articles of merger or share exchange.**

18 1. After a plan of merger has been adopted and approved as
19 required by this chapter, or if the merger is being effected
20 under section 490.1102, subsection 1, paragraph "b", the merger
21 has been approved as required by the organic law governing the
22 parties to the merger, then articles of merger shall be signed
23 by each party to the merger except as provided in section
24 490.1105, subsection 1. The articles must set forth all of the
25 following:

26 *a.* The name, jurisdiction of formation, and type of entity
27 of each party to the merger.

28 *b.* The name, jurisdiction of formation, and type of entity
29 of the survivor.

30 *c.* If the survivor of the merger is a domestic corporation
31 and its articles of incorporation are amended, or if a new
32 domestic corporation is created as a result of the merger, any
33 of the following:

34 (1) The amendments to the survivor's articles of
35 incorporation.

1 (2) The articles of incorporation of the new corporation.

2 *d.* If the survivor of the merger is a domestic eligible
3 entity and its public organic record is amended, or if a new
4 domestic eligible entity is created as a result of the merger,
5 any of the following:

6 (1) The amendments to the public organic record of the
7 survivor.

8 (2) The public organic record of the new eligible entity.

9 *e.* If the plan of merger required approval by the
10 shareholders of a domestic corporation that is a party to the
11 merger, a statement that the plan was duly approved by the
12 shareholders and, if voting by any separate voting group was
13 required, by each such separate voting group, in the manner
14 required by this chapter and the articles of incorporation.

15 *f.* If the plan of merger or share exchange did not require
16 approval by the shareholders of a domestic corporation that is
17 a party to the merger, a statement to that effect.

18 *g.* As to each foreign corporation that is a party to the
19 merger, a statement that the participation of the foreign
20 corporation was duly authorized as required by its organic law.

21 *h.* As to each domestic or foreign eligible entity that is a
22 party to the merger, a statement that the merger was approved
23 in accordance with its organic law or section 490.1102,
24 subsection 3.

25 *i.* If the survivor is created by the merger and is a
26 domestic limited liability partnership, the filing required to
27 become a limited liability partnership, as an attachment.

28 2. After a plan of share exchange in which the acquired
29 entity is a domestic corporation or eligible entity has been
30 adopted and approved as required by this chapter, articles
31 of share exchange shall be signed by the acquired entity and
32 the acquiring entity. The articles shall set forth all of the
33 following:

34 *a.* The name of the acquired entity.

35 *b.* The name, jurisdiction of formation, and type of entity

1 of the domestic or foreign corporation or eligible entity that
2 is the acquiring entity.

3 *c.* A statement that the plan of share exchange was duly
4 approved by the acquired entity by all of the following:

5 (1) The required vote or consent of each class or series of
6 shares or eligible interests included in the exchange.

7 (2) The required vote or consent of each other class or
8 series of shares or eligible interests entitled to vote on
9 approval of the exchange by the articles of incorporation or
10 organic rules of the acquired entity or section 490.1103,
11 subsection 3.

12 3. In addition to the requirements of subsection 1 or 2,
13 articles of merger or share exchange may contain any other
14 provision not prohibited by law.

15 4. The articles of merger or share exchange shall be
16 delivered to the secretary of state for filing and, subject to
17 subsection 5, the merger or share exchange shall take effect
18 on the effective date determined in accordance with section
19 490.123.

20 5. With respect to a merger in which one or more foreign
21 entities is a party or a foreign entity created by the merger
22 is the survivor, the merger itself shall become effective at
23 the later of the following:

24 *a.* When all documents required to be filed in foreign
25 jurisdictions to effect the merger have become effective.

26 *b.* When the articles of merger take effect.

27 6. Articles of merger filed under this section may be
28 combined with any filing required under the organic law
29 governing any domestic eligible entity involved in the
30 transaction if the combined filing satisfies the requirements
31 of both this section and the other organic law.

32 Sec. 151. Section 490.1107, Code 2020, is amended by
33 striking the section and inserting in lieu thereof the
34 following:

35 **490.1107 Effect of merger or share exchange.**

1 1. When a merger becomes effective, all of the following
2 apply:

3 *a.* The domestic or foreign corporation or eligible entity
4 that is designated in the plan of merger as the survivor
5 continues or comes into existence, as the case may be.

6 *b.* The separate existence of every domestic or foreign
7 corporation or eligible entity that is a party to the merger,
8 other than the survivor, ceases.

9 *c.* All property owned by, and every contract right possessed
10 by, each domestic or foreign corporation or eligible entity
11 that is a party to the merger, other than the survivor, are the
12 property and contract rights of the survivor without transfer,
13 reversion, or impairment.

14 *d.* All debts, obligations, and other liabilities of each
15 domestic or foreign corporation or eligible entity that is
16 a party to the merger, other than the survivor, are debts,
17 obligations, or liabilities of the survivor.

18 *e.* The name of the survivor may, but need not be,
19 substituted in any pending proceeding for the name of any party
20 to the merger whose separate existence ceased in the merger.

21 *f.* If the survivor is a domestic entity, the articles of
22 incorporation and bylaws or the organic rules of the survivor
23 are amended to the extent provided in the plan of merger.

24 *g.* The articles of incorporation and bylaws or the organic
25 rules of a survivor that is a domestic entity and is created by
26 the merger become effective.

27 *h.* The shares of each domestic or foreign corporation
28 that is a party to the merger, and the eligible interests in
29 an eligible entity that is a party to a merger, that are to
30 be converted in accordance with the terms of the merger into
31 shares, or other securities, eligible interests, obligations,
32 rights to acquire shares, other securities, or eligible
33 interests, cash, other property, or any combination of the
34 foregoing, are converted, and the former holders of such shares
35 or eligible interests are entitled only to the rights provided

1 to them by those terms or to any rights they may have under
2 subchapter XIII or the organic law governing the eligible
3 entity or foreign corporation.

4 *i.* Except as provided by law or the terms of the merger,
5 all the rights, privileges, franchises, and immunities of each
6 entity that is a party to the merger, other than the survivor,
7 are the rights, privileges, franchises, and immunities of the
8 survivor.

9 *j.* If the survivor exists before the merger, all of the
10 following apply:

11 (1) All the property and contract rights of the survivor
12 remain its property and contract rights without transfer,
13 reversion, or impairment.

14 (2) The survivor remains subject to all its debts,
15 obligations, and other liabilities.

16 (3) Except as provided by law or the plan of merger, the
17 survivor continues to hold all of its rights, privileges,
18 franchises, and immunities.

19 2. When a share exchange becomes effective, the shares
20 or eligible interests in the acquired entity that are to be
21 exchanged for shares or other securities, eligible interests,
22 obligations, rights to acquire shares, other securities or
23 eligible interests, cash, other property, or any combination of
24 the foregoing, are entitled only to the rights provided to them
25 in the plan of share exchange or to any rights they may have
26 under subchapter XIII or under the organic law governing the
27 acquired entity.

28 3. Except as otherwise provided in the articles of
29 incorporation of a domestic corporation or the organic law
30 governing or organic rules of a foreign corporation or a
31 domestic or foreign eligible entity, the effect of a merger or
32 share exchange on interest holder liability is as follows:

33 *a.* A person who becomes subject to new interest holder
34 liability in respect of an entity as a result of a merger or
35 share exchange shall have that new interest holder liability

1 only in respect of interest holder liabilities that arise after
2 the merger or share exchange becomes effective.

3 *b.* If a person had interest holder liability with respect to
4 a party to the merger or the acquired entity before the merger
5 or share exchange becomes effective with respect to shares or
6 eligible interests of such party or acquired entity which were
7 exchanged in the merger or share exchange, were canceled in
8 the merger, or the terms and conditions of which relating to
9 interest holder liability were amended pursuant to the merger,
10 then all of the following apply:

11 (1) The merger or share exchange does not discharge that
12 prior interest holder liability with respect to any interest
13 holder liabilities that arose before the merger or share
14 exchange becomes effective.

15 (2) The provisions of the organic law governing any entity
16 for which the person had that prior interest holder liability
17 shall continue to apply to the collection or discharge of any
18 interest holder liabilities preserved by subparagraph (1), as
19 if the merger or share exchange had not occurred.

20 (3) The person shall have such rights of contribution from
21 other persons as are provided by the organic law governing the
22 entity for which the person had that prior interest holder
23 liability with respect to any interest holder liabilities
24 preserved by subparagraph (1), as if the merger or share
25 exchange had not occurred.

26 (4) The person shall not, by reason of such prior interest
27 holder liability, have interest holder liability with respect
28 to any interest holder liabilities that arise after the merger
29 or share exchange becomes effective.

30 *c.* If a person has interest holder liability both before
31 and after a merger becomes effective with unchanged terms and
32 conditions with respect to the entity that is the survivor by
33 reason of owning the same shares or eligible interests before
34 and after the merger becomes effective, the merger has no
35 effect on such interest holder liability.

1 *d.* A share exchange has no effect on interest holder
2 liability related to shares or eligible interests of the
3 acquired entity that were not exchanged in the share exchange.

4 4. Upon a merger becoming effective, a foreign corporation,
5 or a foreign eligible entity, that is the survivor of the
6 merger is deemed to have done all of the following:

7 *a.* Appointed the secretary of state as its agent for
8 service of process in a proceeding to enforce the rights of
9 shareholders of each domestic corporation that is a party to
10 the merger who exercise appraisal rights.

11 *b.* Agreed that it will promptly pay the amount, if any, to
12 which such shareholders are entitled under subchapter XIII.

13 5. Except as provided in the organic law governing a party
14 to a merger or in its articles of incorporation or organic
15 rules, the merger does not give rise to any rights that an
16 interest holder, governor, or third party would have upon a
17 dissolution, liquidation, or winding up of that party. The
18 merger does not require a party to the merger to wind up its
19 affairs and does not constitute or cause its dissolution or
20 termination.

21 6. Property held for a charitable purpose under the law of
22 this state by a domestic or foreign corporation or eligible
23 entity immediately before a merger becomes effective shall not,
24 as a result of the transaction, be diverted from the objects
25 for which it was donated, granted, devised, or otherwise
26 transferred except and to the extent permitted by or pursuant
27 to the laws of this state addressing cy pres or dealing with
28 nondiversion of charitable assets.

29 7. A bequest, devise, gift, grant, or promise contained
30 in a will or other instrument of donation, subscription, or
31 conveyance which is made to an entity that is a party to a
32 merger that is not the survivor and which takes effect or
33 remains payable after the merger inures to the survivor.

34 8. A trust obligation that would govern property if
35 transferred to a nonsurviving entity applies to property

1 that is transferred to the survivor after a merger becomes
2 effective.

3 Sec. 152. Section 490.1108, Code 2020, is amended by
4 striking the section and inserting in lieu thereof the
5 following:

6 **490.1108 Abandonment of a merger or share exchange.**

7 1. After a plan of merger or share exchange has been
8 adopted and approved as required by this subchapter, and before
9 articles of merger or share exchange have become effective, the
10 plan may be abandoned by a domestic business corporation that
11 is a party to the plan without action by its shareholders in
12 accordance with any procedures set forth in the plan of merger
13 or share exchange or, if no such procedures are set forth in
14 the plan, in the manner determined by the board of directors.

15 2. If a merger or share exchange is abandoned under
16 subsection 1 after articles of merger or share exchange have
17 been delivered to the secretary of state for filing but before
18 the merger or share exchange has become effective, a statement
19 of abandonment signed by all the parties that signed the
20 articles of merger or share exchange shall be delivered to the
21 secretary of state for filing before the articles of merger
22 or share exchange become effective. The statement shall take
23 effect on filing and the merger or share exchange shall be
24 deemed abandoned and shall not become effective. The statement
25 of abandonment must contain all of the following:

26 a. The name of each party to the merger or the names of the
27 acquiring and acquired entities in a share exchange.

28 b. The date on which the articles of merger or share
29 exchange were filed by the secretary of state.

30 c. A statement that the merger or share exchange has been
31 abandoned in accordance with this section.

32 Sec. 153. Section 490.1201, Code 2020, is amended by
33 striking the section and inserting in lieu thereof the
34 following:

35 **490.1201 Disposition of assets not requiring shareholder**

1 **approval.**

2 No approval of the shareholders is required to do any of
3 the following, unless the articles of incorporation otherwise
4 provide:

5 1. Sell, lease, exchange, or otherwise dispose of any of
6 the corporation's assets in the usual and regular course of
7 business.

8 2. Mortgage, pledge, dedicate to the repayment of
9 indebtedness, whether with or without recourse, or otherwise
10 encumber any or all of the corporation's assets, regardless of
11 whether in the usual and regular course of business.

12 3. Transfer any or all of the corporation's assets to one or
13 more domestic or foreign corporations or other entities, all of
14 the shares or interests of which are owned by the corporation.

15 4. Distribute assets pro rata to the holders of one or more
16 classes or series of the corporation's shares.

17 Sec. 154. Section 490.1202, Code 2020, is amended by
18 striking the section and inserting in lieu thereof the
19 following:

20 **490.1202 Shareholder approval of certain dispositions.**

21 1. A sale, lease, exchange, or other disposition of assets,
22 other than a disposition described in section 490.1201,
23 requires approval of the corporation's shareholders if the
24 disposition would leave the corporation without a significant
25 continuing business activity. A corporation will conclusively
26 be deemed to have retained a significant continuing business
27 activity if it retains a business activity that represented,
28 for the corporation and its subsidiaries on a consolidated
29 basis, at least twenty-five percent of total assets at the
30 end of the most recently completed fiscal year, and either
31 twenty-five percent of either income from continuing operations
32 before taxes or twenty-five percent of revenues from continuing
33 operations, in each case for the most recently completed fiscal
34 year; but no presumption that the disposition will leave the
35 corporation without a significant continuing business activity

1 shall arise from the fact that the corporation's continuing
2 business activity does not equal or exceed any of these
3 percentages.

4 2. To obtain the approval of the shareholders under
5 subsection 1, all of the following shall apply:

6 a. The board of directors shall first adopt a resolution
7 authorizing the disposition. The disposition shall then be
8 approved by the shareholders. In submitting the disposition
9 to the shareholders for approval, the board of directors shall
10 recommend that the shareholders approve the disposition, unless
11 any of the following apply:

12 (1) The board of directors makes a determination that
13 because of conflicts of interest or other special circumstances
14 it should not make such a recommendation.

15 (2) Section 490.826 applies.

16 b. If paragraph "a", subparagraph (1) or (2), applies, the
17 board shall inform the shareholders of the basis for its so
18 proceeding.

19 3. The board of directors may set conditions for the
20 approval by the shareholders of a disposition or the
21 effectiveness of the disposition.

22 4. If a disposition is required to be approved by the
23 shareholders under subsection 1, and if the approval is to
24 be given at a meeting, the corporation shall notify each
25 shareholder, regardless of whether entitled to vote, of
26 the meeting of shareholders at which the disposition is
27 to be submitted for approval. The notice must state that
28 the purpose, or one of the purposes, of the meeting is to
29 consider the disposition and must contain a description of
30 the disposition, including the terms and conditions of the
31 disposition and the consideration to be received by the
32 corporation.

33 5. Unless the articles of incorporation, bylaws, or the
34 board of directors acting pursuant to subsection 3 require
35 a greater vote or a greater quorum, the approval of a

1 disposition by the shareholders shall require the approval
2 of the shareholders at a meeting at which a quorum exists
3 consisting of a majority of the votes entitled to be cast on
4 the disposition.

5 6. After a disposition has been approved by the shareholders
6 under this subchapter, and at any time before the disposition
7 has been consummated, it may be abandoned by the corporation
8 without action by the shareholders, subject to any contractual
9 rights of other parties to the disposition.

10 7. A disposition of assets in the course of dissolution
11 under subchapter XIV is not governed by this section.

12 8. The assets of a direct or indirect consolidated
13 subsidiary shall be deemed to be the assets of the parent
14 corporation for the purposes of this section.

15 Sec. 155. Section 490.1301, Code 2020, is amended by
16 striking the section and inserting in lieu thereof the
17 following:

18 **490.1301 Subchapter definitions.**

19 As used in this subchapter:

20 1. "*Affiliate*" means a person that directly or indirectly
21 through one or more intermediaries controls, is controlled by,
22 or is under common control with another person or is a senior
23 executive of such person. For purposes of section 490.1302,
24 subsection 2, paragraph "d", a person is deemed to be an
25 affiliate of its senior executives.

26 2. "*Corporation*" means the domestic corporation that is the
27 issuer of the shares held by a shareholder demanding appraisal
28 and, for matters covered in sections 490.1322 through 490.1331,
29 "*corporation*" includes the survivor of a merger.

30 3. "*Fair value*" means the value of the corporation's shares
31 determined according to the following:

32 a. Immediately before the effectiveness of the corporate
33 action to which the shareholder objects.

34 b. Using customary and current valuation concepts and
35 techniques generally employed for similar businesses in the

1 context of the transaction requiring appraisal.

2 *c.* Without discounting for lack of marketability or minority
3 status except, if appropriate, for amendments to the articles
4 of incorporation pursuant to section 490.1302, subsection 1,
5 paragraph "d".

6 4. "*Interest*" means interest from the date the corporate
7 action becomes effective until the date of payment, at the rate
8 of interest on judgments in this state on the effective date
9 of the corporate action.

10 5. "*Interested transaction*" means a corporate action
11 described in section 490.1302, subsection 1, other than a
12 merger pursuant to section 490.1105, involving an interested
13 person in which any of the shares or assets of the corporation
14 are being acquired or converted. As used in this subsection:

15 *a.* "*Beneficial owner*" means any person who, directly
16 or indirectly, through any contract, arrangement, or
17 understanding, other than a revocable proxy, has or shares the
18 power to vote, or to direct the voting of, shares; except that
19 a member of a national securities exchange is not deemed to be
20 a beneficial owner of securities held directly or indirectly
21 by it on behalf of another person if the member is precluded
22 by the rules of the exchange from voting without instruction
23 on contested matters or matters that may affect substantially
24 the rights or privileges of the holders of the securities to
25 be voted. When two or more persons agree to act together for
26 the purpose of voting their shares of the corporation, each
27 member of the group formed thereby is deemed to have acquired
28 beneficial ownership, as of the date of the agreement, of all
29 shares having voting power of the corporation beneficially
30 owned by any member of the group.

31 *b.* "*Excluded shares*" means shares acquired pursuant to an
32 offer for all shares having voting power if the offer was made
33 within one year before the corporate action for consideration
34 of the same kind and of a value equal to or less than that paid
35 in connection with the corporate action.

1 *c. "Interested person"* means a person, or an affiliate of a
2 person, who at any time during the one-year period immediately
3 preceding approval by the board of directors of the corporate
4 action was or had any of the following:

5 (1) Was the beneficial owner of twenty percent or more of
6 the voting power of the corporation, other than as owner of
7 excluded shares.

8 (2) Had the power, contractually or otherwise, other than as
9 owner of excluded shares, to cause the appointment or election
10 of twenty-five percent or more of the directors to the board of
11 directors of the corporation.

12 (3) Was a senior executive or director of the corporation
13 or a senior executive of any affiliate of the corporation, and
14 that senior executive or director will receive, as a result
15 of the corporate action, a financial benefit not generally
16 available to other shareholders as such, other than any of the
17 following:

18 (a) Employment, consulting, retirement, or similar benefits
19 established separately and not as part of or in contemplation
20 of the corporate action.

21 (b) Employment, consulting, retirement, or similar benefits
22 established in contemplation of, or as part of, the corporate
23 action that are not more favorable than those existing before
24 the corporate action or, if more favorable, that have been
25 approved on behalf of the corporation in the same manner as is
26 provided in section 490.862.

27 (c) In the case of a director of the corporation who will,
28 in the corporate action, become a director or governor of the
29 acquiror or any of its affiliates, rights, and benefits as a
30 director or governor that are provided on the same basis as
31 those afforded by the acquiror generally to other directors or
32 governors of such entity or such affiliate.

33 6. *"Preferred shares"* means a class or series of shares
34 whose holders have preference over any other class or series of
35 shares with respect to distributions.

1 7. "Senior executive" means the chief executive officer,
2 chief operating officer, chief financial officer, and any
3 individual in charge of a principal business unit or function.

4 8. "Shareholder" means a record shareholder, a beneficial
5 shareholder, and a voting trust beneficial owner.

6 Sec. 156. Section 490.1302, Code 2020, is amended by
7 striking the section and inserting in lieu thereof the
8 following:

9 **490.1302 Right to appraisal.**

10 1. A shareholder is entitled to appraisal rights, and to
11 obtain payment of the fair value of that shareholder's shares,
12 in the event of any of the following corporate actions:

13 a. Consummation of a merger to which the corporation is a
14 party if any of the following apply:

15 (1) Shareholder approval is required for the merger by
16 section 490.1104 or would be required but for the provisions of
17 section 490.1104, subsection 10, except that appraisal rights
18 shall not be available to any shareholder of the corporation
19 with respect to shares of any class or series that remain
20 outstanding after consummation of the merger.

21 (2) The corporation is a subsidiary and the merger is
22 governed by section 490.1105.

23 b. Consummation of a share exchange to which the corporation
24 is a party the shares of which will be acquired, except that
25 appraisal rights shall not be available to any shareholder of
26 the corporation with respect to any class or series of shares
27 of the corporation that is not acquired in the share exchange.

28 c. Consummation of a disposition of assets pursuant to
29 section 490.1202 if the shareholder is entitled to vote on
30 the disposition, except that appraisal rights shall not be
31 available to any shareholder of the corporation with respect to
32 shares of any class or series if all of the following apply:

33 (1) Under the terms of the corporate action approved by the
34 shareholders there is to be distributed to shareholders in cash
35 the corporation's net assets, in excess of a reasonable amount

1 reserved to meet claims of the type described in sections
2 490.1406 and 490.1407, if the distribution is made subject to
3 all of the following:

4 (a) Within one year after the shareholders' approval of the
5 action.

6 (b) In accordance with the shareholders' respective
7 interests determined at the time of distribution.

8 (2) The disposition of assets is not an interested
9 transaction.

10 d. An amendment of the articles of incorporation with
11 respect to a class or series of shares that reduces the number
12 of shares of a class or series owned by the shareholder to a
13 fraction of a share if the corporation has the obligation or
14 right to repurchase the fractional share so created.

15 e. Any other merger, share exchange, disposition of assets,
16 or amendment to the articles of incorporation, in each case to
17 the extent provided by the articles of incorporation, bylaws,
18 or a resolution of the board of directors.

19 f. Consummation of a domestication pursuant to section
20 490.920 if the shareholder does not receive shares in the
21 foreign corporation resulting from the domestication that have
22 terms as favorable to the shareholder in all material respects,
23 and represent at least the same percentage interest of the
24 total voting rights of the outstanding shares of the foreign
25 corporation, as the shares held by the shareholder before the
26 domestication.

27 g. Consummation of a conversion of the corporation to a
28 nonprofit corporation pursuant to section 490.930.

29 h. Consummation of a conversion of the corporation to an
30 unincorporated entity pursuant to section 490.930.

31 2. Notwithstanding subsection 1, the availability of
32 appraisal rights under subsection 1, paragraphs "a", "b", "c",
33 "d", "f", and "h", shall be limited in accordance with the
34 following provisions:

35 a. Appraisal rights shall not be available for the holders

1 of shares of any class or series of shares which is any of the
2 following:

3 (1) A covered security under section 18(b)(1)(A) or (B) of
4 the federal Securities Act of 1933, as amended.

5 (2) Traded in an organized market and has at least two
6 thousand shareholders and a market value of at least twenty
7 million dollars, exclusive of the value of such shares held
8 by the corporation's subsidiaries, senior executives and
9 directors, and by any beneficial shareholder and any voting
10 trust beneficial owner owning more than ten percent of such
11 shares.

12 (3) Issued by an open-end management investment company
13 registered with the United States securities and exchange
14 commission under the federal Investment Company Act of 1940, 15
15 U.S.C. §80a-1 et seq., and which may be redeemed at the option
16 of the holder at net asset value.

17 *b.* The applicability of paragraph "a" shall be determined
18 according to the following:

19 (1) The record date fixed to determine the shareholders
20 entitled to receive notice of the meeting of shareholders to
21 act upon the corporate action requiring appraisal rights or
22 in the case of an offer made pursuant to section 490.1104,
23 subsection 10, the date of such offer.

24 (2) If there is no meeting of shareholders and no offer made
25 pursuant to section 490.1104, subsection 10, the day before the
26 consummation of the corporate action or effective date of the
27 amendment of the articles of incorporation, as applicable.

28 *c.* Paragraph "a" shall not be applicable and appraisal
29 rights shall be available pursuant to subsection 1 under the
30 following circumstances:

31 (1) For the holders of any class or series of shares who
32 are required by the terms of the corporate action requiring
33 appraisal rights to accept for such shares anything other than
34 cash or shares of any class or any series of shares of any
35 corporation, or any other proprietary interest of any other

1 entity, that satisfies the standards set forth in paragraph "a",
2 at the time the corporate action becomes effective.

3 (2) For the holders of any class or series of shares, in the
4 case of the consummation of a disposition of assets pursuant
5 to section 490.1202, unless the cash, shares, or proprietary
6 interests received in the disposition are, under the terms
7 of the corporate action approved by the shareholders, to be
8 distributed to the shareholders, as part of a distribution to
9 shareholders of the net assets of the corporation in excess of
10 a reasonable amount to meet claims of the type described in
11 sections 490.1406 and 490.1407, if the distribution is made
12 subject to all of the following:

13 (a) Within one year after the shareholders' approval of the
14 action.

15 (b) In accordance with the shareholders' respective
16 interests determined at the time of the distribution.

17 d. Paragraph "a" shall not be applicable and appraisal
18 rights shall be available pursuant to subsection 1 for the
19 holders of any class or series of shares where the corporate
20 action is an interested transaction.

21 3. Notwithstanding any other provision of this section, the
22 articles of incorporation as originally filed or any amendment
23 to the articles of incorporation may limit or eliminate
24 appraisal rights for any class or series of preferred shares,
25 except that the following shall apply:

26 a. Except as provided in paragraph "b", no such limitation
27 or elimination shall be effective if the class or series does
28 not have the right to vote separately as a voting group, alone
29 or as part of a group, on the action or if the action is a
30 conversion under section 490.930, or a merger having a similar
31 effect as a conversion in which the converted entity is an
32 eligible entity.

33 b. Any such limitation or elimination contained in an
34 amendment to the articles of incorporation that limits or
35 eliminates appraisal rights for any of such shares that are

1 outstanding immediately before the effective date of such
2 amendment or that the corporation is or may be required to
3 issue or sell thereafter pursuant to any conversion, exchange,
4 or other right existing immediately before the effective date
5 of such amendment, shall not apply to any corporate action that
6 becomes effective within one year after the effective date of
7 such amendment if such action would otherwise afford appraisal
8 rights.

9 Sec. 157. Section 490.1303, Code 2020, is amended by
10 striking the section and inserting in lieu thereof the
11 following:

12 **490.1303 Assertion of rights by nominees and beneficial**
13 **shareholders.**

14 1. A record shareholder may assert appraisal rights
15 as to fewer than all the shares registered in the record
16 shareholder's name but owned by a beneficial shareholder and a
17 voting trust beneficial owner only if the record shareholder
18 objects with respect to all shares of a class or series owned
19 by the beneficial shareholder and the voting trust beneficial
20 owner and notifies the corporation in writing of the name
21 and address of each beneficial shareholder and voting trust
22 beneficial owner on whose behalf appraisal rights are being
23 asserted. The rights of a record shareholder who asserts
24 appraisal rights for only part of the shares held of record in
25 the record shareholder's name under this subsection shall be
26 determined as if the shares as to which the record shareholder
27 objects and the record shareholder's other shares were
28 registered in the names of different record shareholders.

29 2. A beneficial shareholder and a voting trust beneficial
30 owner may assert appraisal rights as to shares of any class
31 or series held on behalf of the shareholder only if such
32 shareholder does all of the following:

33 a. Submits to the corporation the record shareholder's
34 written consent to the assertion of such rights no later
35 than the date referred to in section 490.1322, subsection 2,

1 paragraph "b", subparagraph (2).

2 *b.* Does so with respect to all shares of the class or series
3 that are beneficially owned by the beneficial shareholder and
4 the voting trust beneficial owner.

5 Sec. 158. Section 490.1320, Code 2020, is amended by
6 striking the section and inserting in lieu thereof the
7 following:

8 **490.1320 Notice of appraisal rights.**

9 1. Where any corporate action specified in section
10 490.1302, subsection 1, is to be submitted to a vote at a
11 shareholders' meeting, the meeting notice, or where no approval
12 of such action is required pursuant to section 490.1104,
13 subsection 10, the offer made pursuant to that section, must
14 state that the corporation has concluded that appraisal rights
15 are, are not, or may be available under this subchapter. If
16 the corporation concludes that appraisal rights are or may be
17 available, a copy of this subchapter must accompany the meeting
18 notice or offer sent to those record shareholders entitled to
19 exercise appraisal rights.

20 2. In a merger pursuant to section 490.1105, the parent
21 entity shall notify in writing all record shareholders of the
22 subsidiary who are entitled to assert appraisal rights that the
23 corporate action became effective. Such notice shall be sent
24 within ten days after the corporate action became effective and
25 include the materials described in section 490.1322.

26 3. Where any corporate action specified in section
27 490.1302, subsection 1, is to be approved by written consent
28 of the shareholders pursuant to section 490.704, all of the
29 following apply:

30 *a.* Written notice that appraisal rights are, are not, or may
31 be available shall be sent to each record shareholder from whom
32 a consent is solicited at the time consent of such shareholder
33 is first solicited and, if the corporation has concluded that
34 appraisal rights are or may be available, the notice must be
35 accompanied by a copy of this subchapter.

1 *b.* Written notice that appraisal rights are, are not, or
2 may be available must be delivered together with the notice to
3 nonconsenting and nonvoting shareholders required by section
4 490.704, subsections 5 and 6, may include the materials
5 described in section 490.1322, and, if the corporation has
6 concluded that appraisal rights are or may be available, must
7 be accompanied by a copy of this subchapter.

8 4. Where corporate action described in section 490.1302,
9 subsection 1, is proposed, or a merger pursuant to section
10 490.1105 is effected, the notice referred to in subsection 1
11 or 3, if the corporation concludes that appraisal rights are
12 or may be available, and in subsection 2 must be accompanied
13 by all of the following:

14 *a.* Financial statements of the corporation that issued
15 the shares that may be subject to appraisal, consisting of a
16 balance sheet as of the end of a fiscal year ending not more
17 than sixteen months before the date of the notice, an income
18 statement for that year, and a cash flow statement for that
19 year; provided that, if such financial statements are not
20 reasonably available, the corporation shall provide reasonably
21 equivalent financial information.

22 *b.* The latest interim financial statements of such
23 corporation, if any.

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

27 Sec. 159. Section 490.1321, Code 2020, is amended by
28 striking the section and inserting in lieu thereof the
29 following:

30 **490.1321 Notice of intent to demand payment and consequences**
31 **of voting or consenting.**

32 1. If a corporate action specified in section 490.1302,
33 subsection 1, is submitted to a vote at a shareholders'
34 meeting, a shareholder who wishes to assert appraisal rights
35 with respect to any class or series of shares must do all of the

1 following:

2 *a.* Deliver to the corporation, before the vote is taken,
3 written notice of the shareholder's intent to demand payment if
4 the proposed action is effectuated.

5 *b.* Not vote, or cause or permit to be voted, any shares of
6 such class or series in favor of the proposed action.

7 2. If a corporate action specified in section 490.1302,
8 subsection 1, is to be approved by written consent, a
9 shareholder who wishes to assert appraisal rights with respect
10 to any class or series of shares shall not sign a consent in
11 favor of the proposed action with respect to that class or
12 series of shares.

13 3. If a corporate action specified in section 490.1302,
14 subsection 1, does not require shareholder approval pursuant to
15 section 490.1104, subsection 10, a shareholder who wishes to
16 assert appraisal rights with respect to any class or series of
17 shares must do all of the following:

18 *a.* Deliver to the corporation before the shares are
19 purchased pursuant to the offer written notice of the
20 shareholder's intent to demand payment if the proposed action
21 is effected.

22 *b.* Not tender, or cause or permit to be tendered, any shares
23 of such class or series in response to such offer.

24 4. A shareholder who fails to satisfy the requirements of
25 subsection 1, 2, or 3 is not entitled to payment under this
26 subchapter.

27 Sec. 160. Section 490.1322, Code 2020, is amended by
28 striking the section and inserting in lieu thereof the
29 following:

30 **490.1322 Appraisal notice and form.**

31 1. If a corporate action requiring appraisal rights
32 under section 490.1302, subsection 1, becomes effective, the
33 corporation shall deliver a written appraisal notice and form
34 required by subsection 2, to all shareholders who satisfy the
35 requirements of section 490.1321, subsection 1, 2, or 3. In

1 the case of a merger under section 490.1105, the parent shall
2 deliver an appraisal notice and form to all record shareholders
3 who may be entitled to assert appraisal rights.

4 2. The appraisal notice shall be delivered no earlier than
5 the date the corporate action specified in section 490.1302,
6 subsection 1, became effective, and no later than ten days
7 after such date, and must do all of the following:

8 a. Supply a form that does all of the following:

9 (1) Specifies the first date of any announcement to
10 shareholders made before the date the corporate action became
11 effective of the principal terms of the proposed corporate
12 action.

13 (2) If such announcement was made, requires the shareholder
14 asserting appraisal rights to certify whether beneficial
15 ownership of those shares for which appraisal rights are
16 asserted was acquired before that date.

17 (3) Requires the shareholder asserting appraisal rights to
18 certify that such shareholder did not vote for or consent to
19 the transaction as to the class or series of shares for which
20 appraisal is sought.

21 b. State all of the following:

22 (1) Where the form shall be sent and where certificates for
23 certificated shares shall be deposited and the date by which
24 those certificates must be deposited, which date shall not be
25 earlier than the date by which the corporation must receive the
26 required form under subparagraph (2).

27 (2) A date by which the corporation shall receive the
28 form, which date shall not be fewer than forty nor more than
29 sixty days after the date the appraisal notice is sent under
30 subsection 1, and state that the shareholder shall have waived
31 the right to demand appraisal with respect to the shares unless
32 the form is received by the corporation by such specified date.

33 (3) The corporation's estimate of the fair value of the
34 shares.

35 (4) That, if requested in writing, the corporation will

1 provide, to the shareholder so requesting, within ten days
2 after the date specified in subparagraph (2) the number of
3 shareholders who return the forms by the specified date and the
4 total number of shares owned by them.

5 (5) The date by which the notice to withdraw under section
6 490.1323 shall be received, which date shall be within twenty
7 days after the date specified in subparagraph (2).

8 c. Be accompanied by a copy of this subchapter.

9 Sec. 161. Section 490.1323, Code 2020, is amended by
10 striking the section and inserting in lieu thereof the
11 following:

12 **490.1323 Perfection of rights — right to withdraw.**

13 1. A shareholder who receives notice pursuant to section
14 490.1322 and who wishes to exercise appraisal rights shall
15 sign and return the form sent by the corporation and, in
16 the case of certificated shares, deposit the shareholder's
17 certificates in accordance with the terms of the notice by the
18 date referred to in the notice pursuant to section 490.1322,
19 subsection 2, paragraph "b", subparagraph (2). In addition,
20 if applicable, the shareholder shall certify on the form
21 whether the beneficial owner of such shares acquired beneficial
22 ownership of the shares before the date required to be set
23 forth in the notice pursuant to section 490.1322, subsection
24 2, paragraph "a", subparagraph (1). If a shareholder fails to
25 make this certification, the corporation may elect to treat the
26 shareholder's shares as after-acquired shares under section
27 490.1325. Once a shareholder deposits that shareholder's
28 certificates or, in the case of uncertificated shares, returns
29 the signed forms, that shareholder loses all rights as a
30 shareholder, unless the shareholder withdraws pursuant to
31 subsection 2.

32 2. A shareholder who has complied with subsection 1 may
33 nevertheless decline to exercise appraisal rights and withdraw
34 from the appraisal process by so notifying the corporation in
35 writing by the date set forth in the appraisal notice pursuant

1 to section 490.1322, subsection 2, paragraph "b", subparagraph
2 (5). A shareholder who fails to so withdraw from the appraisal
3 process shall not thereafter withdraw without the corporation's
4 written consent.

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

10 Sec. 162. Section 490.1324, Code 2020, is amended by
11 striking the section and inserting in lieu thereof the
12 following:

13 **490.1324 Payment.**

14 1. Except as provided in section 490.1325, within thirty
15 days after the form required by section 490.1322, subsection 2,
16 paragraph "b", subparagraph (2), is due, the corporation shall
17 pay in cash to those shareholders who complied with section
18 490.1323, subsection 1, the amount the corporation estimates to
19 be the fair value of their shares, plus interest.

20 2. The payment to each shareholder pursuant to subsection 1
21 must be accompanied by all of the following:

22 a. (1) Financial statements of the corporation that issued
23 the shares to be appraised, consisting of a balance sheet as
24 of the end of a fiscal year ending not more than sixteen months
25 before the date of payment, an income statement for that year,
26 and a cash flow statement for that year; provided that, if
27 such annual financial statements are not reasonably available,
28 the corporation shall provide reasonably equivalent financial
29 information.

30 (2) The latest interim financial statements of such
31 corporation, if any.

32 b. A statement of the corporation's estimate of the fair
33 value of the shares, which estimate shall equal or exceed the
34 corporation's estimate given pursuant to section 490.1322,
35 subsection 2, paragraph "b", subparagraph (3).

1 *c.* A statement that shareholders described in subsection
2 1 have the right to demand further payment under section
3 490.1326 and that if any such shareholder does not do so within
4 the time period specified in section 490.1326, subsection 2,
5 such shareholder shall be deemed to have accepted the payment
6 under subsection 1 in full satisfaction of the corporation's
7 obligations under this subchapter.

8 Sec. 163. Section 490.1325, Code 2020, is amended by
9 striking the section and inserting in lieu thereof the
10 following:

11 **490.1325 After-acquired shares.**

12 1. A corporation may elect to withhold payment required
13 by section 490.1324 from any shareholder who was required to,
14 but did not certify that beneficial ownership of all of the
15 shareholder's shares for which appraisal rights are asserted
16 was acquired before the date set forth in the appraisal notice
17 sent pursuant to section 490.1322, subsection 2, paragraph "a".

18 2. If the corporation elected to withhold payment under
19 subsection 1, within thirty days after the form required by
20 section 490.1322, subsection 2, paragraph "b", subparagraph
21 (2), is due, the corporation shall notify all shareholders who
22 are described in subsection 1 regarding all of the following:

23 *a.* Of the information required by section 490.1324,
24 subsection 2, paragraph "a".

25 *b.* Of the corporation's estimate of fair value pursuant to
26 section 490.1324, subsection 2, paragraph "b".

27 *c.* That they may accept the corporation's estimate of fair
28 value, plus interest, in full satisfaction of their demands or
29 demand appraisal under section 490.1326.

30 *d.* That those shareholders who wish to accept such offer
31 shall so notify the corporation of their acceptance of the
32 corporation's offer within thirty days after receiving the
33 offer.

34 *e.* That those shareholders who do not satisfy the
35 requirements for demanding appraisal under section 490.1326

1 shall be deemed to have accepted the corporation's offer.

2 3. Within ten days after receiving the shareholder's
3 acceptance pursuant to subsection 2, paragraph "d", the
4 corporation shall pay in cash the amount it offered under
5 subsection 2, paragraph "b", plus interest to each shareholder
6 who agreed to accept the corporation's offer in full
7 satisfaction of the shareholder's demand.

8 4. Within forty days after delivering the notice described
9 in subsection 2, the corporation shall pay in cash the amount
10 it offered to pay under subsection 2, paragraph "b", plus
11 interest to each shareholder described in subsection 2,
12 paragraph "e".

13 Sec. 164. Section 490.1326, Code 2020, is amended by
14 striking the section and inserting in lieu thereof the
15 following:

16 **490.1326 Procedure if shareholder dissatisfied with payment**
17 **or offer.**

18 1. A shareholder paid pursuant to section 490.1324 who is
19 dissatisfied with the amount of the payment shall notify the
20 corporation in writing of that shareholder's estimate of the
21 fair value of the shares and demand payment of that estimate,
22 less any payment under section 490.1324 plus interest. A
23 shareholder offered payment under section 490.1325 who is
24 dissatisfied with that offer shall reject the offer and demand
25 payment of the shareholder's stated estimate of the fair value
26 of the shares plus interest.

27 2. A shareholder who fails to notify the corporation
28 in writing of that shareholder's demand to be paid the
29 shareholder's stated estimate of the fair value plus interest
30 under subsection 1 within thirty days after receiving the
31 corporation's payment or offer of payment under section
32 490.1324 or 490.1325, respectively, waives the right to demand
33 payment under this section and shall be entitled only to the
34 payment made or offered pursuant to those respective sections.

35 Sec. 165. Section 490.1330, Code 2020, is amended by

1 striking the section and inserting in lieu thereof the
2 following:

3 **490.1330 Court action.**

4 1. If a shareholder makes a demand for payment under
5 section 490.1326 which remains unsettled, the corporation shall
6 commence a proceeding within sixty days after receiving the
7 payment demand and petition the court to determine the fair
8 value of the shares and accrued interest. If the corporation
9 does not commence the proceeding within the sixty-day
10 period, it shall pay in cash to each shareholder the amount
11 the shareholder demanded pursuant to section 490.1326 plus
12 interest.

13 2. The corporation shall commence the proceeding in the
14 district court of the county where the corporation's principal
15 office or, if none, its registered office, in this state is
16 located. If the corporation is a foreign corporation without
17 a registered office in this state, it shall commence the
18 proceeding in the county in this state where the principal
19 office or registered office of the domestic corporation merged
20 with the foreign corporation was located at the time of the
21 transaction.

22 3. The corporation shall make all shareholders, regardless
23 of whether they are residents of this state, whose demands
24 remain unsettled parties to the proceeding as in an action
25 against their shares, and all parties shall be served with a
26 copy of the petition. Nonresidents may be served by registered
27 or certified mail or by publication as provided by law.

28 4. The jurisdiction of the court in which the proceeding
29 is commenced under subsection 2 is plenary and exclusive.
30 The court may appoint one or more persons as appraisers to
31 receive evidence and recommend a decision on the question of
32 fair value. The appraisers shall have the powers described
33 in the order appointing them, or in any amendment to it. The
34 shareholders demanding appraisal rights are entitled to the
35 same discovery rights as parties in other civil proceedings.

1 There shall be no right to a jury trial.

2 5. Each shareholder made a party to the proceeding is
3 entitled to judgment for any of the following:

4 a. The amount, if any, by which the court finds the fair
5 value of the shareholder's shares exceeds the amount paid
6 by the corporation to the shareholder for such shares, plus
7 interest.

8 b. The fair value, plus interest, of the shareholder's
9 shares for which the corporation elected to withhold payment
10 under section 490.1325.

11 Sec. 166. Section 490.1331, Code 2020, is amended by
12 striking the section and inserting in lieu thereof the
13 following:

14 **490.1331 Court costs and expenses.**

15 1. The court in an appraisal proceeding commenced under
16 section 490.1330 shall determine all court costs of the
17 proceeding, including the reasonable compensation and expenses
18 of appraisers appointed by the court. The court shall assess
19 the court costs against the corporation, except that the court
20 may assess court costs against all or some of the shareholders
21 demanding appraisal, in amounts which the court finds
22 equitable, to the extent the court finds such shareholders
23 acted arbitrarily, vexatiously, or not in good faith with
24 respect to the rights provided by this subchapter.

25 2. The court in an appraisal proceeding may also assess the
26 expenses of the respective parties in amounts the court finds
27 equitable, against any of the following:

28 a. The corporation and in favor of any or all shareholders
29 demanding appraisal if the court finds the corporation did
30 not substantially comply with the requirements of sections
31 490.1320, 490.1322, 490.1324, or 490.1325.

32 b. Either the corporation or a shareholder demanding
33 appraisal, in favor of any other party, if the court finds that
34 the party against whom expenses are assessed acted arbitrarily,
35 vexatiously, or not in good faith with respect to the rights

1 provided by this subchapter.

2 3. If the court in an appraisal proceeding finds that
3 the expenses incurred by any shareholder were of substantial
4 benefit to other shareholders similarly situated and that such
5 expenses should not be assessed against the corporation, the
6 court may direct that such expenses be paid out of the amounts
7 awarded the shareholders who were benefited.

8 4. To the extent the corporation fails to make a required
9 payment pursuant to section 490.1324, 490.1325, or 490.1326,
10 the shareholder may sue directly for the amount owed, and to
11 the extent successful, shall be entitled to recover from the
12 corporation all expenses of the suit.

13 Sec. 167. Section 490.1340, Code 2020, is amended by
14 striking the section and inserting in lieu thereof the
15 following:

16 **490.1340 Other remedies limited.**

17 1. The legality of a proposed or completed corporate
18 action described in section 490.1302, subsection 1, shall not
19 be contested, nor may the corporate action be enjoined, set
20 aside, or rescinded, in a legal or equitable proceeding by a
21 shareholder after the shareholders have approved the corporate
22 action.

23 2. Subsection 1 does not apply to a corporate action that
24 meets any of the following conditions:

25 a. Was not authorized and approved in accordance with the
26 applicable provisions of any of the following:

27 (1) Subchapter IX, X, XI, or XII.

28 (2) The articles of incorporation or bylaws.

29 (3) The resolution of the board of directors authorizing the
30 corporate action.

31 b. Was procured as a result of fraud, a material
32 misrepresentation, or an omission of a material fact necessary
33 to make statements made, in light of the circumstances in which
34 they were made, not misleading.

35 c. Is an interested transaction, unless it has been

1 recommended by the board of directors in the same manner as
2 is provided in section 490.862 and has been approved by the
3 shareholders in the same manner as is provided in section
4 490.863 as if the interested transaction were a director's
5 conflicting interest transaction.

6 *d.* Is approved by less than unanimous consent of the
7 voting shareholders pursuant to section 490.704 if all of the
8 following apply:

9 (1) The challenge to the corporate action is brought by a
10 shareholder who did not consent and as to whom notice of the
11 approval of the corporate action was not effective at least ten
12 days before the corporate action was effected.

13 (2) The proceeding challenging the corporate action is
14 commenced within ten days after notice of the approval of the
15 corporate action is effective as to the shareholder bringing
16 the proceeding.

17 Sec. 168. Section 490.1402, Code 2020, is amended by
18 striking the section and inserting in lieu thereof the
19 following:

20 **490.1402 Dissolution by board of directors and shareholders.**

21 1. The board of directors may propose dissolution for
22 submission to the shareholders by first adopting a resolution
23 authorizing the dissolution.

24 2. *a.* For a proposal to dissolve to be adopted, it shall
25 then be approved by the shareholders. In submitting the
26 proposal to dissolve to the shareholders for approval, the
27 board of directors shall recommend that the shareholders
28 approve the dissolution, unless any of the following apply:

29 (1) The board of directors determines that because of
30 conflict of interest or other special circumstances it should
31 make no recommendation.

32 (2) Section 490.826 applies.

33 *b.* If paragraph "a", subparagraph (1) or (2), applies, the
34 board shall inform the shareholders of the basis for its so
35 proceeding.

1 3. The board of directors may set conditions for the
2 approval of the proposal for dissolution by shareholders or the
3 effectiveness of the dissolution.

4 4. If the approval of the shareholders is to be given at
5 a meeting, the corporation shall notify each shareholder,
6 regardless of whether entitled to vote, of the meeting of
7 shareholders at which the dissolution is to be submitted for
8 approval. The notice must state that the purpose, or one of
9 the purposes, of the meeting is to consider dissolving the
10 corporation.

11 5. Unless the articles of incorporation, bylaws, or the
12 board of directors acting pursuant to subsection 3 require a
13 greater vote, a greater quorum, or a vote by voting groups,
14 adoption of the proposal to dissolve shall require the approval
15 of the shareholders at a meeting at which a quorum exists
16 consisting of a majority of the votes entitled to be cast on
17 the proposal to dissolve.

18 Sec. 169. Section 490.1403, Code 2020, is amended by
19 striking the section and inserting in lieu thereof the
20 following:

21 **490.1403 Articles of dissolution.**

22 1. At any time after dissolution is authorized, the
23 corporation may dissolve by delivering to the secretary of
24 state for filing articles of dissolution setting forth all of
25 the following:

26 a. The name of the corporation.

27 b. The date that dissolution was authorized.

28 c. If dissolution was approved by the shareholders, a
29 statement that the proposal to dissolve was duly approved by
30 the shareholders in the manner required by this chapter and by
31 the articles of incorporation and bylaws.

32 2. The articles of dissolution shall take effect at the
33 effective date determined in accordance with section 490.123.
34 A corporation is dissolved upon the effective date of its
35 articles of dissolution.

1 3. As used in this part, "*dissolved corporation*" means a
2 corporation whose articles of dissolution have become effective
3 and includes a successor entity to which the remaining assets
4 of the corporation are transferred subject to its liabilities
5 for purposes of liquidation.

6 Sec. 170. Section 490.1404, Code 2020, is amended by
7 striking the section and inserting in lieu thereof the
8 following:

9 **490.1404 Revocation of dissolution.**

10 1. A corporation may revoke its dissolution within one
11 hundred twenty days after its effective date.

12 2. Revocation of dissolution shall be authorized in the
13 same manner as the dissolution was authorized unless that
14 authorization permitted revocation by action of the board of
15 directors alone, in which event the board of directors may
16 revoke the dissolution without shareholder action.

17 3. After the revocation of dissolution is authorized,
18 the corporation may revoke the dissolution by delivering to
19 the secretary of state for filing articles of revocation
20 of dissolution, together with a copy of its articles of
21 dissolution, that set forth all of the following:

22 a. The name of the corporation.

23 b. The effective date of the dissolution that was revoked.

24 c. The date that the revocation of dissolution was
25 authorized.

26 d. If the corporation's board of directors or incorporators
27 revoked the dissolution, a statement to that effect.

28 e. If the corporation's board of directors revoked a
29 dissolution as authorized by the shareholders, a statement that
30 revocation was permitted by action by the board of directors
31 alone pursuant to that authorization.

32 f. If shareholder action was required to revoke the
33 dissolution, a statement that the revocation was duly approved
34 by the shareholders in the manner required by this chapter and
35 by the articles of incorporation and bylaws.

1 4. The articles of revocation of dissolution shall take
2 effect at the effective date determined in accordance with
3 section 490.123. Revocation of dissolution is effective
4 upon the effective date of the articles of revocation of
5 dissolution.

6 5. When the revocation of dissolution is effective, it
7 relates back to and takes effect as of the effective date of
8 the dissolution and the corporation resumes carrying on its
9 business as if the dissolution had never occurred.

10 Sec. 171. Section 490.1405, Code 2020, is amended by
11 striking the section and inserting in lieu thereof the
12 following:

13 **490.1405 Effect of dissolution.**

14 1. A corporation that has dissolved continues its corporate
15 existence but the dissolved corporation shall not carry on any
16 business except that appropriate to wind up and liquidate its
17 business and affairs, including by doing any of the following:

18 a. Collecting its assets.

19 b. Disposing of its properties that will not be distributed
20 in kind to its shareholders.

21 c. Discharging or making provision for discharging its
22 liabilities.

23 d. Making distributions of its remaining assets among its
24 shareholders according to their interests.

25 e. Doing every other act necessary to wind up and liquidate
26 its business and affairs.

27 2. Dissolution of a corporation does not do any of the
28 following:

29 a. Transfer title to the corporation's property.

30 b. Prevent transfer of its shares or securities.

31 c. Subject its directors or officers to standards of conduct
32 different from those prescribed in subchapter VIII.

33 d. Change any of the following:

34 (1) Quorum or voting requirements for its board of directors
35 or shareholders.

1 (2) Provisions for selection, resignation, or removal of
2 its directors or officers or both.

3 (3) Provisions for amending its bylaws.

4 *e.* Prevent commencement of a proceeding by or against the
5 corporation in its corporate name.

6 *f.* Abate or suspend a proceeding pending by or against the
7 corporation on the effective date of dissolution.

8 *g.* Terminate the authority of the registered agent of the
9 corporation.

10 3. A distribution in liquidation under this section may
11 only be made by a dissolved corporation. For purposes of
12 determining the shareholders entitled to receive a distribution
13 in liquidation, the board of directors may fix a record date
14 for determining shareholders entitled to a distribution in
15 liquidation, which date shall not be retroactive. If the
16 board of directors does not fix a record date for determining
17 shareholders entitled to a distribution in liquidation, the
18 record date is the date the board of directors authorizes the
19 distribution in liquidation.

20 Sec. 172. Section 490.1406, Code 2020, is amended by
21 striking the section and inserting in lieu thereof the
22 following:

23 **490.1406 Known claims against dissolved corporation.**

24 1. A dissolved corporation may dispose of the known claims
25 against it by notifying its known claimants in writing of the
26 dissolution at any time after its effective date.

27 2. The written notice must do all of the following:

28 *a.* Describe information that must be included in a claim.

29 *b.* Provide a mailing address where a claim may be sent.

30 *c.* State the deadline, which must not be fewer than one
31 hundred twenty days after the written notice is effective, by
32 which the dissolved corporation shall receive the claim.

33 *d.* State that the claim will be barred if not received by
34 the deadline.

35 3. A claim against the dissolved corporation is barred if

1 any of the following occurs:

2 *a.* A claimant who was given written notice under subsection
3 2 does not deliver the claim to the dissolved corporation by
4 the deadline.

5 *b.* A claimant whose claim was rejected by the dissolved
6 corporation does not commence a proceeding to enforce the claim
7 within ninety days after the rejection notice is effective.

8 4. As used in this section, "*claim*" does not include a
9 contingent liability or a claim based on an event occurring
10 after the effective date of dissolution.

11 Sec. 173. Section 490.1407, Code 2020, is amended by
12 striking the section and inserting in lieu thereof the
13 following:

14 **490.1407 Other claims against dissolved corporation.**

15 1. A dissolved corporation may publish notice of its
16 dissolution and request that persons with claims against the
17 dissolved corporation present them in accordance with the
18 notice.

19 2. The notice must meet all of the following requirements:

20 *a.* Be published in compliance with any of the following:

21 (1) One time in a newspaper of general circulation in the
22 county where the dissolved corporation's principal office, or,
23 if none in this state, its registered office, is or was last
24 located.

25 (2) Be posted conspicuously for at least thirty days on the
26 dissolved corporation's internet site.

27 *b.* Describe the information that must be included in a claim
28 and provide a mailing address where the claim may be sent.

29 *c.* State that a claim against the dissolved corporation will
30 be barred unless a proceeding to enforce the claim is commenced
31 within three years after the publication of the notice.

32 3. If the dissolved corporation publishes a notice in
33 accordance with subsection 2, the claim of each of the
34 following claimants is barred unless the claimant commences
35 a proceeding to enforce the claim against the dissolved

1 corporation within three years after the publication date of
2 the notice:

3 a. A claimant who was not given written notice under section
4 490.1406.

5 b. A claimant whose claim was timely sent to the dissolved
6 corporation but not acted on by the corporation.

7 c. A claimant whose claim is contingent or based on an event
8 occurring after the effective date of dissolution.

9 4. A claim that is not barred by section 490.1406,
10 subsection 2, or subsection 3 of this section, may be enforced
11 in any of the following ways:

12 a. Against the dissolved corporation, to the extent of its
13 undistributed assets.

14 b. Except as provided in section 490.1408, subsection 4,
15 if the assets have been distributed in liquidation, against
16 a shareholder of the dissolved corporation to the extent of
17 the shareholder's pro rata share of the claim or the corporate
18 assets distributed to the shareholder in liquidation, whichever
19 is less, but a shareholder's total liability for all claims
20 under this section shall not exceed the total amount of assets
21 distributed to the shareholder in liquidation.

22 Sec. 174. Section 490.1409, Code 2020, is amended by
23 striking the section and inserting in lieu thereof the
24 following:

25 **490.1409 Director duties.**

26 1. Directors shall cause the dissolved corporation to
27 discharge or make reasonable provision for the payment of
28 claims and make distributions in liquidation of assets to
29 shareholders after payment or provision for claims.

30 2. Directors of a dissolved corporation which has disposed
31 of claims under section 490.1406, 490.1407, or 490.1408 shall
32 not be liable for breach of subsection 1 with respect to claims
33 against the dissolved corporation that are barred or satisfied
34 under section 490.1406, 490.1407, or 490.1408.

35 Sec. 175. Section 490.1420, Code 2020, is amended by

1 striking the section and inserting in lieu thereof the
2 following:

3 **490.1420 Grounds for administrative dissolution.**

4 The secretary of state may commence a proceeding under
5 section 490.1421 to dissolve a corporation administratively,
6 if any of the following apply:

7 1. The corporation does not pay within sixty days after they
8 are due any fees, taxes, interest, or penalties imposed by this
9 chapter or other laws of this state.

10 2. The corporation does not deliver its biennial report to
11 the secretary of state within sixty days after it is due.

12 3. The corporation is without a registered agent or
13 registered office in this state for sixty days or more.

14 4. The secretary of state has not been notified within sixty
15 days that the corporation's registered agent or registered
16 office has been changed, that its registered agent has
17 resigned, or that its registered office has been discontinued.

18 5. The corporation's period of duration stated in its
19 articles of incorporation expires.

20 Sec. 176. Section 490.1421, Code 2020, is amended by
21 striking the section and inserting in lieu thereof the
22 following:

23 **490.1421 Procedure for and effect of administrative
24 dissolution.**

25 1. If the secretary of state determines that one or
26 more grounds exist under section 490.1420 for dissolving a
27 corporation, the secretary of state shall serve the corporation
28 with written notice of such determination under section
29 490.504.

30 2. If the corporation does not correct each ground for
31 dissolution or demonstrate to the reasonable satisfaction of
32 the secretary of state that each ground determined by the
33 secretary of state does not exist within sixty days after
34 service of the notice under section 490.504, the secretary
35 of state shall administratively dissolve the corporation by

1 signing a certificate of dissolution that recites the ground or
2 grounds for dissolution and its effective date. The secretary
3 of state shall file the original of the certificate and serve a
4 copy on the corporation under section 490.504.

5 3. A corporation administratively dissolved continues
6 its corporate existence but shall not carry on any business
7 except that necessary to wind up and liquidate its business
8 and affairs under section 490.1405 and notify claimants under
9 sections 490.1406 and 490.1407.

10 4. The administrative dissolution of a corporation does not
11 terminate the authority of its registered agent.

12 Sec. 177. Section 490.1422, Code 2020, is amended by
13 striking the section and inserting in lieu thereof the
14 following:

15 **490.1422 Reinstatement following administrative dissolution.**

16 1. A corporation administratively dissolved under section
17 490.1421 may apply to the secretary of state for reinstatement
18 at any time after the effective date of dissolution. The
19 application must meet all of the following requirements:

20 a. State the name of the corporation at its date of
21 dissolution and the effective date of its administrative
22 dissolution.

23 b. State that the ground or grounds for dissolution either
24 did not exist or have been eliminated.

25 c. If the application is received more than five years after
26 the effective date of dissolution, state a corporate name that
27 satisfies the requirements of section 490.401.

28 d. State the federal tax identification number of the
29 corporation.

30 2. a. The secretary of state shall refer the federal
31 tax identification number contained in the application for
32 reinstatement to the departments of revenue and workforce
33 development. The departments of revenue and workforce
34 development shall report to the secretary of state the tax
35 status of the corporation. If either department reports to

1 the secretary of state that a filing delinquency or liability
2 exists against the corporation, the secretary of state shall
3 not cancel the certificate of dissolution until the filing
4 delinquency or liability is satisfied.

5 *b.* (1) If the secretary of state determines that the
6 application contains the information required by subsection
7 1, and that a delinquency or liability reported pursuant to
8 paragraph "a" has been satisfied, and that the information is
9 correct, the secretary of state shall cancel the certificate
10 of dissolution and prepare a certificate of reinstatement
11 that recites the secretary of state's determination and the
12 effective date of reinstatement, file the certificate of
13 reinstatement, and deliver a copy to the corporation under
14 section 490.504.

15 (2) If the corporate name in subsection 1, paragraph "c", is
16 different from the corporate name in subsection 1, paragraph
17 "a", the certificate of reinstatement shall constitute an
18 amendment to the articles of incorporation insofar as it
19 pertains to the corporate name. A corporation shall not
20 relinquish the right to retain its corporate name if the
21 reinstatement is effective within five years of the effective
22 date of the corporation's dissolution.

23 3. When the reinstatement is effective, it relates back to
24 and takes effect as of the effective date of the administrative
25 dissolution as if the administrative dissolution had never
26 occurred.

27 Sec. 178. Section 490.1423, Code 2020, is amended by
28 striking the section and inserting in lieu thereof the
29 following:

30 **490.1423 Appeal from denial of reinstatement.**

31 1. If the secretary of state denies a corporation's
32 application for reinstatement following administrative
33 dissolution, the secretary of state shall serve the corporation
34 under section 490.504 with a written notice that explains the
35 reason or reasons for denial.

1 2. The corporation may appeal the denial of reinstatement to
2 district court within thirty days after service of the notice
3 of denial is effected. The corporation appeals by petitioning
4 the court to set aside the dissolution and attaching to the
5 petition copies of the secretary of state's certificate of
6 dissolution, the corporation's application for reinstatement,
7 and the secretary of state's notice of denial.

8 3. The court may summarily order the secretary of state to
9 reinstate the dissolved corporation or may take other action
10 the court considers appropriate.

11 4. The court's final decision may be appealed as in other
12 civil proceedings.

13 Sec. 179. Section 490.1430, Code 2020, is amended by
14 striking the section and inserting in lieu thereof the
15 following:

16 **490.1430 Grounds for judicial dissolution.**

17 1. The district court may dissolve a corporation in any of
18 the following ways:

19 *a.* A proceeding by the attorney general if it is established
20 that any of the following apply:

21 (1) The corporation obtained its articles of incorporation
22 through fraud.

23 (2) The corporation has continued to exceed or abuse the
24 authority conferred upon it by law.

25 *b.* A proceeding by a shareholder if it is established that
26 any of the following conditions exist:

27 (1) The directors are deadlocked in the management of
28 the corporate affairs, the shareholders are unable to break
29 the deadlock, and irreparable injury to the corporation is
30 threatened or being suffered, or the business and affairs of
31 the corporation can no longer be conducted to the advantage of
32 the shareholders generally, because of the deadlock.

33 (2) The directors or those in control of the corporation
34 have acted, are acting, or will act in a manner that is
35 illegal, oppressive, or fraudulent.

1 (3) The shareholders are deadlocked in voting power and have
2 failed, for a period that includes at least two consecutive
3 annual meeting dates, to elect successors to directors whose
4 terms have expired.

5 (4) The corporate assets are being misapplied or wasted.

6 c. A proceeding by a creditor if it is established that any
7 of the following applies:

8 (1) The creditor's claim has been reduced to judgment,
9 the execution on the judgment returned unsatisfied, and the
10 corporation is insolvent.

11 (2) The corporation has admitted in writing that the
12 creditor's claim is due and owing and the corporation is
13 insolvent.

14 d. A proceeding by the corporation to have its voluntary
15 dissolution continued under court supervision.

16 e. A proceeding by a shareholder if the corporation has
17 abandoned its business and has failed within a reasonable time
18 to liquidate and distribute its assets and dissolve.

19 2. Subsection 1, paragraph "b", shall not apply in the
20 case of a corporation that, on the date of the filing of the
21 proceeding, has a class or series of shares which is any of the
22 following:

23 a. A covered security under section 18(b)(1)(A) or (B) of
24 the federal Securities Act of 1933.

25 b. Not a covered security, but is held by at least three
26 hundred shareholders and the shares outstanding have a market
27 value of at least twenty million dollars, exclusive of the
28 value of such shares held by the corporation's subsidiaries,
29 senior executives, directors, and if they own more than ten
30 percent of such shares, beneficial shareholders, and voting
31 trust beneficial owners.

32 3. a. As used in subsection 1, "shareholder" means a record
33 shareholder, a beneficial shareholder, and an unrestricted
34 voting trust beneficial owner.

35 b. As used in subsection 2, "shareholder" means a record

1 shareholder, a beneficial shareholder, and a voting trust
2 beneficial owner.

3 Sec. 180. Section 490.1431, Code 2020, is amended by
4 striking the section and inserting in lieu thereof the
5 following:

6 **490.1431 Procedure for judicial dissolution.**

7 1. Venue for a proceeding by the attorney general
8 to dissolve a corporation lies in Polk county. Venue
9 for a proceeding brought by any other party named in
10 section 490.1430, subsection 1, lies in the county where a
11 corporation's principal office or, if none in this state, its
12 registered office is or was last located.

13 2. It is not necessary to make shareholders parties to a
14 proceeding to dissolve a corporation unless relief is sought
15 against them individually.

16 3. A court in a proceeding brought to dissolve a corporation
17 may issue injunctions, appoint a receiver or custodian during
18 the proceeding with all powers and duties the court directs,
19 take other action required to preserve the corporate assets
20 wherever located, and carry on the business of the corporation
21 until a full hearing can be held.

22 4. Within ten days of the commencement of a proceeding
23 to dissolve a corporation under section 490.1430, subsection
24 1, paragraph "b", the corporation shall deliver to all
25 shareholders, other than the petitioner, a notice stating that
26 the shareholders are entitled to avoid the dissolution of the
27 corporation by electing to purchase the petitioner's shares
28 under section 490.1434, and accompanied by a copy of section
29 490.1434.

30 Sec. 181. Section 490.1432, Code 2020, is amended by
31 striking the section and inserting in lieu thereof the
32 following:

33 **490.1432 Receivership or custodianship.**

34 1. Unless an election to purchase has been filed under
35 section 490.1434, a court in a judicial proceeding brought to

1 dissolve a corporation may appoint one or more receivers to
2 wind up and liquidate, or one or more custodians to manage,
3 the business and affairs of the corporation. The court shall
4 hold a hearing, after notifying all parties to the proceeding
5 and any interested persons designated by the court, before
6 appointing a receiver or custodian. The court appointing a
7 receiver or custodian has jurisdiction over the corporation and
8 all of its property wherever located.

9 2. The court may appoint an individual or a domestic
10 or foreign corporation or eligible entity as a receiver or
11 custodian, which, if a foreign corporation or foreign eligible
12 entity, must be registered to do business in this state. The
13 court may require the receiver or custodian to post bond, with
14 or without sureties, in an amount the court directs.

15 3. The court shall describe the powers and duties of the
16 receiver or custodian in its appointing order, which may be
17 amended from time to time. Among other powers all of the
18 following apply:

19 *a.* The receiver may do any or all of the following:

20 (1) Dispose of all or any part of the assets of the
21 corporation wherever located, at a public or private sale.

22 (2) Sue and defend in the receiver's own name as receiver of
23 the corporation in all courts of this state.

24 *b.* The custodian may exercise all of the powers of the
25 corporation, through or in place of its board of directors, to
26 the extent necessary to manage the affairs of the corporation
27 in the best interests of its shareholders and creditors.

28 *c.* The receiver or custodian shall have such other powers
29 and duties as the court may provide in the appointing order,
30 which may be amended from time to time.

31 4. The court during a receivership may redesignate the
32 receiver a custodian and during a custodianship may redesignate
33 the custodian a receiver.

34 5. The court from time to time during the receivership or
35 custodianship may order compensation paid and expenses paid or

1 reimbursed to the receiver or custodian from the assets of the
2 corporation or proceeds from the sale of the assets.

3 Sec. 182. Section 490.1434, Code 2020, is amended by
4 striking the section and inserting in lieu thereof the
5 following:

6 **490.1434 Election to purchase in lieu of dissolution.**

7 1. In a proceeding under section 490.1430, subsection 1,
8 paragraph "b", to dissolve a corporation, the corporation
9 may elect or, if it fails to elect, one or more shareholders
10 may elect to purchase all shares owned by the petitioning
11 shareholder at the fair value of the shares. An election
12 pursuant to this section shall be irrevocable unless the court
13 determines that it is equitable to set aside or modify the
14 election.

15 2. An election to purchase pursuant to this section may
16 be filed with the court at any time within ninety days after
17 the filing of the petition under section 490.1430, subsection
18 1, paragraph "b", or at such later time as the court in its
19 discretion may allow. If the election to purchase is filed
20 by one or more shareholders, the corporation shall, within
21 ten days thereafter, give written notice to all shareholders,
22 other than the petitioner. The notice must state the name
23 and number of shares owned by the petitioner and the name and
24 number of shares owned by each electing shareholder and must
25 advise the recipients of their right to join in the election to
26 purchase shares in accordance with this section. Shareholders
27 who wish to participate shall file notice of their intention
28 to join in the purchase no later than thirty days after
29 the effectiveness of the notice to them. All shareholders
30 who have filed an election or notice of their intention to
31 participate in the election to purchase thereby become parties
32 to the proceeding and shall participate in the purchase in
33 proportion to their ownership of shares as of the date the
34 first election was filed, unless they otherwise agree or the
35 court otherwise directs. After an election has been filed by

1 the corporation or one or more shareholders, the proceeding
2 under section 490.1430, subsection 1, paragraph "b", shall
3 not be discontinued or settled, nor shall the petitioning
4 shareholder sell or otherwise dispose of the shareholder's
5 shares, unless the court determines that it would be equitable
6 to the corporation and the shareholders, other than the
7 petitioner, to permit such discontinuance, settlement, sale, or
8 other disposition.

9 3. If, within sixty days of the filing of the first
10 election, the parties reach agreement as to the fair value
11 and terms of purchase of the petitioner's shares, the court
12 shall enter an order directing the purchase of the petitioner's
13 shares upon the terms and conditions agreed to by the parties.

14 4. If the parties are unable to reach an agreement as
15 provided for in subsection 3, the court, upon application of
16 any party, shall stay the proceedings under section 490.1430,
17 subsection 1, paragraph "b", and determine the fair value of
18 the petitioner's shares as of the day before the date on which
19 the petition under section 490.1430, subsection 1, paragraph
20 "b", was filed or as of such other date as the court deems
21 appropriate under the circumstances.

22 5. Upon determining the fair value of the shares, the
23 court shall enter an order directing the purchase upon such
24 terms and conditions as the court deems appropriate, which may
25 include payment of the purchase price in installments, where
26 necessary in the interests of equity, provision for security
27 to assure payment of the purchase price and any additional
28 expenses as may have been awarded, and, if the shares are to
29 be purchased by shareholders, the allocation of shares among
30 them. In allocating the petitioner's shares among holders of
31 different classes or series of shares, the court should attempt
32 to preserve the existing distribution of voting rights among
33 holders of different classes or series insofar as practicable
34 and may direct that holders of a specific class or classes or
35 series shall not participate in the purchase. Interest may be

1 allowed at the rate and from the date determined by the court
2 to be equitable, but if the court finds that the refusal of
3 the petitioning shareholder to accept an offer of payment was
4 arbitrary or otherwise not in good faith, no interest shall be
5 allowed. If the court finds that the petitioning shareholder
6 had probable grounds for relief under section 490.1430,
7 subsection 1, paragraph "b", subparagraph (2) or (4), it may
8 award expenses to the petitioning shareholder.

9 6. Upon entry of an order under subsection 3 or 5, the
10 court shall dismiss the petition to dissolve the corporation
11 under section 490.1430, subsection 1, paragraph "b", and the
12 petitioning shareholder shall no longer have any rights or
13 status as a shareholder of the corporation, except the right
14 to receive the amounts awarded by the order of the court which
15 shall be enforceable in the same manner as any other judgment.

16 7. The purchase ordered pursuant to subsection 5 shall be
17 made within ten days after the date the order becomes final.

18 8. Any payment by the corporation pursuant to an order under
19 subsection 3 or 5, other than an award of expenses pursuant to
20 subsection 5, is subject to the provisions of section 490.640.

21 Sec. 183. Section 490.1440, Code 2020, is amended by
22 striking the section and inserting in lieu thereof the
23 following:

24 **490.1440 Deposit with state treasurer.**

25 Assets of a dissolved corporation that should be transferred
26 to a creditor, claimant, or shareholder of the corporation who
27 cannot be found or who is not competent to receive them shall
28 be reduced to cash and deposited with the treasurer of state
29 or other appropriate state official for safekeeping. When the
30 creditor, claimant, or shareholder furnishes satisfactory proof
31 of entitlement to the amount deposited, the treasurer of state
32 or other appropriate state official shall pay such person, or
33 the representative of such person, that amount.

34 Sec. 184. Section 490.1501, Code 2020, is amended by
35 striking the section and inserting in lieu thereof the

1 following:

2 **490.1501 Governing law.**

3 1. The law of the jurisdiction of formation of a foreign
4 corporation governs all of the following:

5 a. The internal affairs of the foreign corporation.

6 b. The interest holder liability of its shareholders.

7 2. A foreign corporation is not precluded from registering
8 to do business in this state because of any difference between
9 the law of the foreign corporation's jurisdiction of formation
10 and the law of this state.

11 3. Registration of a foreign corporation to do business in
12 this state does not permit the foreign corporation to engage in
13 any business or affairs or exercise any power that a domestic
14 corporation cannot lawfully engage in or exercise in this
15 state.

16 Sec. 185. Section 490.1502, Code 2020, is amended by
17 striking the section and inserting in lieu thereof the
18 following:

19 **490.1502 Registration to do business in this state.**

20 1. A foreign corporation shall not do business in this
21 state until it registers with the secretary of state under this
22 chapter.

23 2. A foreign corporation doing business in this state shall
24 not maintain a proceeding in any court of this state until it
25 is registered to do business in this state.

26 3. The failure of a foreign corporation to register to
27 do business in this state does not impair the validity of a
28 contract or act of the foreign corporation or preclude it from
29 defending a proceeding in this state.

30 4. A limitation on the liability of a shareholder or
31 director of a foreign corporation is not waived solely because
32 the foreign corporation does business in this state without
33 registering.

34 5. Section 490.1501, subsection 1, applies even if a foreign
35 corporation fails to register under this chapter.

1 Sec. 186. Section 490.1503, Code 2020, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 **490.1503 Foreign registration statement.**

5 1. To register to do business in this state, a foreign
6 corporation shall deliver a foreign registration statement to
7 the secretary of state for filing. The registration statement
8 must be signed by the foreign corporation and state all of the
9 following:

10 *a.* The corporate name of the foreign corporation and, if the
11 name does not comply with section 490.401, an alternate name as
12 required by section 490.1506.

13 *b.* The foreign corporation's jurisdiction of formation.

14 *c.* The street and mailing addresses of the foreign
15 corporation's principal office and, if the law of the foreign
16 corporation's jurisdiction of formation requires the foreign
17 corporation to maintain an office in that jurisdiction, the
18 street and mailing addresses of that office.

19 *d.* The street and mailing addresses of the foreign
20 corporation's registered office in this state and the name of
21 its registered agent at that office.

22 *e.* The names and business addresses of its directors and
23 principal officers.

24 2. The foreign corporation shall deliver the completed
25 foreign registration statement to the secretary of state,
26 and also deliver to the secretary of state a certificate of
27 existence or a document of similar import duly authenticated
28 by the secretary of state or other official having custody of
29 corporate records in the state or country under whose law it is
30 incorporated which is dated no earlier than ninety days prior
31 to the date the application is filed with the secretary of
32 state.

33 Sec. 187. Section 490.1504, Code 2020, is amended by
34 striking the section and inserting in lieu thereof the
35 following:

1 **490.1504 Amendment of foreign registration statement.**

2 A registered foreign corporation shall sign and deliver to
3 the secretary of state for filing an amendment to its foreign
4 registration statement if there is a change in any of the
5 following:

6 1. Its name or alternate name.

7 2. Its jurisdiction of formation, unless its registration
8 is deemed to have been withdrawn under section 490.1508 or
9 transferred under section 490.1510.

10 3. An address required by section 490.1503, subsection 1,
11 paragraph "c".

12 Sec. 188. Section 490.1505, Code 2020, is amended by
13 striking the section and inserting in lieu thereof the
14 following:

15 **490.1505 Activities not constituting doing business.**

16 1. Activities of a foreign corporation that do not
17 constitute doing business in this state for purposes of this
18 subchapter include all of the following:

19 *a.* Maintaining, defending, mediating, arbitrating, or
20 settling a proceeding.

21 *b.* Carrying on any activity concerning the internal affairs
22 of the foreign corporation, including holding meetings of its
23 shareholders or board of directors.

24 *c.* Maintaining accounts in financial institutions.

25 *d.* Maintaining offices or agencies for the transfer,
26 exchange, and registration of securities of the foreign
27 corporation or maintaining trustees or depositories with
28 respect to those securities.

29 *e.* Selling through independent contractors.

30 *f.* Soliciting or obtaining orders by any means if the
31 orders require acceptance outside this state before they become
32 contracts.

33 *g.* Creating or acquiring indebtedness, mortgages, or
34 security interests in property.

35 *h.* Securing or collecting debts or enforcing mortgages or

1 security interests in property securing the debts, and holding,
2 protecting, or maintaining property so acquired.

3 *i.* Conducting an isolated transaction that is not in the
4 course of similar transactions.

5 *j.* Owning, protecting, and maintaining property.

6 *k.* Doing business in interstate commerce.

7 2. This section does not apply in determining the contacts
8 or activities that may subject a foreign corporation to service
9 of process, taxation, or regulation under the laws of this
10 state other than this chapter.

11 Sec. 189. Section 490.1506, Code 2020, is amended by
12 striking the section and inserting in lieu thereof the
13 following:

14 **490.1506 Noncomplying name of foreign corporation.**

15 1. A foreign corporation whose name does not comply with
16 section 490.401 shall not register to do business in this state
17 until it adopts, for the purpose of doing business in this
18 state, an alternate name that complies with section 490.401 by
19 filing a foreign registration statement under section 490.1503,
20 or if applicable, a transfer of registration statement under
21 section 490.1510, setting forth that alternate name. After
22 registering to do business in this state with an alternate
23 name, a foreign corporation shall do business in this state
24 under any of the following:

25 *a.* The alternate name.

26 *b.* The foreign corporation's name, with the addition of its
27 jurisdiction of formation.

28 2. If a registered foreign corporation changes its name
29 after registration to a name that does not comply with section
30 490.401, it shall not do business in this state until it
31 complies with subsection 1 by amending its registration
32 statement to adopt an alternate name that complies with section
33 490.401.

34 Sec. 190. Section 490.1507, Code 2020, is amended by
35 striking the section and inserting in lieu thereof the

1 following:

2 **490.1507 Withdrawal of registration of registered foreign**
3 **corporation.**

4 1. A registered foreign corporation may withdraw its
5 registration by delivering a statement of withdrawal to the
6 secretary of state for filing. The statement of withdrawal
7 must be signed by the foreign corporation and state all of the
8 following:

9 a. The name of the foreign corporation and its jurisdiction
10 of formation.

11 b. That the foreign corporation is not doing business
12 in this state and that it withdraws its registration to do
13 business in this state.

14 c. That the foreign corporation revokes the authority of its
15 registered agent in this state.

16 d. An address to which process on the foreign corporation
17 may be sent by the secretary of state under section 490.504,
18 subsection 3.

19 2. After the withdrawal of the registration of a foreign
20 corporation, service of process in any proceeding based on
21 a cause of action arising during the time the entity was
22 registered to do business in this state may be made as provided
23 in section 490.504.

24 Sec. 191. Section 490.1508, Code 2020, is amended by
25 striking the section and inserting in lieu thereof the
26 following:

27 **490.1508 Deemed withdrawal upon domestication or conversion**
28 **to certain domestic entities.**

29 A registered foreign corporation that domesticates to
30 a domestic business corporation or converts to a domestic
31 nonprofit corporation or any type of domestic filing entity or
32 to a domestic limited liability partnership is deemed to have
33 withdrawn its registration on the effectiveness of such event.

34 Sec. 192. Section 490.1509, Code 2020, is amended by
35 striking the section and inserting in lieu thereof the

1 following:

2 **490.1509 Withdrawal upon dissolution or conversion to certain**
3 **nonfiling entities.**

4 1. A registered foreign corporation that has dissolved and
5 completed winding up or has converted to a domestic or foreign
6 nonfiling entity other than a limited liability partnership
7 shall deliver to the secretary of state for filing a statement
8 of withdrawal. The statement must be signed by the dissolved
9 corporation or the converted domestic or foreign nonfiling
10 entity and state:

11 a. In the case of a foreign corporation that has completed
12 winding up all of the following:

13 (1) Its name and jurisdiction of formation.

14 (2) That the foreign corporation withdraws its registration
15 to do business in this state and revokes the authority of its
16 registered agent to accept service on its behalf.

17 (3) An address to which process on the foreign corporation
18 may be sent by the secretary of state under section 490.504,
19 subsection 3.

20 b. In the case of a foreign corporation that has converted
21 to a domestic or foreign nonfiling entity other than a limited
22 liability partnership all of the following:

23 (1) The name of the converting foreign corporation and its
24 jurisdiction of formation.

25 (2) The type of the nonfiling entity to which it has
26 converted and its name and jurisdiction of formation.

27 (3) That it withdraws its registration to do business in
28 this state and revokes the authority of its registered agent to
29 accept service on its behalf.

30 (4) An address to which process on the foreign corporation
31 may be sent by the secretary of state under section 490.504,
32 subsection 3.

33 2. After the withdrawal of the registration of a foreign
34 corporation, service of process in any proceeding based on
35 a cause of action arising during the time the entity was

1 registered to do business in this state may be made as provided
2 in section 490.504.

3 Sec. 193. Section 490.1510, Code 2020, is amended by
4 striking the section and inserting in lieu thereof the
5 following:

6 **490.1510 Transfer of registration.**

7 1. If a registered foreign corporation merges into a
8 nonregistered foreign corporation or converts to a foreign
9 corporation required to register with the secretary of state
10 to do business in this state, the foreign corporation shall
11 deliver to the secretary of state for filing a transfer
12 of registration statement. The transfer of registration
13 statement must be signed by the surviving or converted foreign
14 corporation and state all of the following:

15 a. The name of the registered foreign corporation and its
16 jurisdiction of formation before the merger or conversion.

17 b. The name of the surviving or converted foreign
18 corporation and its jurisdiction of formation after the
19 merger or conversion and, if the name does not comply with
20 section 490.401, an alternate name adopted pursuant to section
21 490.1506.

22 c. All of the following information regarding the
23 surviving or converted foreign corporation after the merger or
24 conversion:

25 (1) The street and mailing addresses of the principal
26 office of the foreign corporation and, if the law of the
27 foreign corporation's jurisdiction of formation requires it to
28 maintain an office in that jurisdiction, the street and mailing
29 addresses of that office.

30 (2) The street and mailing addresses of the foreign
31 corporation's registered office in this state and the name of
32 its registered agent at that office.

33 2. On the effective date of a transfer of registration
34 statement as determined in accordance with section 490.123,
35 the registration of the registered foreign corporation to do

1 business in this state is transferred without interruption to
2 the foreign corporation into which it has merged or to which
3 it has been converted.

4 Sec. 194. NEW SECTION. 490.1511 Administrative termination
5 of registration.

6 1. The secretary of state may terminate the registration
7 of a registered foreign corporation in the manner provided in
8 subsections 2 and 3, if any of the following applies:

9 a. The foreign corporation does not pay within sixty days
10 after they are due any fees, taxes, interest, or penalties
11 imposed by this chapter or other laws of this state.

12 b. The foreign corporation does not deliver its biennial
13 report to the secretary of state within sixty days after it is
14 due.

15 c. The foreign corporation is without a registered agent or
16 registered office in this state for sixty days or more.

17 d. The secretary of state has not been notified within
18 sixty days that the foreign corporation's registered agent
19 or registered office has been changed, that its registered
20 agent has resigned, or that its registered office has been
21 discontinued.

22 2. The secretary of state may terminate the registration of
23 a registered foreign corporation by doing all of the following:

24 a. Filing a certificate of termination.

25 b. Delivering a copy of the certificate of termination to
26 the foreign corporation's registered agent or, if the foreign
27 corporation does not have a registered agent, to the foreign
28 corporation's principal office.

29 3. The certificate of termination must state all of the
30 following:

31 a. The effective date of the termination, which must be
32 not less than sixty days after the secretary of state delivers
33 the copy of the certificate of termination as prescribed in
34 subsection 2, paragraph "b".

35 b. The grounds for termination under subsection 1.

1 4. The registration of a registered foreign corporation
2 to do business in this state ceases on the effective date
3 of the termination as set forth in the certificate of
4 termination, unless before that date the foreign corporation
5 cures each ground for termination stated in the certificate of
6 termination. If the foreign corporation cures each ground, the
7 secretary of state shall file a statement that the certificate
8 of termination is withdrawn.

9 5. After the effective date of the termination as set forth
10 in the certificate of termination, service of process in any
11 proceeding based on a cause of action arising during the time
12 the entity was registered to do business in this state may be
13 made as provided in section 490.504.

14 Sec. 195. NEW SECTION. **490.1512 Action by attorney general.**

15 The attorney general may maintain an action to enjoin a
16 foreign corporation from doing business in this state in
17 violation of this chapter.

18 Sec. 196. Section 490.1601, Code 2020, is amended by
19 striking the section and inserting in lieu thereof the
20 following:

21 **490.1601 Corporate records.**

22 1. A corporation shall maintain all of the following
23 records:

24 a. Its articles of incorporation as currently in effect.

25 b. Any notices to shareholders referred to in section
26 490.120, subsection 11, paragraph "e", specifying facts
27 on which a filed document is dependent if those facts are
28 not included in the articles of incorporation or otherwise
29 available as specified in section 490.120, subsection 11,
30 paragraph "e".

31 c. Its bylaws as currently in effect.

32 d. All written communications within the past three years to
33 shareholders generally.

34 e. Minutes of all meetings of, and records of all actions
35 taken without a meeting by, its shareholders, its board of

1 directors, and board committees established under section
2 490.825.

3 *f.* A list of the names and business addresses of its current
4 directors and officers.

5 *g.* Its most recent biennial report delivered to the
6 secretary of state under section 490.1622.

7 2. A corporation shall maintain all annual financial
8 statements prepared for the corporation for its last three
9 fiscal years, or such shorter period of existence, and
10 any audit or other reports with respect to such financial
11 statements.

12 3. A corporation shall maintain accounting records in a form
13 that permits preparation of its financial statements.

14 4. A corporation shall maintain a record of its current
15 shareholders in alphabetical order by class or series of shares
16 showing the address of, and the number and class or series of
17 shares held by, each shareholder. Nothing contained in this
18 subsection shall require the corporation to include in such
19 record the electronic mail address or other electronic contact
20 information of a shareholder.

21 5. A corporation shall maintain the records specified in
22 this section in a manner so that they may be made available for
23 inspection within a reasonable time.

24 Sec. 197. Section 490.1602, Code 2020, is amended by
25 striking the section and inserting in lieu thereof the
26 following:

27 **490.1602 Inspection rights of shareholders.**

28 1. A shareholder of a corporation is entitled to inspect
29 and copy, during regular business hours at the corporation's
30 principal office, any of the records of the corporation
31 described in section 490.1601, subsection 1, excluding minutes
32 of meetings of, and records of actions taken without a meeting
33 by, the corporation's board of directors and board committees
34 established under section 490.825, if the shareholder gives
35 the corporation a signed written notice of the shareholder's

1 demand at least five business days before the date on which the
2 shareholder wishes to inspect and copy.

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

11 a. The financial statements of the corporation maintained in
12 accordance with section 490.1601, subsection 2.

13 b. Accounting records of the corporation.

14 c. Excerpts from minutes of any meeting of, or records of
15 any actions taken without a meeting by, the corporation's board
16 of directors and board committees maintained in accordance with
17 section 490.1601, subsection 1.

18 d. The record of shareholders maintained in accordance with
19 section 490.1601, subsection 4.

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

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

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

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

29 4. The corporation may impose reasonable restrictions on
30 the confidentiality, use, or distribution of records described
31 in subsection 2.

32 5. For any meeting of shareholders for which the record date
33 for determining shareholders entitled to vote at the meeting
34 is different from the record date for notice of the meeting,
35 any person who becomes a shareholder subsequent to the record

1 date for notice of the meeting and is entitled to vote at
2 the meeting is entitled to obtain from the corporation upon
3 request the notice and any other information provided by the
4 corporation to shareholders in connection with the meeting,
5 unless the corporation has made such information generally
6 available to shareholders by posting it on its internet site or
7 by other generally recognized means. Failure of a corporation
8 to provide such information does not affect the validity of
9 action taken at the meeting.

10 6. The right of inspection granted by this section shall
11 not be abolished or limited by a corporation's articles of
12 incorporation or bylaws.

13 7. This section does not affect any of the following:

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

17 b. The power of a court, independently of this chapter,
18 to compel the production of corporate records for examination
19 and to impose reasonable restrictions as provided in section
20 490.1604, subsection 3, provided that, in the case of
21 production of records described in subsection 2, at the request
22 of a shareholder, the shareholder has met the requirements of
23 subsection 3.

24 8. As used in this section, "*shareholder*" means a record
25 shareholder, a beneficial shareholder, and an unrestricted
26 voting trust beneficial owner.

27 Sec. 198. Section 490.1603, Code 2020, is amended by
28 striking the section and inserting in lieu thereof the
29 following:

30 **490.1603 Scope of inspection right.**

31 1. A shareholder may appoint an agent or attorney to
32 exercise the shareholder's inspection and copying rights under
33 section 490.1602.

34 2. The corporation may, if reasonable, satisfy the right
35 of a shareholder to copy records under section 490.1602 by

1 furnishing to the shareholder copies by photocopy or other
2 means chosen by the corporation, including furnishing copies
3 through an electronic transmission.

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

9 4. The corporation may impose a reasonable charge to cover
10 the costs of providing copies of documents to the shareholder,
11 which may be based on an estimate of such costs.

12 Sec. 199. Section 490.1604, Code 2020, is amended by
13 striking the section and inserting in lieu thereof the
14 following:

15 **490.1604 Court-ordered inspection.**

16 1. If a corporation does not allow a shareholder who
17 complies with section 490.1602, subsection 1, to inspect and
18 copy any records required by that section to be available
19 for inspection, the district court of the county where the
20 corporation's principal office or, if none in this state, its
21 registered office, is located, may summarily order inspection
22 and copying of the records demanded at the corporation's
23 expense upon application of the shareholder.

24 2. If a corporation does not within a reasonable time allow
25 a shareholder who complies with section 490.1602, subsection
26 2, to inspect and copy the records required by that section,
27 the shareholder who complies with section 490.1602, subsection
28 3, may apply to the district court in the county where the
29 corporation's principal office or, if none in this state, its
30 registered office, is located for an order to permit inspection
31 and copying of the records demanded. The court shall dispose
32 of an application under this subsection on an expedited basis.

33 3. If the court orders inspection and copying of the
34 records demanded under section 490.1602, subsection 2, it
35 may impose reasonable restrictions on their confidentiality,

1 use, or distribution by the demanding shareholder and it
2 shall also order the corporation to pay the shareholder's
3 expenses incurred to obtain the order, unless the corporation
4 establishes that it refused inspection in good faith because
5 of any of the following:

6 a. The corporation had a reasonable basis for doubt about
7 the right of the shareholder to inspect the records demanded.

8 b. The corporation required reasonable restrictions on the
9 confidentiality, use, or distribution of the records demanded
10 to which the demanding shareholder had been unwilling to agree.

11 Sec. 200. Section 490.1605, Code 2020, is amended by
12 striking the section and inserting in lieu thereof the
13 following:

14 **490.1605 Inspection of records by directors.**

15 1. A director of a corporation is entitled to inspect and
16 copy the books, records, and documents of the corporation at
17 any reasonable time to the extent reasonably related to the
18 performance of the director's duties as a director, including
19 duties as a member of a board committee, but not for any other
20 purpose or in any manner that would violate any duty to the
21 corporation.

22 2. The district court of the county where the corporation's
23 principal office, or if none in this state, its registered
24 office, is located may order inspection and copying of the
25 books, records, and documents at the corporation's expense,
26 upon application of a director who has been refused such
27 inspection rights, unless the corporation establishes that the
28 director is not entitled to such inspection rights. The court
29 shall dispose of an application under this subsection on an
30 expedited basis.

31 3. If an order is issued, the court may include provisions
32 protecting the corporation from undue burden or expense, and
33 prohibiting the director from using information obtained upon
34 exercise of the inspection rights in a manner that would
35 violate a duty to the corporation, and may also order the

1 corporation to reimburse the director for the director's
2 expenses incurred in connection with the application.

3 Sec. 201. Section 490.1620, Code 2020, is amended by
4 striking the section and inserting in lieu thereof the
5 following:

6 **490.1620 Financial statements for shareholders.**

7 1. Upon the written request of a shareholder, a corporation
8 shall deliver or make available to such requesting shareholder
9 by posting on its internet site or by other generally
10 recognized means annual financial statements for the most
11 recent fiscal year of the corporation for which annual
12 financial statements have been prepared for the corporation.
13 If financial statements have been prepared for the corporation
14 on the basis of generally accepted accounting principles
15 for such specified period, the corporation shall deliver or
16 make available such financial statements to the requesting
17 shareholder. If the annual financial statements to be
18 delivered or made available to the requesting shareholder are
19 audited or otherwise reported upon by a public accountant,
20 the report shall also be delivered or made available to the
21 requesting shareholder.

22 2. A corporation shall deliver, or make available and
23 provide written notice of availability of, the financial
24 statements required under subsection 1 to the requesting
25 shareholder within five business days of delivery of such
26 written request to the corporation.

27 3. A corporation may fulfill its responsibilities under
28 this section by delivering the specified financial statements,
29 or otherwise making them available, in any manner permitted by
30 the applicable rules and regulations of the federal securities
31 and exchange commission.

32 4. Notwithstanding the provisions of subsections 1, 2, and
33 3, all of the following apply:

34 a. As a condition to delivering or making available
35 financial statements to a requesting shareholder, the

1 corporation may require the requesting shareholder to agree
2 to reasonable restrictions on the confidentiality, use, and
3 distribution of such financial statements.

4 *b.* The corporation may, if it reasonably determines that the
5 shareholder's request is not made in good faith or for a proper
6 purpose, decline to deliver or make available such financial
7 statements to that shareholder.

8 5. If a corporation does not respond to a shareholder's
9 request for annual financial statements pursuant to this
10 section in accordance with subsection 2 within five business
11 days of delivery of such request to the corporation all of the
12 following shall apply:

13 *a.* The requesting shareholder may apply to the district
14 court of the county where the corporation's principal
15 office, or if none in this state, its registered office, is
16 located for an order requiring delivery of or access to the
17 requested financial statements. The court shall dispose of an
18 application under this subsection on an expedited basis.

19 *b.* If the court orders delivery or access to the requested
20 financial statements, it may impose reasonable restrictions on
21 their confidentiality, use, or distribution.

22 *c.* In such proceeding, if the corporation has declined to
23 deliver or make available such financial statements because
24 the shareholder had been unwilling to agree to restrictions
25 proposed by the corporation on the confidentiality, use, and
26 distribution of such financial statements, the corporation
27 shall have the burden of demonstrating that the restrictions
28 proposed by the corporation were reasonable.

29 *d.* In such proceeding, if the corporation has declined to
30 deliver or make available such financial statements pursuant
31 to subsection 4, paragraph "b", the corporation shall have the
32 burden of demonstrating that it had reasonably determined that
33 the shareholder's request was not made in good faith or for a
34 proper purpose.

35 *e.* If the court orders delivery or access to the requested

1 financial statements it shall order the corporation to pay the
2 shareholder's expenses incurred to obtain such order unless
3 the corporation establishes that it had refused delivery or
4 access to the requested financial statements because the
5 shareholder had refused to agree to reasonable restrictions
6 on the confidentiality, use, or distribution of the financial
7 statements or that the corporation had reasonably determined
8 that the shareholder's request was not made in good faith or
9 for a proper purpose.

10 Sec. 202. Section 490.1622, Code 2020, is amended by
11 striking the section and inserting in lieu thereof the
12 following:

13 **490.1622 Biennial report for secretary of state.**

14 1. Each domestic corporation shall deliver to the secretary
15 of state for filing a biennial report that sets forth all of
16 the following:

17 *a.* The name of the corporation.

18 *b.* The street and mailing addresses of its registered office
19 and the name of its registered agent at that office in this
20 state.

21 *c.* The street and mailing addresses of its principal office.

22 *d.* The names and business addresses of the president,
23 secretary, treasurer, and one of the board of directors.

24 2. Each foreign corporation registered to do business in
25 this state shall deliver to the secretary of state for filing a
26 biennial report that sets forth all of the following:

27 *a.* The name of the foreign corporation and, if the name does
28 not comply with section 490.401, an alternate name as required
29 by section 490.1506.

30 *b.* The foreign corporation's jurisdiction of formation.

31 *c.* The street and mailing addresses of the foreign
32 corporation's principal office and, if the law of the foreign
33 corporation's jurisdiction of formation requires the foreign
34 corporation to maintain an office in that jurisdiction, the
35 street and mailing addresses of that office.

1 *d.* The street and mailing addresses of the foreign
2 corporation's registered office in this state and the name of
3 its registered agent at that office.

4 *e.* The names and business addresses of the president,
5 secretary, treasurer, and one of the board of directors.

6 3. Information in the biennial report must be current as
7 of the date the biennial report is signed on behalf of the
8 corporation. The report shall be executed on behalf of the
9 corporation and signed as provided in section 490.120 or by
10 any other person authorized by the board of directors of the
11 corporation.

12 4. The first biennial report shall be delivered to the
13 secretary of state between January 1 and April 1 of the
14 first even-numbered year following the calendar year in
15 which a domestic corporation was incorporated or a foreign
16 corporation was authorized to transact business. Subsequent
17 biennial reports must be delivered to the secretary of state
18 between January 1 and April 1 of the following even-numbered
19 calendar years. A filing fee for the biennial report shall be
20 determined by the secretary of state. For purposes of this
21 section, each biennial report shall contain information related
22 to the two-year period immediately preceding the calendar year
23 in which the report is filed.

24 5. If a biennial report does not contain the information
25 required by this section, the secretary of state shall promptly
26 notify the reporting domestic or foreign corporation in writing
27 and return the report to it for correction. If the report is
28 corrected to contain the information required by this section
29 and delivered to the secretary of state within thirty days
30 after the notice from the secretary of state becomes effective
31 as determined in accordance with section 490.141, it is deemed
32 to be timely filed.

33 6. The secretary of state may provide for the change of
34 registered office or registered agent on the form prescribed by
35 the secretary of state for the biennial report, provided that

1 the form contains the information required in section 490.502.
2 If the secretary of state determines that a biennial report
3 does not contain the information required by this section but
4 otherwise meets the requirements of section 490.502 for the
5 purpose of changing the registered office or registered agent,
6 the secretary of state shall file the statement of change of
7 registered office or registered agent, effective as provided in
8 section 490.123, before returning the biennial report to the
9 corporation as provided in this section. A statement of change
10 of registered office or agent pursuant to this subsection shall
11 be executed by a person authorized to execute the biennial
12 report.

13 Sec. 203. Section 490.1701, Code 2020, is amended by
14 striking the section and inserting in lieu thereof the
15 following:

16 **490.1701 Application of subchapter — definitions.**

17 1. If a corporation elects to become a benefit corporation
18 under this subchapter in the manner prescribed in this
19 subchapter, it is subject in all respects to the provisions
20 of this subchapter, except to the extent this subchapter
21 imposes additional or different requirements, in which case
22 such requirements apply. The inclusion of a provision in this
23 subchapter does not imply that a contrary or different rule of
24 law applies to a corporation that is not a benefit corporation.
25 This subchapter does not affect a statute or rule of law that
26 applies to a corporation that is not a benefit corporation.

27 2. As used in this subchapter:

28 *a. "Benefit corporation"* means a corporation that includes
29 in its articles of incorporation a statement that the
30 corporation is subject to this subchapter.

31 *b. "Public benefit"* means a positive effect, or reduction of
32 negative effects, on one or more communities or categories of
33 persons or entities, other than shareholders solely in their
34 capacity as shareholders, or on the environment, including
35 effects of an artistic, charitable, economic, educational,

1 cultural, literary, medical, religious, social, ecological, or
2 scientific nature.

3 *c. "Public benefit provision"* means a provision in the
4 articles of incorporation which states that the corporation
5 shall pursue one or more identified public benefits.

6 *d. "Responsible and sustainable manner"* means a manner that
7 does all of the following:

8 (1) Pursues through the business of the corporation the
9 creation of a positive effect on society and the environment,
10 taken as a whole, that is material taking into consideration
11 the corporation's size and the nature of its business.

12 (2) Considers, in addition to the interests of
13 shareholders, the interests of stakeholders known to be
14 affected by the conduct of the business of the corporation.

15 Sec. 204. Section 490.1702, Code 2020, is amended by
16 striking the section and inserting in lieu thereof the
17 following:

18 **490.1702 Name — share certificates.**

19 1. The name of a benefit corporation may contain the
20 words "benefit corporation", the abbreviation "B.C.", or the
21 designation "BC", any of which shall be deemed to satisfy the
22 requirements of section 490.401, subsection 1, paragraph "a".

23 2. Any share certificate issued by a benefit corporation,
24 and any information statement delivered by a benefit
25 corporation pursuant to section 490.626, subsection 2,
26 must note conspicuously that the corporation is a benefit
27 corporation subject to this subchapter.

28 Sec. 205. Section 490.1703, Code 2020, is amended by
29 striking the section and inserting in lieu thereof the
30 following:

31 **490.1703 Certain amendments and transactions — votes**
32 **required.**

33 1. Unless the articles of incorporation or bylaws require
34 a greater vote, the approval of at least two-thirds of the
35 voting power of the outstanding shares of the corporation

1 entitled to vote thereon, and, if any class or series of shares
2 is entitled to vote as a separate group on any such amendment
3 or transaction, the approval of at least two-thirds of the
4 outstanding shares of each such separate voting group entitled
5 to vote thereon, shall be required for a corporation that is
6 not a benefit corporation to do any of the following:

7 *a.* Amend its articles of incorporation to include a
8 statement that it is subject to this subchapter.

9 *b.* Merge with or into, or enter into a share exchange with,
10 another entity, or effect a domestication or conversion, if,
11 as a result of the merger, share exchange, domestication, or
12 conversion, the shares of any voting group would become, or be
13 converted into or exchanged for the right to receive, shares
14 of a benefit corporation or shares or interests in an entity
15 subject to provisions of organic law analogous to those in
16 this subchapter; provided, however, that in the case of this
17 paragraph "*b*", if the shares of one or more, but not all,
18 voting groups are so affected, then only the shares in the
19 voting groups so affected shall be entitled to vote under this
20 subsection.

21 2. Unless the articles of incorporation or bylaws require a
22 greater vote, the approval of at least two-thirds of the voting
23 power of the outstanding shares of the corporation entitled
24 to vote thereon and, if any class or series of shares is
25 entitled to vote as a separate group on any such amendment or
26 transaction, the approval of at least two-thirds of the voting
27 power of the outstanding shares of each such separate voting
28 group, shall be required for a benefit corporation to do any
29 of the following:

30 *a.* Amend its articles of incorporation to eliminate a
31 statement that the corporation is subject to this subchapter.

32 *b.* Merge with or into, or enter into a share exchange with,
33 another entity, or effect a domestication or conversion if,
34 as a result of the merger, share exchange, domestication, or
35 conversion, the shares of any voting group would become, or be

1 converted into or exchanged for the right to receive, shares or
2 interests in an entity that is neither a benefit corporation
3 nor an entity subject to provisions of organic law analogous to
4 those in this subchapter; provided, however, that in the case
5 of this paragraph "b", if the shares of one or more, but not
6 all, voting groups are so affected, then only the shares in the
7 voting groups so affected shall be entitled to vote under this
8 subsection.

9 3. The vote required under subsections 1 and 2 is in
10 addition to any vote otherwise required under this chapter.

11 Sec. 206. NEW SECTION. 490.1704 Duties of directors.

12 1. Each member of the board of directors of a benefit
13 corporation, when discharging the duties of a director, shall
14 act according to all of the following:

15 a. In a responsible and sustainable manner.

16 b. In a manner that pursues the public benefit or benefits
17 identified in any public benefit provision.

18 2. In fulfilling the duties under subsection 1, a director
19 shall consider, to the extent affected, in addition to the
20 interests of shareholders generally, the separate interests
21 of stakeholders known to be affected by the business of the
22 corporation including all of the following:

23 a. The employees and workforces of the corporation, its
24 subsidiaries, and its suppliers.

25 b. Customers.

26 c. Communities or society, including those of each community
27 in which offices or facilities of the corporation, its
28 subsidiaries, or its suppliers are located.

29 d. The local and global environment.

30 3. A director of a benefit corporation shall not, by virtue
31 of the duties imposed by subsections 1 and 2, owe any duty to a
32 person other than the benefit corporation due to any interest
33 of the person in the status of the corporation as a benefit
34 corporation or in any public benefit provision.

35 4. Unless otherwise provided in the articles of

1 incorporation, the violation by a director of the duties
2 imposed by subsections 1 and 2 shall not constitute an
3 intentional infliction of harm on the corporation or the
4 shareholders for the purposes of sections 490.202, subsection
5 2, paragraphs "d" and "e".

6 Sec. 207. NEW SECTION. **490.1705 Annual benefit report.**

7 1. No less than annually, a benefit corporation shall
8 prepare a benefit report addressing the efforts of the
9 corporation during the preceding year to operate in a
10 responsible and sustainable manner, to pursue any public
11 benefit or benefits identified in any public benefit provision,
12 and to consider the interests described in section 490.1704,
13 subsection 2. The annual benefit report must include all of
14 the following:

15 a. The objectives that the board of directors has
16 established for the corporation to operate in a responsible and
17 sustainable manner, to pursue any public benefit or benefits
18 identified in any public benefit provision, and to consider the
19 interests described in section 490.1704, subsection 2.

20 b. The standards the board of directors has adopted
21 to measure the corporation's progress in operating in a
22 responsible and sustainable manner, in pursuing the public
23 benefit or benefits identified in any public benefit provision,
24 and in considering the interests described in section 490.1704,
25 subsection 2.

26 c. If the articles of incorporation or bylaws require
27 that the corporation use an independent third-party standard
28 in reporting on the corporation's progress in operating in a
29 responsible and sustainable manner, in pursuing any public
30 benefit or benefits identified in any public benefit provision,
31 or in considering the interests described in section 490.1704,
32 subsection 2, or if the board of directors has chosen to use
33 such a standard, the applicable standard so required or chosen.

34 d. An assessment of the corporation's success in meeting
35 the objectives and standards identified in paragraphs "a" and

1 "b", and, if applicable, paragraph "c", and the basis for that
2 assessment.

3 2. The benefit corporation shall deliver to each
4 shareholder, or make available and provide written notice to
5 each shareholder of the availability of, the annual benefit
6 report required by subsection 1 on or before the earlier of the
7 following:

8 a. One hundred twenty days following the end of the fiscal
9 year of the benefit corporation.

10 b. The time that the benefit corporation delivers any
11 other annual reports or annual financial statements to its
12 shareholders.

13 3. Any shareholder that has not received or been given
14 access to an annual benefit report within the time required by
15 subsection 2 may make a written request that the corporation
16 deliver or make available the annual benefit report to the
17 shareholder. If a benefit corporation does not deliver or make
18 available an annual benefit report to the shareholder within
19 five business days of receiving such request, the requesting
20 shareholder may apply to the district court for an order
21 requiring delivery of or access to the annual benefit report.
22 The court shall dispose of an action under this subsection 3
23 on an expedited basis.

24 4. A benefit corporation shall post all of its annual
25 benefit reports on the public portion of its internet site,
26 if any. If a benefit corporation does not have an internet
27 site, the benefit corporation shall provide a copy of its most
28 recent annual benefit report, without charge, to any person
29 that requests a copy in writing.

30 **Sec. 208. NEW SECTION. 490.1706 Rights of action.**

31 1. Except in a proceeding authorized under section
32 490.1705, subsection 3, or this section, no person other
33 than the corporation, or a shareholder in the right of the
34 corporation pursuant to subsection 2, may bring an action
35 or assert a claim with respect to the violation of any duty

1 applicable to a benefit corporation or any of its directors
2 under this subchapter.

3 2. Except for a proceeding brought under section 490.1705,
4 subsection 3, a proceeding by a shareholder of a benefit
5 corporation claiming violation of any duty applicable to
6 a benefit corporation or any of its directors under this
7 subchapter is subject to all of the following:

8 a. The proceeding must be brought in a derivative proceeding
9 pursuant to subchapter VII, part 4.

10 b. The proceeding may be brought only by a shareholder
11 of the benefit corporation that at the time of the act or
12 omission complained of either individually, or together with
13 other shareholders bringing such action collectively, owned
14 directly or indirectly at least five percent of a class of
15 the corporation's outstanding shares or, in the case of a
16 corporation with shares traded on an organized market as
17 described in section 490.1302, subsection 2, paragraph "a",
18 subparagraph (2), either that percentage of shares or shares
19 with a market value of at least five million dollars at the
20 time the proceeding is commenced.

21 3. A suit under subsection 2 shall not be maintained if,
22 during the pendency of the suit, the shareholder individually
23 fails, or the shareholders collectively fail, to continue to
24 own directly or indirectly the lesser of the number of shares
25 owned at the time the proceeding is commenced or five percent
26 of a class of the corporation's shares.

27 Sec. 209. NEW SECTION. 490.1801 **Application to existing**
28 **domestic corporations.**

29 1. This chapter applies to all domestic corporations in
30 existence on July 1, 2021, that were incorporated under any
31 general statute of this state providing for incorporation of
32 corporations for profit if power to amend or repeal the statute
33 under which the corporation was incorporated was reserved.

34 2. a. Unless otherwise provided, this chapter does not
35 apply to an entity subject to chapter 174, 497, 498, 499, 499A,

1 501, 501A, 524, or 533, or a corporation organized on the
2 mutual plan under chapter 491, or a telephone company organized
3 as a corporation under chapter 491 qualifying pursuant to
4 an internal revenue service letter ruling under Internal
5 Revenue Code §501(c)(12) as a nonprofit corporation entitled
6 to distribute profits in a manner similar to a chapter 499
7 corporation, unless such entity voluntarily elects to adopt
8 the provisions of this chapter and complies with the procedure
9 prescribed by subsection 3.

10 *b.* A corporation organized under chapter 496C may
11 voluntarily elect to adopt the provisions of this chapter by
12 complying with the provisions prescribed by subsection 3.

13 3. The procedure for the voluntary election referred to in
14 subsection 2 is as follows:

15 *a.* The corporation shall amend or restate its articles of
16 incorporation to indicate that the corporation adopts this
17 chapter and to designate the address of its initial registered
18 office and the name of its registered agent at that office
19 and, if the name of the corporation is not in compliance with
20 the requirements of this chapter, to change the name of the
21 corporation to one complying with the requirements of this
22 chapter.

23 *b.* (1) The instrument shall be delivered to the secretary
24 of state for filing and recording in the secretary of state's
25 office. If the corporation was organized under chapter 524
26 or 533, the instrument shall also be filed and recorded in
27 the office of the county recorder. The corporation shall at
28 the time it files the instrument with the secretary of state
29 deliver also to the secretary of state for filing in the
30 secretary of state's office any biennial report which is then
31 due.

32 (2) If the county of the initial registered office as stated
33 in the instrument for a corporation organized under chapter
34 524 or 533 is one which is other than the county where the
35 principal place of business of the corporation, as designated

1 in its articles of incorporation, was located, the corporation
2 shall forward to the county recorder of the county in which the
3 principal place of business of the corporation was located a
4 copy of the instrument and the corporation shall forward to the
5 recorder of the county in which the initial registered office
6 of the corporation is located, in addition to a copy of the
7 original instrument, a copy of the articles of incorporation of
8 the corporation together with all amendments to them as then
9 on file in the secretary of state's office. The corporation
10 shall, through an officer or director, certify to the secretary
11 of state that a copy has been sent to each applicable county
12 recorder, including the date each copy was sent.

13 c. Upon the filing of the instrument by a corporation all
14 of the following apply:

15 (1) All of the provisions of this chapter apply to the
16 corporation.

17 (2) The secretary of state shall issue a certificate as to
18 the filing of the instrument and deliver the certificate to the
19 corporation or its representative.

20 (3) The secretary of state shall not file the instrument
21 with respect to a corporation unless at the time of filing
22 the corporation is validly existing and in good standing in
23 that office under the chapter under which it is incorporated.
24 The corporation shall be considered validly existing and in
25 good standing for the purpose of this chapter for a period of
26 three months following the expiration date of the corporation,
27 provided all biennial reports due have been filed and all fees
28 due in connection with the biennial reports have been paid.

29 d. The provisions of this chapter becoming applicable to
30 a corporation voluntarily electing to be governed by this
31 chapter do not affect any right accrued or established, or any
32 liability or penalty incurred, under the chapter under which
33 it is incorporated prior to the filing by the secretary of
34 state in the secretary of state's office of the instrument
35 manifesting the election by the corporation to adopt the

1 provisions of this chapter as provided in this subsection.

2 4. A corporation subject to this chapter is not subject to
3 chapter 491, 492, 493, or 495.

4 Sec. 210. NEW SECTION. 490.1802 **Application to existing**
5 **foreign corporation.**

6 A foreign corporation registered or authorized to do
7 business in this state on the effective date of this Act is
8 subject to this chapter, is deemed to be registered to do
9 business in this state, and is not required to file a foreign
10 registration statement under this chapter.

11 Sec. 211. NEW SECTION. 490.1803 **Savings provisions.**

12 1. Except as to procedural provisions, this Act does not
13 affect any of the following:

14 a. A pending action or proceeding or a right accrued before
15 the effective date of this Act, and a pending civil action
16 or proceeding may be completed, and a right accrued may be
17 enforced, as if this Act had not become effective.

18 b. The requirements set forth in 2018 Iowa Acts, chapter
19 1015.

20 2. If a penalty or punishment for violation of a statute
21 or rule is reduced by this Act, the penalty, if not already
22 imposed, shall be imposed in accordance with this Act.

23 3. In the event that any provision of this chapter is
24 deemed to modify, limit, or supersede the federal Electronic
25 Signatures in Global and National Commerce Act, 15 U.S.C. §7001
26 et seq., the provisions of this chapter shall control to the
27 maximum extent permitted by section 102(a)(2) of that federal
28 Act.

29 Sec. 212. NEW SECTION. 490.1804 **Severability.**

30 If any provision of this chapter or its application to any
31 person or circumstance is held invalid by a court of competent
32 jurisdiction, the invalidity does not affect other provisions
33 or applications of this chapter that can be given effect
34 without the invalid provision or application.

35 Sec. 213. **REPEAL.** 2018 Iowa Acts, chapter 1015, section 8,

1 is repealed.

2 Sec. 214. CONTINUATION OF THE ARTICLES OF
3 INCORPORATION. Notwithstanding the amendments to sections
4 490.803, 490.805, 490.806, and 490.810, and the repeal of
5 490.806A, 490.806B, and 490.1005A, as provided in this division
6 of this Act, any amendment to the articles of incorporation
7 of a public corporation adopted in compliance with section
8 490.806A or 490.806B as those sections existed immediately
9 prior to the effective date of this division of this Act shall
10 remain in effect until amended or repealed as provided in the
11 relevant sections of chapter 490 as those sections exist on or
12 after the effective date of this division of this Act.

13 Sec. 215. CODE EDITOR DIRECTIVE.

14 1. The Code editor is directed to make the following
15 transfers:

16 a. Section 490.135, as amended by this division of this Act,
17 to section 490.130.

18 b. Section 490.833, as amended by this division of this Act,
19 to section 490.832.

20 c. Section 490.629 to section 490.628.

21 d. Section 490.1622, as amended by this division of this
22 Act, to section 490.1621.

23 2. The Code editor shall correct internal references in the
24 Code and in any enacted legislation as necessary due to the
25 enactment of this section.

26 Sec. 216. REPEAL. Sections 490.624A, 490.628, 490.806A,
27 490.806B, 490.1005A, 490.1111, 490.1112, 490.1113, 490.1114,
28 490.1520, 490.1523, 490.1530, 490.1531, 490.1532, and 490.1606,
29 Code 2020, are repealed.

30 Sec. 217. DIRECTIONS TO THE CODE EDITOR. The Code editor
31 is directed to divide Code chapter 490 into subchapters and
32 subdivide certain subchapters into parts, including sections in
33 that chapter not amended in this Act, and sections amended or
34 enacted in this Act, as follows:

35 1. Subchapter I, subdivided into part A, including sections

1 490.101 and 490.102; part B, including sections 490.120 through
2 490.129; part C, including section 490.130; part D, including
3 sections 490.140 through 490.144; and part E, including
4 sections 490.145 through 490.152.

5 2. Subchapter II, including sections 490.201 through
6 490.208.

7 3. Subchapter III, including sections 490.301 through
8 490.304.

9 4. Subchapter IV, including sections 490.401 through
10 490.403.

11 5. Subchapter V, including sections 490.501 through
12 490.504.

13 6. Subchapter VI, subdivided into part A, including
14 sections 490.601 through 490.604; part B, including sections
15 490.620 through 490.627; part C, including sections 490.630 and
16 490.631; and part D, including section 490.640.

17 7. Subchapter VII, subdivided into part A, including
18 sections 490.701 through 490.709; part B, including sections
19 490.720 through 490.729; part C, including sections 490.730
20 through 490.732; part D, including sections 490.740 through
21 490.747; and part E, including sections 490.748 and 490.749.

22 8. Subchapter VIII, subdivided into part A, including
23 sections 490.801 through 490.811; part B, including sections
24 490.820 through 490.826; part C, including sections 490.830
25 through 490.832; part D, including sections 490.840 through
26 490.844; part E, including sections 490.850 through 490.859;
27 part F, including sections 490.860 through 490.863; and part
28 G, including section 490.870.

29 9. Subchapter IX, subdivided into part A, including
30 sections 490.901 through 490.904; part B, including sections
31 490.920 through 490.924; and part C, including sections 490.930
32 through 490.935.

33 10. Subchapter X, subdivided into part A, including
34 sections 490.1001 through 490.1009; and part B, including
35 sections 490.1020 through 490.1022.

1 11. Subchapter XI, including sections 490.1101 through
2 490.1110.

3 12. Subchapter XII, including sections 490.1201 and
4 490.1202.

5 13. Subchapter XIII, subdivided into part A, including
6 sections 490.1301 through 490.1303; part B, including sections
7 490.1320 through 490.1326; subchapter C, including sections
8 490.1330 and 490.1331; and part D, including section 490.1340.

9 14. Subchapter XIV, subdivided into part A, including
10 sections 490.1401 through 490.1409; part B, including sections
11 490.1420 through 490.1423; part C, including sections 490.1430
12 through 490.1434; and part D, including section 490.1440.

13 15. Subchapter XV, including sections 490.1501 through
14 490.1512.

15 16. Subchapter XVI, subdivided into part A, including
16 sections 490.1601 through 490.1605; and part B, including
17 sections 490.1620 and 490.1621.

18 17. Subchapter XVII, including sections 490.1701 through
19 490.1706.

20 18. Subchapter XVIII, including sections 490.1801 through
21 490.1804.

22 Sec. 218. EFFECTIVE DATE. This division of this Act takes
23 effect July 1, 2021.

24 DIVISION II

25 CORRESPONDING AMENDMENTS

26 Sec. 219. Section 249A.40, Code 2020, is amended to read as
27 follows:

28 **249A.40 Involuntarily dissolved providers — overpayments or**
29 **incorrect payments.**

30 Medical assistance paid to a provider following involuntary
31 administrative dissolution of the provider pursuant to chapter
32 490, subchapter XIV, part B, shall be considered incorrectly
33 paid for the purposes of [section 249A.53](#) and the provider
34 shall be considered to have received an overpayment for the
35 purposes of [this subchapter](#). For the purposes of [this section](#),

1 the overpayment shall not accrue until after a grace period
2 of ninety days following receipt of notice by the provider
3 of the dissolution from the department. Notwithstanding
4 section 490.1422, or any other similar retroactive provision
5 for reinstatement, the director shall recoup any medical
6 assistance paid to a provider while the provider was dissolved
7 if the provider is not retroactively reinstated within the
8 ninety-day grace period. The principals of the provider shall
9 be personally liable for the incorrect payment or overpayment.

10 Sec. 220. Section 455B.397, Code 2020, is amended to read
11 as follows:

12 **455B.397 Financial disclosure.**

13 Immediately upon the incurrence of any liability to
14 the state under this part, the debtor shall submit to the
15 director a report consisting of documentation of the debtor's
16 liabilities and assets, including if filed, a copy of the
17 ~~annual~~ biennial report submitted to the secretary of state
18 pursuant to ~~chapter 490~~ section 490.1622. A subsequent report
19 pursuant to this section shall be submitted annually on April
20 15 for the life of the debt. These reports shall be kept
21 confidential and shall not be available to the public.

22 Sec. 221. Section 455B.430, subsection 5, Code 2020, is
23 amended to read as follows:

24 5. Immediately upon the listing of real property in the
25 registry of hazardous waste or hazardous substance disposal
26 sites, a person liable for cleanup costs shall submit to
27 the director a report consisting of documentation of the
28 responsible person's liabilities and assets, including if
29 filed, a copy of the ~~annual~~ biennial report submitted to the
30 secretary of state pursuant to ~~chapter 490~~ section 490.1622. A
31 subsequent report pursuant to this section shall be submitted
32 annually on April 15 for the period the site remains on the
33 registry.

34 Sec. 222. Section 491.16A, Code 2020, is amended to read as
35 follows:

1 **491.16A Directors and officers — duties and liabilities.**

2 Sections 490.830, ~~490.831~~, and ~~490.833~~ through 490.832,
3 sections 490.840 through 490.842, sections 490.860 through
4 490.863, and [section 490.870](#) apply to corporations organized
5 under or subject to [this chapter](#).

6 Sec. 223. Section 496C.14, subsection 5, Code 2020, is
7 amended to read as follows:

8 5. Notwithstanding [subsections 1 through 4](#), purchase by
9 the corporation is not required upon the occurrence of any
10 event other than death of a shareholder if the corporation
11 is dissolved or voluntarily elects to adopt the provisions
12 of the Iowa business corporation Act, as provided in section
13 ~~490.1701~~ [490.1801](#), subsection 2, within sixty days after the
14 occurrence of the event. The articles of incorporation or
15 bylaws may provide that purchase is not required upon the death
16 of a shareholder if the corporation is dissolved within sixty
17 days after the death. Notwithstanding [subsections 1 through 4](#),
18 purchase by the corporation is not required upon the death of a
19 shareholder if the corporation voluntarily elects to adopt the
20 provisions of the Iowa business corporation Act, as provided
21 in [section 490.1701 \[490.1801\]\(#\), \[subsection 2\]\(#\), within sixty days
22 after death.](#)

23 Sec. 224. Section 496C.19, Code 2020, is amended to read as
24 follows:

25 **496C.19 Dissolution or liquidation.**

26 Violation of any provision of [this chapter](#) by a professional
27 corporation or any of its shareholders, directors, or officers
28 shall be cause for its involuntary dissolution, or liquidation
29 of its assets and business by the district court, as provided
30 in the Iowa business corporation Act, [chapter 490](#). Upon the
31 death of the last remaining shareholder of a professional
32 corporation, or whenever the last remaining shareholder is not
33 licensed or ceases to be licensed to practice in this state a
34 profession which the corporation is authorized to practice,
35 or whenever any person other than the shareholder of record

1 becomes entitled to have all shares of the last remaining
2 shareholder of the corporation transferred into that person's
3 name or to exercise voting rights, except as a proxy, with
4 respect to such shares, the corporation shall not practice
5 any profession and it shall either be promptly dissolved or
6 shall promptly elect to adopt the provisions of the Iowa
7 business corporation Act, as provided in section ~~490.1701~~
8 490.1801, subsection 2. However, if prior to such dissolution
9 all outstanding shares of the corporation are acquired by
10 one or more persons licensed to practice in this state a
11 profession which the corporation is authorized to practice,
12 the corporation need not be dissolved and may practice the
13 profession as provided in [this chapter](#).

14 Sec. 225. Section 499.69A, subsection 2, paragraph b,
15 subparagraph (2), Code 2020, is amended to read as follows:

16 (2) For a qualified corporation which is a party to the
17 proposed qualified merger, the qualified corporation shall
18 approve the plan as provided in [chapter 490, subchapter XI](#).

19 Sec. 226. Section 499.69A, subsections 5 and 6, Code 2020,
20 are amended to read as follows:

21 5. The effect of a qualified merger for a qualified survivor
22 which is a cooperative association shall be as provided for in
23 this chapter. The effect of a qualified merger for a qualified
24 survivor which is a qualified corporation shall be as provided
25 for corporations under [chapter 490, subchapter XI](#).

26 6. The provisions governing the right of a shareholder or
27 member of a cooperative association to object to a merger or
28 the right of a member to dissent and obtain payment of the
29 fair value of an interest in the cooperative association in
30 the case of a merger as provided in [this chapter](#) shall apply
31 to a qualified merger. The provisions governing the right
32 of a shareholder of a corporation to ~~dissent from~~ exercise
33 appraisal rights and obtain payment of the fair value of the
34 shareholder's shares in the case of a merger as provided in
35 ~~subchapter XIII of~~ [chapter 490, subchapter XIII](#), shall apply

1 to a qualified merger.

2 Sec. 227. Section 508.12, subsection 1, Code 2020, is
3 amended to read as follows:

4 1. An insurer which is organized under the laws of any
5 state and has created or will create jobs in this state or
6 which is an affiliate or subsidiary of a domestic insurer,
7 and is admitted to do business in this state for the purpose
8 of writing insurance authorized by [this chapter](#) may become a
9 domestic insurer by complying with ~~section 490.902~~ [chapter](#)
10 [490, subchapter IX](#) or [section 491.33](#) and with all of the
11 requirements of law relative to the organization and licensing
12 of a domestic insurer of the same type and by designating
13 its principal place of business in this state may become a
14 domestic corporation and be entitled to like certificates of
15 its corporate existence and license to transact business in
16 this state, and be subject in all respects to the authority and
17 jurisdiction thereof.

18 Sec. 228. Section 508B.2, subsection 2, Code 2020, is
19 amended to read as follows:

20 2. A plan of conversion may provide that a mutual company
21 may convert into a domestic stock company, convert and merge,
22 or convert and consolidate with a domestic stock company,
23 as provided in [chapter 490](#) or [491](#), whichever is applicable.
24 However, the mutual company is not required to comply with
25 sections 491.102 through 491.105 or ~~sections 490.1102 and~~
26 ~~490.1104~~ relating to approval of a merger or consolidation
27 plans plan, or sections 490.1102 and 490.1104 providing for
28 a plan of merger or share exchange, by boards of directors
29 and shareholders, if at the time of approval of the plan of
30 conversion the board of directors approves the merger or
31 consolidation and if at the time of approval of the plan by
32 policyholders as provided in [section 508B.6](#), the policyholders
33 approve the merger or consolidation. [This chapter](#) supersedes
34 any conflicting provisions of [chapters 521](#) and [521A](#). A mutual
35 company may convert, merge, or consolidate as part of a plan of

1 conversion in which a majority or all of the common shares of
2 the stock company are acquired by another corporation, which
3 may be a corporation organized for that purpose, or in which
4 the new stock company consolidates with a stock company to form
5 another stock company.

6 Sec. 229. Section 515.78, subsection 1, Code 2020, is
7 amended to read as follows:

8 1. An insurer which is organized under the laws of any
9 state and has created or will create jobs in this state or
10 which is an affiliate or subsidiary of a domestic insurer,
11 and is admitted to do business in this state for the purpose
12 of writing insurance authorized by [this chapter](#) may become a
13 domestic insurer by complying with ~~section 490.902~~ [chapter](#)
14 [490, subchapter IX](#) or [section 491.33](#) and with all of the
15 requirements of law relative to the organization and licensing
16 of a domestic insurer of the same type and by designating
17 its principal place of business in this state may become a
18 domestic corporation and be entitled to like certificates of
19 its corporate existence and license to transact business in
20 this state, and be subject in all respects to the authority and
21 jurisdiction thereof.

22 Sec. 230. Section 515E.3A, subsection 1, paragraph a, Code
23 2020, is amended to read as follows:

24 a. Complying with ~~section 490.902~~ [chapter 490, subchapter](#)
25 [IX](#).

26 Sec. 231. Section 515G.3, subsection 2, Code 2020, is
27 amended to read as follows:

28 2. A plan of conversion for an insurer organized on
29 the mutual plan under [chapter 491](#), shall also provide for
30 conversion to a stock company as follows: the insurer
31 organized on the mutual plan under [chapter 491](#) shall amend
32 its articles pursuant to [chapter 491](#) as necessary to become
33 a stock company, and shall immediately convert to a chapter
34 490 corporation as provided in section ~~490.1701~~ [490.1801](#) upon
35 becoming a stock company.

1 Sec. 232. Section 556.5, subsection 4, paragraph b, Code
2 2020, is amended to read as follows:

3 *b.* A disbursement held by a cooperative association shall
4 not be deemed abandoned under **this chapter** if the disbursement
5 is retained by a cooperative association organized under
6 chapter 490 ~~as provided in section 490.629~~, by a cooperative
7 association organized under **chapter 499** as provided in section
8 499.30A, or by a cooperative as provided in **section 501A.1008**.

9 Sec. 233. EFFECTIVE DATE. This division of this Act takes
10 effect July 1, 2021.

11

EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 BACKGROUND. Code chapter 490, the "Iowa Business
15 Corporation Act" (IBCA) was enacted in 1989 (1989 Iowa Acts,
16 chapter 288), and it is the primary Code chapter governing the
17 requirements for the creation, organization, and operation of
18 for-profit corporations, including the relationship between
19 shareholders, directors, and officers of the corporation.
20 Generally, and with notable exceptions, the IBCA establishes
21 default requirements and procedures which may be modified by a
22 corporation's articles of incorporation or bylaws. The IBCA is
23 administered by the secretary of state.

24 BASIS FOR THE IBCA. The IBCA was based on legislation
25 proposed by the American bar association (ABA) referred to
26 as the model business corporation Act (MBCA) and has been
27 subsequently amended. The most substantial amendments to
28 the IBCA, based on ABA-recommended legislation, were enacted
29 in 2013 (2013 Iowa Acts, chapter 31). This bill includes
30 amendments adopted in 2016 by the ABA corporate laws committee
31 and published as the fourth edition of the MBCA (new MBCA).
32 The new MBCA is divided into various chapters which are
33 referred to as subchapters in Code chapter 490. The new MBCA
34 makes a number of changes to most of its sections, in many
35 instances to enhance readability or internal consistency.

1 FORMS AND FILING FEES. The bill revises the types of
2 documents that the secretary of state may prescribe without
3 requiring that the form of such documents are mandatory
4 (amended Code section 490.121). It eliminates specific
5 filing fees currently set forth by statute which presumably
6 would leave the amount of such fees to the discretion of
7 the secretary of state (amended Code section 490.122). It
8 revises requirements to determine when a document filed with
9 the secretary of state becomes effective (amended Code section
10 490.123).

11 DEFINITIONS. The bill rewrites a number of definitions
12 applicable throughout the IBCA, including by eliminating the
13 definition of a "public corporation" (a corporation having a
14 class of voting stock that is listed on a national securities
15 exchange or held of record by more than 2,000 shareholders)
16 which currently distinguishes such entities from closely held
17 corporations (amended Code section 490.140). Therefore, a
18 shareholder agreement would survive an entity's move from
19 a closed corporation to a public corporation (amended Code
20 section 490.732). The bill defines "eligible entities",
21 which include noncorporate entities authorized to engage
22 in transactions with a corporation, including by merger or
23 share exchange (amended Code sections 490.140, 490.1102, and
24 490.1103).

25 FORUM. The bill provides that the article of incorporation
26 or bylaws may specify the forum for litigation involving
27 internal corporate claims (new Code section 490.208).

28 RATIFICATION AS A METHOD TO CURE A DEFECT IN A CORPORATE
29 ACTION. The bill provides a process to remedy a defect
30 in the manner in which a corporate action was authorized
31 ("ratification"), including an action relating to the issuance
32 of shares, thereby creating a "safe harbor" procedure for a
33 corporation to avoid a legal challenge. The remedial action
34 may be taken by the board of directors and if required by
35 the shareholders. It also provides for a judicial remedy.

1 Finally, the bill provides for the retroactive validity of the
2 remedial action (new Code sections 490.145 through 490.152).

3 REGISTERED OFFICES AND REGISTERED AGENTS. The bill provides
4 that the resignation of a registered agent of a foreign
5 corporation takes effect either at 12:01 a.m. on the 31st day
6 after the day on which the registration statement is filed with
7 the secretary of state or the designation of a new registered
8 agent by the corporation, whichever is earlier (amended Code
9 section 490.503).

10 DIRECTORS. The bill provides for the qualifications of
11 directors or nominees for directors, including as may be
12 prescribed by the articles of incorporation or bylaws (e.g.,
13 not being subject to criminal, civil, or administrative
14 sanctions). It requires that the qualifications must be both
15 reasonable and lawful (amended Code section 490.802). It
16 provides for the judicial removal of a director by a court and
17 for a court order barring the director from seeking reelection
18 (amended Code section 490.809). It also provides quorum
19 requirements for a meeting of the board as specified by the
20 articles of incorporation or bylaws so long as it consists
21 of at least one-third of the total number of directors as
22 currently required (amended Code section 490.824). It also
23 provides that in a noncompetitive election, a director who
24 failed to receive a majority vote may fill the office for 90
25 days (new Code section 490.1022).

26 DIRECTORS AND OFFICERS — BUSINESS OPPORTUNITIES AND
27 EXPENSES. A director or officer may be presented with
28 a business opportunity that affects the interest of the
29 corporation, and may create a duty to present the business
30 opportunity to the corporation to be approved by qualified
31 (i.e., disinterested) board members. The bill provides that
32 the articles of incorporation may limit or eliminate this duty
33 (amended Code sections 490.202 and 490.870). It also provides
34 for advancing expenses to directors and officers (e.g., in
35 cases involving litigation). The bill eliminates a requirement

1 that the director or officer must provide a written affirmation
2 that the director or officer has satisfied the required
3 standard of conduct, but does not amend another requirement
4 that requires repayment if the person is not required to be
5 indemnified (amended Code sections 490.851 and 490.853).

6 OFFICERS — STANDARD OF CONDUCT. The bill provides methods
7 for an officer to report a violation of law or other breach of a
8 fiduciary obligation (amended Code section 490.842).

9 SHAREHOLDERS. The bill provides for procedures for
10 notifying shareholders (amended Code section 490.141). It
11 amends provisions allowing for remote participation by
12 shareholders, by providing for such access during annual
13 and special meetings, including remote-only access without
14 a designated location (amended Code section 490.709). It
15 prohibits a corporation from voting shares of an entity
16 which is owned or controlled by the corporation, regardless
17 of the circumstances (amended Code section 490.721). It
18 provides that the articles of incorporation or bylaws cannot
19 establish a quorum that is less than that required by the
20 Code chapter (amended Code section 490.725). It requires
21 that before a shareholder (interest holder) becomes liable
22 for a new obligation due to the amendment to the articles of
23 incorporation (new interest holder liability), the shareholder
24 must provide written consent (amended Code section 490.1003).

25 SHARES AND DISTRIBUTIONS. The bill provides that a
26 shareholder may become personally liable for the debts of
27 the corporation if such liability is due to a shareholder's
28 conduct. It eliminates a provision, not part of the MBCA,
29 referred to as the "poison pill" that allows a board of
30 directors to prevent a hostile takeover (repealed Code
31 section 490.624A). It provides that a board of directors may
32 fix the record date for determining when shareholders are
33 entitled to receive a dividend or distribution (amended Code
34 sections 490.623 and 490.640). The record date is the date
35 for determining the identity of the corporation's shareholders

1 (amended Code section 490.705).

2 DOMESTICATION AND CONVERSION. The bill provides a procedure
3 referred to as domestication which allows an entity organized
4 under Iowa law to change its state of incorporation (to become
5 foreign) to another state or to allow an entity incorporated
6 in another state to be incorporated in Iowa (new Code sections
7 490.920 through 490.924). It also rewrites provisions for
8 the process of conversion in which a domestic corporation may
9 become another type of entity or a foreign entity which is not
10 a corporation may become a domestic corporation (Iowa Code
11 sections 490.1111 through 490.1114 repealed and replaced by new
12 Code sections 490.930 through 490.935).

13 FOREIGN CORPORATIONS. The bill eliminates the term
14 "certificate of authorization" issued to a foreign corporation,
15 replaces that term with "certificate of registration", and
16 includes specific requirements for that document (Code section
17 490.128). It repeals a number of provisions relating to the
18 issuance or revocation of such authorization, including the
19 withdrawal of a foreign corporation's authorization (Code
20 section 490.1520), the transfer of a foreign corporation's
21 authorization to transact business in this state (Code section
22 490.1523), the grounds or the revocation of a certificate of
23 authority (Code section 490.1530), the procedure for such
24 revocation (Code section 490.1531), and a process to repeal
25 that revocation (Code section 490.1532).

26 MERGERS AND SHARE EXCHANGES WITHOUT SHAREHOLDER APPROVAL.
27 The bill amends provisions allowing for both mergers (the
28 combination or consolidation of two or more entities into a
29 new entity) and a share exchange (a transaction in which two
30 corporations exchange shares or securities which results in one
31 corporation controlling the acquired corporation while each
32 corporation remains in existence). The bill allows a merger or
33 share exchange without a shareholder vote in addition to the
34 current short form exception that allows such a transaction
35 only if the acquiring corporation would own 90 percent of the

1 shares in the other corporation after the transaction. Under
2 the bill, the transaction is allowed, so long as a number
3 of conditions are satisfied (amended Code sections 490.1101
4 through 490.1108 and unamended sections 490.1108A through
5 490.1110). The merger or share exchange must follow the tender
6 offer and be made on the terms provided in the plan of merger
7 or share exchange, and the offeror must acquire enough shares
8 to permit it to approve the merger or share exchange as if the
9 matter were submitted to a vote at a meeting of shareholders.
10 It would also allow for a subsidiary corporation to merge with
11 an unincorporated parent entity without the approval of the
12 subsidiary corporation's board of directors or shareholders
13 (amended Code section 490.1105).

14 APPRAISAL RIGHTS. The bill amends provisions that allow
15 a minority (dissenting) shareholder to assert appraisal
16 rights which triggers a payout for the fair value for the
17 shareholder's shares under limited circumstances where a
18 material change in the relationship between the corporation
19 and the shareholder is proposed (e.g., in the case of a merger
20 or share exchange). The bill provides that a domestication
21 or conversion to an unincorporated entity also triggers that
22 right (Code section 490.1302). It also limits the right to an
23 appraisal if the corporate action involves the distribution of
24 the corporation's net assets to the shareholders.

25 DISSOLUTION. The bill allows the board of directors to fix
26 a record date to determine shareholder distribution so long as
27 it is not made retroactive (amended Code section 490.1405). It
28 also requires the board to make reasonable payment of claims
29 and distributions in liquidations of assets to shareholders
30 after satisfying claims (amended Code section 490.1409).
31 The bill largely retains the current provision allowing for
32 reinstatement following administrative dissolution (amended
33 Code section 490.1422).

34 RECORDS AND REPORTS. The bill amends provisions which allow
35 for the inspection of corporate records by shareholders (e.g.,

1 articles of incorporation, bylaws, notices to shareholders,
2 contact information for directors and officers, biennial
3 reports, minutes of meetings, records of action taken without
4 a board or committee meeting, and financial statements). The
5 bill provides that the corporation may impose reasonable
6 restrictions upon a shareholder's request, including
7 confidentiality and the use distribution of such records
8 (amended Code sections 490.1601 and 490.1602). It eliminates
9 a requirement that a corporation deliver or make available
10 to shareholders the corporation's annual financial statement
11 (amended Code section 490.1620). It does not adopt the new
12 MBCA's provisions relating to annual reports but retains and
13 revises the provision requiring corporations to prepare and
14 deliver biennial reports to the secretary of state (amended
15 Code section 490.1622).

16 **BENEFIT CORPORATIONS.** The bill authorizes benefit
17 corporations. A benefit corporation allows an entity to be
18 formed as a corporation but requires directors to consider, in
19 addition to shareholder interests, the social, environmental,
20 and other effects of corporate activity, and allows business
21 decisions to be based on such effects, even where those
22 decisions may be contrary to the financial interests of
23 shareholders (new Code sections 490.1701 through 490.1706).
24 In order to become or stop from being a benefit corporation,
25 the articles of incorporation must be amended by a two-thirds
26 vote of all outstanding shares of the corporation entitled to
27 vote on the question (new Code section 490.1703). A benefit
28 corporation is required to prepare an annual benefit report
29 that addresses the efforts of the corporation during the
30 preceding year, which may be based on a third-party standard
31 (new Code section 490.1705).

32 **TRANSITIONAL PROVISIONS.** The bill includes a number of
33 transitional provisions. This includes exceptions from its
34 provisions, including county and district fairs (Code chapter
35 174), entities organized on a cooperative basis (Code chapters

1 497, 498, 499, 499A, 501, and 501A), financial institutions
2 (Code chapters 524 and 533), corporations organized on a mutual
3 plan (Code chapter 491), and professional corporations (Code
4 chapter 496C). The Code section does not prohibit an entity
5 from electing to adopt the provisions of Code chapter 490 (Code
6 section 490.1701).

7 SPECIAL STAGGERED TERMS FOR DIRECTORS. The bill amends a
8 provision that allowed a special staggered term requirement for
9 directors of a public corporation (2011 Iowa Acts, chapter 2).
10 On January 1, 2022, the provisions that allowed for the special
11 requirement are repealed, effectively restoring the provisions
12 in Code chapter 490 as they existed prior to the 2011 Act.
13 Under the bill, those Code sections will be replaced by the
14 bill's provisions on July 1, 2021. The bill provides that the
15 repeals do not affect the articles of incorporation that a
16 public corporation adopted prior to the bill's effective date.

17 COORDINATING AMENDMENTS. The bill includes a number of
18 coordinating amendments in various Code chapters.

19 EFFECTIVE DATE. The bill takes effect on July 1, 2021.