



IOWA ADMINISTRATIVE BULLETIN

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CONTENTS IN THIS ISSUE

Pages 1098 to 1235 include ARC 5973C to ARC 6005C

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Notice, Waivers; five-year review of
rules, 2.7, 3.2, 3.14(2), 4.7(4), 4.8, 4.10,
6.2(2), 9.5(2), 10.5(6), 18.2(2) ARC 5989C ... 1098

ADMINISTRATIVE SERVICES

DEPARTMENT[11]

Notice, Out-of-state travel—electronic
authorization, 41.4, 41.5, 41.7(8),
64.10(2)"c" ARC 5981C ... 1101

Notice, Blood, bone marrow, living organ
donation incentive program—leave,
staffing, 63.20 ARC 5980C ... 1103

Notice, Continuing health insurance
coverage—surviving spouses and
children of eligible employees, 64.15
ARC 5982C ... 1105

Filed, Capitol complex
operations—pistols and revolvers,
100.2 ARC 5993C ... 1205

AGENDA

Administrative rules review committee ... 1089

ALL AGENCIES

Agency identification numbers ... 1096

Citation of administrative rules ... 1087

Schedule for rule making ... 1088

COMMUNITY ACTION AGENCIES

DIVISION[427]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Notice, Agency reorganization, rescind
chs 2 to 8, 10, 11, 14, 15, 22 to 24
ARC 5995C ... 1107

CRIMINAL AND JUVENILE JUSTICE

PLANNING DIVISION[428]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Notice, Agency reorganization, rescind
chs 1 to 3, 6 to 9 ARC 5997C ... 1109

DEAF SERVICES DIVISION[429]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Notice, Agency reorganization, rescind
chs 1 to 10 ARC 5999C ... 1111

ECONOMIC DEVELOPMENT

AUTHORITY[261]

Notice, STEM BEST appropriation, ch
15 ARC 5983C ... 1112

Notice, Downtown loan guarantee
program, ch 36 ARC 5984C ... 1114

Notice, Sports tourism program, 215.1,
215.3 to 215.7 ARC 5988C ... 1117

Filed Emergency After Notice, Iowa
energy center; alternate energy
revolving loan program; energy
infrastructure revolving loan program,
amend chs 403, 405; adopt ch 406
ARC 5994C ... 1199

ENVIRONMENTAL PROTECTION

COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Filed, Disciplinary action against
a certified operator—criminal
convictions, 87.17(1)"h" ARC 5976C ... 1206

HUMAN RIGHTS DEPARTMENT[421]

Notice, Agency reorganization, adopt chs
1, 20 to 25, 30, 31, 40, 41; amend chs 2
to 7 ARC 6004C ... 1123

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

- Notice, Review of rules, amendments to
chs 29, 35, 36, 71, 73 to 76, 79 to 81,
85 **ARC 6002C**..... 1161
- Filed, Viatical and life
settlements—annual report, late
fee, 48.7 **ARC 5992C** 1208

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

- Notice, Boiler and pressure vessel
codes—adoption by reference, 90.6(1),
91.1 **ARC 5979C** 1169
- Filed, Boilers and pressure vessels,
amendments to chs 80 to 85, 90, 91, 94
ARC 5977C 1210

LATINO AFFAIRS DIVISION[433]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

- Notice, Agency reorganization, rescind
chs 1 to 7 **ARC 5998C**..... 1171

LOTTERY AUTHORITY, IOWA[531]

- Filed, Waivers; "easy pick" tickets,
amendments to chs 4, 20 **ARC 5991C**..... 1219

PERSONS WITH DISABILITIES DIVISION[431]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

- Notice, Agency reorganization, rescind
chs 1, 2, 4 to 7 **ARC 6000C** 1173

PUBLIC HEARINGS

- Summarized list 1093

PUBLIC SAFETY DEPARTMENT[661]

- Filed, Waivers, 10.222, 401.113 **ARC 5975C**.... 1221
- Filed, Human trafficking prevention
training—lodging providers, ch 29
ARC 5973C 1224
- Filed, Firearm training organizations,
91.1, 91.10 **ARC 5974C** 1227

REVENUE DEPARTMENT[701]

- Notice, Tuition and textbook credit for
expenses incurred for dependents, 42.4
ARC 5990C 1174

- Notice, Tax credit—volunteer fire
fighters, volunteer emergency medical
services personnel members, reserve
peace officers, 42.49 **ARC 5987C** 1178

- Notice, Hoover presidential library tax
credit, 42.57, 52.50, 58.25 **ARC 5986C**..... 1181

- Notice, Property tax
assessment—multiresidential property,
dual property; state appraisal manual,
71.1, 71.3 to 71.6, 71.12(3), 71.23,
71.24, 80.30(8) **ARC 5985C**..... 1184

- Filed, Tax credit rate; school tuition
organization tax credit; definition of
"eligible student," 42.32, 52.38 **ARC 5978C** .. 1230

SECRETARY OF STATE[721]

- Notice, Model business corporation
Act; document filings; filing liens
in multiple counties, 1.2(1), 30.1(2),
40.1, 40.3, 40.4, 45.4(2), 45.5(2), 45.6,
45.15(2) **ARC 5996C**..... 1188

**STATUS OF AFRICAN-AMERICANS, DIVISION
ON THE[434]**

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

- Notice, Agency reorganization, rescind
chs 1 to 7 **ARC 6003C**..... 1192

STATUS OF WOMEN DIVISION[435]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

- Notice, Agency reorganization, rescind
chs 1 to 4, 7 to 10 **ARC 6001C**..... 1193

TREASURER OF STATE

- Notice—Public funds interest rates 1195

USURY

- Notice 1196

VOTER REGISTRATION COMMISSION[821]

- Notice, Voting—registration deadline,
no-activity notices, notification of
polling place change, 8.5, 10.1 to 10.4,
12.1 **ARC 6005C** 1196

PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike-through~~ indicates deleted material.

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, paragraph, subparagraph, or numbered paragraph).

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)
441 IAC 79.1(1)“a”(1)“1”	(Numbered paragraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2021

NOTICE† SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 23 '20	Jan. 13 '21	Feb. 2 '21	Feb. 17 '21	Feb. 19 '21	Mar. 10 '21	Apr. 14 '21	July 12 '21
Jan. 6	Jan. 27	Feb. 16	Mar. 3	Mar. 5	Mar. 24	Apr. 28	July 26
Jan. 22	Feb. 10	Mar. 2	Mar. 17	Mar. 19	Apr. 7	May 12	Aug. 9
Feb. 5	Feb. 24	Mar. 16	Mar. 31	Apr. 2	Apr. 21	May 26	Aug. 23
Feb. 19	Mar. 10	Mar. 30	Apr. 14	Apr. 16	May 5	June 9	Sep. 6
Mar. 5	Mar. 24	Apr. 13	Apr. 28	Apr. 30	May 19	June 23	Sep. 20
Mar. 19	Apr. 7	Apr. 27	May 12	**May 12**	June 2	July 7	Oct. 4
Apr. 2	Apr. 21	May 11	May 26	May 28	June 16	July 21	Oct. 18
Apr. 16	May 5	May 25	June 9	June 11	June 30	Aug. 4	Nov. 1
Apr. 30	May 19	June 8	June 23	**June 23**	July 14	Aug. 18	Nov. 15
May 12	June 2	June 22	July 7	July 9	July 28	Sep. 1	Nov. 29
May 28	June 16	July 6	July 21	July 23	Aug. 11	Sep. 15	Dec. 13
June 11	June 30	July 20	Aug. 4	Aug. 6	Aug. 25	Sep. 29	Dec. 27
June 23	July 14	Aug. 3	Aug. 18	**Aug. 18**	Sep. 8	Oct. 13	Jan. 10 '22
July 9	July 28	Aug. 17	Sep. 1	Sep. 3	Sep. 22	Oct. 27	Jan. 24 '22
July 23	Aug. 11	Aug. 31	Sep. 15	Sep. 17	Oct. 6	Nov. 10	Feb. 7 '22
Aug. 6	Aug. 25	Sep. 14	Sep. 29	Oct. 1	Oct. 20	Nov. 24	Feb. 21 '22
Aug. 18	Sep. 8	Sep. 28	Oct. 13	Oct. 15	Nov. 3	Dec. 8	Mar. 7 '22
Sep. 3	Sep. 22	Oct. 12	Oct. 27	**Oct. 27**	Nov. 17	Dec. 22	Mar. 21 '22
Sep. 17	Oct. 6	Oct. 26	Nov. 10	**Nov. 10**	Dec. 1	Jan. 5 '22	Apr. 4 '22
Oct. 1	Oct. 20	Nov. 9	Nov. 24	Nov. 26	Dec. 15	Jan. 19 '22	Apr. 18 '22
Oct. 15	Nov. 3	Nov. 23	Dec. 8	**Dec. 8**	Dec. 29	Feb. 2 '22	May 2 '22
Oct. 27	Nov. 17	Dec. 7	Dec. 22	**Dec. 22**	Jan. 12 '22	Feb. 16 '22	May 16 '22
Nov. 10	Dec. 1	Dec. 21	Jan. 5 '22	**Jan. 5 '22**	Jan. 26 '22	Mar. 2 '22	May 30 '22
Nov. 26	Dec. 15	Jan. 4 '22	Jan. 19 '22	Jan. 21 '22	Feb. 9 '22	Mar. 16 '22	June 13 '22
Dec. 8	Dec. 29	Jan. 18 '22	Feb. 2 '22	Feb. 4 '22	Feb. 23 '22	Mar. 30 '22	June 27 '22
Dec. 22	Jan. 12 '22	Feb. 1 '22	Feb. 16 '22	Feb. 18 '22	Mar. 9 '22	Apr. 13 '22	July 11 '22

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
10	Wednesday, October 27, 2021	November 17, 2021
11	Wednesday, November 10, 2021	December 1, 2021
12	Friday, November 26, 2021	December 15, 2021

PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

****Note change of filing deadline****

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, November 9, 2021, at 9 a.m. in Room 103, State Capitol, Des Moines, Iowa. Instructions for participation by videoconference can be found here: www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705. For more information, contact Jack Ewing at Jack.Ewing@legis.iowa.gov. The following rules will be reviewed:

NOTE: See also Agenda published in the November 3, 2021, Iowa Administrative Bulletin.

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Waivers; five-year review of rules, 2.7, 3.2, 3.14(2), 4.7(4), 4.8, 4.10, 6.2(2), 9.5(2), 10.5(6),
18.2(2) Notice **ARC 5989C**..... 10/20/21

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Out-of-state travel—electronic authorization, 41.4, 41.5, 41.7(8), 64.10(2)"c" Notice **ARC 5981C** 10/20/21
Blood, bone marrow, living organ donation incentive program—leave, staffing, 63.20
Notice **ARC 5980C** 10/20/21
Continuing health insurance coverage—surviving spouses and children of eligible
employees, 64.15 Notice **ARC 5982C**..... 10/20/21
Capitol complex operations—pistols and revolvers, 100.2 Filed **ARC 5993C** 10/20/21

AGING, DEPARTMENT ON[17]

Waivers, amendments to chs 1, 11 Filed **ARC 5955C**..... 10/6/21

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

All Iowa opportunity scholarship program, 8.2, 8.3(4) Filed **ARC 5966C**..... 10/6/21
Health care professional recruitment program, amendments to ch 14 Filed **ARC 5967C**..... 10/6/21
Postsecondary schools—assistance in the event of a school closure, authorization duties for
exempt schools, 21.1, 21.2, 21.16 Filed **ARC 5964C** 10/6/21
Rural Iowa primary care loan repayment program—obstetrics and gynecology, practice areas
for psychiatrists, service agreement, 24.2, 24.3(5), 24.5(2) Filed **ARC 5965C** 10/6/21
Iowa national guard master's degree scholarship program, ch 29 Filed **ARC 5968C** 10/6/21
Iowa national guard student loan repayment program, ch 30 Filed **ARC 5969C** 10/6/21

COMMUNITY ACTION AGENCIES DIVISION[427]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Agency reorganization, rescind chs 2 to 8, 10, 11, 14, 15, 22 to 24 Notice **ARC 5995C**..... 10/20/21

CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Agency reorganization, rescind chs 1 to 3, 6 to 9 Notice **ARC 5997C** 10/20/21

DEAF SERVICES DIVISION[429]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Agency reorganization, rescind chs 1 to 10 Notice **ARC 5999C** 10/20/21

ECONOMIC DEVELOPMENT AUTHORITY[261]

Apprenticeship training program, 12.3, 12.4(1), 12.5 to 12.7 Filed **ARC 5970C** 10/6/21
STEM BEST appropriation, ch 15 Notice **ARC 5983C** 10/20/21
Downtown loan guarantee program, ch 36 Notice **ARC 5984C**..... 10/20/21
Butchery innovation and revitalization program; self-employment loan program, ch 51
Filed Emergency After Notice **ARC 5971C** 10/6/21
Manufacturing 4.0 technology investment program, ch 119 Filed Emergency After Notice **ARC 5972C**..... 10/6/21
Sports tourism program, 215.1, 215.3 to 215.7 Notice **ARC 5988C** 10/20/21
Empower rural Iowa program, ch 222 Filed Emergency After Notice **ARC 5963C**..... 10/6/21
Iowa energy center; alternate energy revolving loan program; energy infrastructure revolving
loan program, amend chs 403, 405; adopt ch 406 Filed Emergency After Notice **ARC 5994C** 10/20/21

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Deadline of response to motions; license sanctions—speech and intellectual freedom
protections, 11.17(2), 11.35(2)"c" Notice **ARC 5934C** 10/6/21
Fees—complaints and hearings involving administrator sanctions, 11.33, 12.10 Notice **ARC 5938C**..... 10/6/21

STEM and dyslexia endorsements; school social worker statement of professional recognition, 13.28, 16.6(2) Notice **ARC 5960C** 10/6/21
 Licensure renewal—individualized professional development plan, 20.5(2)“f,” 20.6(2)“f,” 20.9(2)“e,” 27.5(2)“e” Notice **ARC 5935C** 10/6/21
 Substitute authorization—day limitation, 22.2 Notice **ARC 5937C**..... 10/6/21
 Charter school administrator authorization, 22.13 Notice **ARC 5936C**..... 10/6/21

EDUCATION DEPARTMENT[281]

Charter schools, adopt ch 19; amend ch 68 Notice **ARC 5961C**..... 10/6/21

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Waivers; fees; application and renewal; engineering licensure by examination, 1.1(3), 1.4, 2.1, 3.1 to 3.5, 4.1, 7.5(6) Filed **ARC 5953C**..... 10/6/21

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Disciplinary action against a certified operator—criminal convictions, 87.17(1)“h” Filed **ARC 5976C**..... 10/20/21

HUMAN RIGHTS DEPARTMENT[421]

Agency reorganization, adopt chs 1, 20 to 25, 30, 31, 40, 41; amend chs 2 to 7 Notice **ARC 6004C**..... 10/20/21

HUMAN SERVICES DEPARTMENT[441]

Financial provisions for mental health and disability services regions, 25.14(3) Filed **ARC 5956C** 10/6/21

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Review of rules, amendments to chs 29, 35, 36, 71, 73 to 76, 79 to 81, 85 Notice **ARC 6002C**..... 10/20/21

Viatical and life settlements—annual report, late fee, 48.7 Filed **ARC 5992C** 10/20/21

IOWA FINANCE AUTHORITY[265]

Local housing trust funds—allocation plan, local match; website address, ch 19

Filed Emergency After Notice **ARC 5933C** 10/6/21

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Federal occupational safety and health standards—COVID-19 emergency temporary

standard adopted by reference, 10.20 Filed **ARC 5944C** 10/6/21

Safety rules for amusement rides, amusement devices, and concession booths, 61.2,

61.6(2)“j,” 62.6, 62.7(3) Filed **ARC 5954C**..... 10/6/21

Boilers and pressure vessels, amendments to chs 80 to 85, 90, 91, 94 Filed **ARC 5977C**..... 10/20/21

Boiler and pressure vessel codes—adoption by reference, 90.6(1), 91.1 Notice **ARC 5979C** 10/20/21

Boiler and pressure vessel special inspector commissions, 90.9 Filed **ARC 5945C**..... 10/6/21

Contractor registration revocation—fact-finding interview, 150.11(3) Notice **ARC 5959C**..... 10/6/21

LATINO AFFAIRS DIVISION[433]

HUMAN RIGHTS DEPARTMENT[421]“umbrella”

Agency reorganization, rescind chs 1 to 7 Notice **ARC 5998C** 10/20/21

LAW ENFORCEMENT ACADEMY[501]

Jailer training, amend chs 1, 2, 11, 13; adopt chs 4, 9, 10 Notice **ARC 5962C**..... 10/6/21

LOTTERY AUTHORITY, IOWA[531]

Waivers; “easy pick” tickets, amendments to chs 4, 20 Filed **ARC 5991C** 10/20/21

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Lifetime trout fishing license, 15.12(1)“gg” Notice **ARC 5957C**..... 10/6/21

PERSONS WITH DISABILITIES DIVISION[431]

HUMAN RIGHTS DEPARTMENT[421]“umbrella”

Agency reorganization, rescind chs 1, 2, 4 to 7 Notice **ARC 6000C**..... 10/20/21

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Hearing aid specialists—telehealth appointments, 123.4(1)"g," 123.5 Filed **ARC 5939C** 10/6/21

PUBLIC HEALTH DEPARTMENT[641]

Radiation therapy standards—certificate of need applications, 203.3 Filed **ARC 5931C** 10/6/21

PUBLIC SAFETY DEPARTMENT[661]

Waivers, 10.222, 401.113 Filed **ARC 5975C** 10/20/21

Human trafficking prevention training—lodging providers, ch 29 Filed **ARC 5973C**..... 10/20/21

Firearm training organizations, 91.1, 91.10 Filed **ARC 5974C**..... 10/20/21

REGENTS BOARD[681]

State universities—admission, terminology, domicile, application fees, amend ch 1; rescind
ch 2 Filed **ARC 5946C** 10/6/21

Merit system—administration of pay plan, probationary period, 3.14, 3.39, 3.85 Filed **ARC 5947C** 10/6/21

Traffic and parking at universities, ch 4 Filed **ARC 5948C** 10/6/21

Equal employment opportunity, affirmative action, and targeted small business, amendments
to ch 7 Filed **ARC 5949C**..... 10/6/21

Purchasing; policies; practices; procedures, rescind ch 8; amend ch 9 Filed **ARC 5950C** 10/6/21

Terminology, addresses, meetings, chalking, 11.1, 12.3 to 12.10, 13.1, 13.10 to 13.12, 13.14,
13.15, 13.19, 14.1, 14.2, 16.1(1), 16.7 Filed **ARC 5951C**..... 10/6/21

Addresses; waivers, 18.4(3), 18.6, 18.7(2), 19.3(1), 19.5, 19.6(2), 19.18 Filed **ARC 5952C**..... 10/6/21

REVENUE DEPARTMENT[701]

Protests—motions to redact certain information, 6.1(3)"b," 6.2, 7.8, 7.19(5)"e"(4) Filed **ARC 5932C**..... 10/6/21

Appeals, taxpayer presentation, and other administrative procedures; GovConnectIowa,
amendments to chs 7, 8, 38, 51, 57 Filed **ARC 5940C** 10/6/21

Tuition and textbook credit for expenses incurred for dependents, 42.4 Notice **ARC 5990C**..... 10/20/21

Tax credit—volunteer fire fighters, volunteer emergency medical services personnel
members, reserve peace officers, 42.49 Notice **ARC 5987C** 10/20/21

Hoover presidential library tax credit, 42.57, 52.50, 58.25 Notice **ARC 5986C** 10/20/21

Tax credit rate; school tuition organization tax credit; definition of "eligible student," 42.32,
52.38 Filed **ARC 5978C**..... 10/20/21

Property tax assessment—multiresidential property, dual property; state appraisal manual,
71.1, 71.3 to 71.6, 71.12(3), 71.23, 71.24, 80.30(8) Notice **ARC 5985C**..... 10/20/21

SECRETARY OF STATE[721]

Model business corporation Act; document filings; filing liens in multiple counties, 1.2(1),
30.1(2), 40.1, 40.3, 40.4, 45.4(2), 45.5(2), 45.6, 45.15(2) Notice **ARC 5996C** 10/20/21

Election forms; voting, 21.2(2), 21.12, 21.14, 21.100, 21.103, 21.303, 21.307, 28.3, 28.7
Notice **ARC 5958C** 10/6/21

STATUS OF AFRICAN-AMERICANS, DIVISION ON THE[434]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Agency reorganization, rescind chs 1 to 7 Notice **ARC 6003C** 10/20/21

STATUS OF WOMEN DIVISION[435]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Agency reorganization, rescind chs 1 to 4, 7 to 10 Notice **ARC 6001C** 10/20/21

TRANSPORTATION DEPARTMENT[761]

Driver's licenses—minors, chauffeurs, commercial drivers, 602.12, 602.26, 604.21, 605.7,
605.25, 607.16 Filed **ARC 5942C** 10/6/21

Ignition interlock devices, amendments to chs 615, 620 Filed **ARC 5941C** 10/6/21

Registration—airports, aircraft, 720.4(1), 720.5, 720.10, 720.15, 750.1 to 750.3, 750.30,
750.31 Filed **ARC 5943C**..... 10/6/21

VOTER REGISTRATION COMMISSION[821]

Voting—registration deadline, no-activity notices, notification of polling place change, 8.5,
10.1 to 10.4, 12.1 Notice **ARC 6005C**..... 10/20/21

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

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Harcourt, Iowa 50544

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ACCOUNTANCY EXAMINING BOARD[193A]

Waivers; five-year review of rules, 2.7, 3.2, 3.14(2), 4.7(4), 4.8, 4.10, 6.2(2), 9.5(2), 10.5(6), 18.2(2) IAB 10/20/21 ARC 5989C	Professional Licensing Bureau Offices 200 E. Grand Ave., Suite 350 Des Moines, Iowa	November 10, 2021 2 to 3 p.m.
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ADMINISTRATIVE SERVICES DEPARTMENT[11]

Out-of-state travel—electronic authorization, 41.4, 41.5, 41.7(8), 64.10(2)“c” IAB 10/20/21 ARC 5981C	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa Via conference call: 1.866.685.1580 Conference code: 0009991200	November 10, 2021 11 a.m. to 12 noon
Blood, bone marrow, living organ donation incentive program—leave, staffing, 63.20 IAB 10/20/21 ARC 5980C	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa Via conference call: 1.866.685.1580 Conference code: 0009991200	November 9, 2021 10 to 11 a.m.
Continuing health insurance coverage—surviving spouses and children of eligible employees, 64.15 IAB 10/20/21 ARC 5982C	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa Via conference call: 1.866.685.1580 Conference code: 0009991200	November 9, 2021 1 to 2 p.m.

EDUCATIONAL EXAMINERS BOARD[282]

Deadline of response to motions; license sanctions—speech and intellectual freedom protections, 11.17(2), 11.35(2)“c” IAB 10/6/21 ARC 5934C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	October 26, 2021 1 p.m.
Fees—complaints and hearings involving administrator sanctions, 11.33, 12.10 IAB 10/6/21 ARC 5938C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	October 26, 2021 1 p.m.
Endorsements—STEM, dyslexia; school social workers, 13.28, 16.6(2) IAB 10/6/21 ARC 5960C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	October 26, 2021 1 p.m.
Licensure renewal—individualized professional development plan, 20.5(2)“f,” 20.6(2)“f,” 20.9(2)“e,” 27.5(2)“e” IAB 10/6/21 ARC 5935C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	October 26, 2021 1 to 2 p.m.
Charter school administrator authorization, 22.13 IAB 10/6/21 ARC 5936C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	October 26, 2021 1 p.m.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Substitute authorization—day limitation, 22.2 IAB 10/6/21 ARC 5937C	Board Room 701 E. Court Ave., Suite A Des Moines, Iowa	October 26, 2021 1 p.m.
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EDUCATION DEPARTMENT[281]

Charter schools, adopt ch 19; amend ch 68 IAB 10/6/21 ARC 5961C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa Via videoconference: IDOE.zoom.us/j/96227468763?pwd=QVhEQkxKZlVpTlZCZmZ4QnY3d3Qydz09	October 26, 2021 1 to 3 p.m.
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HUMAN RIGHTS DEPARTMENT[421]

Agency reorganization, adopt chs 1, 20 to 25, 30, 31, 40, 41; amend chs 2 to 7 IAB 10/20/21 ARC 6004C	Via video/conference call Contact Sonya Streit Email: sonya.streit@iowa.gov	November 9, 2021 3 to 4 p.m.
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INSURANCE DIVISION[191]

Review of rules, amendments to chs 29, 35, 36, 71, 73 to 76, 79 to 81, 85 IAB 10/20/21 ARC 6002C	Via conference call Contact Tracy Swalwell Email: tracy.swalwell@iid.iowa.gov	November 15, 2021 9 a.m. (If requested)
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LABOR SERVICES DIVISION[875]

Boiler and pressure vessel codes—adoption by reference, 90.6(1), 91.1 IAB 10/20/21 ARC 5979C	150 Des Moines St. Des Moines, Iowa	November 15, 2021 10:30 a.m. (If requested)
Contractor registration revocation—fact-finding interview, 150.11(3) IAB 10/6/21 ARC 5959C	150 Des Moines St. Des Moines, Iowa	October 27, 2021 1 p.m. (If requested)

NATURAL RESOURCE COMMISSION[571]

Lifetime trout fishing license, 15.12(1)“gg” IAB 10/6/21 ARC 5957C	Via video/conference call Contact Joe Larscheid Email: joe.larscheid@dnr.iowa.gov	October 26, 2021 12:30 to 1:30 p.m.
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PUBLIC SAFETY DEPARTMENT[661]

Electrical installations, 504.1
IAB 9/22/21 **ARC 5918C**

First Floor Public Conference Room 125
Oran Pape State Office Bldg.
Des Moines, Iowa

October 21, 2021
10 to 11 a.m.

REVENUE DEPARTMENT[701]

Tax credit—volunteer fire fighters,
volunteer emergency medical
services personnel members,
reserve peace officers, 42.49
IAB 10/20/21 **ARC 5987C**

Via video/conference call
Contact Kurt Konek
Email: kurt.konek@iowa.gov

November 12, 2021
9:30 to 10:30 a.m.
(If requested)

Tuition and textbook credit
for expenses incurred for
dependents, 42.4
IAB 10/20/21 **ARC 5990C**

Via video/conference call
Contact Kurt Konek
Email: kurt.konek@iowa.gov

November 15, 2021
2 to 3 p.m.
(If requested)

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGING, DEPARTMENT ON[17]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
 OMBUDSMAN[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 EARLY CHILDHOOD IOWA STATE BOARD[249]
 ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
 IOWA FINANCE AUTHORITY[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]

Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Child Advocacy Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Professional Licensure Division[645]
 Dental Board[650]
 Medicine Board[653]
 Nursing Board[655]
 Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 5989C**ACCOUNTANCY EXAMINING BOARD[193A]****Notice of Intended Action****Proposing rule making related to waivers and five-year review of rules
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to amend Chapter 2, “Organization and Administration,” Chapter 3, “Certification of CPAs,” Chapter 4, “Licensure of LPAs,” Chapter 6, “Attest and Compilation Services,” Chapter 9, “Reciprocity and Substantial Equivalency,” Chapter 10, “Continuing Education,” and Chapter 18, “Licensees’ Duty to Report,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 542.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 17A.7 and 2020 Iowa Acts, House File 2389.

Purpose and Summary

The proposed amendments to Chapters 2 and 10 will bring the rules into compliance with 2020 Iowa Acts, House File 2389. Other amendments are in partial compliance with Iowa Code section 17A.7(2), which states that beginning July 1, 2012, over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency’s rules. The goal of the review is to identify and eliminate all rules that are outdated, redundant, or inconsistent or incompatible with statute or the agency’s rules or the rules of other agencies.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 193—Chapter 5.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 10, 2021. Comments should be directed to:

Robert Lampe
Iowa Accountancy Examining Board
200 East Grand Avenue, Suite 350
Des Moines, Iowa 50309
Email: robert.lampe@iowa.gov

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 10, 2021
2 to 3 p.m.

Professional Licensing Bureau Offices
200 East Grand Avenue, Suite 350
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 193A—2.7(17A,21,22,272C,542) as follows:

193A—2.7(17A,21,22,272C,542) Uniform bureau rules. Administrative and procedural rules which are common to all boards in the bureau can be found in the rules of the professional licensing and regulation bureau.

2.7(1) Persons seeking waivers or variances from board rules should review the uniform rules at 193—Chapter 5.

2.7(2) and **2.7(3)** No change.

2.7(4) Rules regarding denial of issuance or renewal of license or license suspension or revocation for nonpayment of child support, or debts owing to the state, or student loans appear at 193—Chapter 8.

2.7(5) to **2.7(9)** No change.

ITEM 2. Amend rule 193A—3.2(542) as follows:

193A—3.2(542) Colleges or universities recognized by the board. Iowa Code section 542.5, in providing for educational qualifications for a certificate as a certified public accountant, refers to colleges or universities “recognized by the board.” For such purpose, the board recognizes the following educational accrediting institutions ~~accredited by the Association to Advance Collegiate Schools of Business and the regional accrediting bodies listed in the current publication of the Accredited Institutions of Post Secondary Education, which listing is made a part of these rules by reference.:~~

1. Middle States Commission on Higher Education (MSCHE);
2. Northwest Commission on Colleges and Universities (NWCCU);
3. Higher Learning Commission (HLC);
4. New England Commission of Higher Education (NECHE);
5. Southern Association of Colleges and Schools and Commission on Colleges (SACSCOC);
6. WASC Senior College and University Commission (WSCUC).

Alternatively, applicants may provide evidence of meeting equivalent accreditation requirements of the Higher Learning Commission (HLC).

This rule is intended to implement Iowa Code section 542.5.

ITEM 3. Amend subrule 3.14(2) as follows:

3.14(2) A candidate who meets the requirements for a certificate outlined in rule 193A—3.1(542) shall file an application for a certificate within three years of the date of passing the examination. If

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

the candidate does not file an application for a certificate within the required time frame, the candidate must comply with the basic continuing education requirements outlined in rule 193A—10.5(542) prior to filing an application. The required continuing education hours shall include a minimum of eight hours of continuing education every three years devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and auditing updates, and a minimum of four hours of continuing education devoted to professional ethics.

ITEM 4. Amend subrule 4.7(4) as follows:

4.7(4) Alternatively, an applicant may satisfy the examination requirement of this rule by passing the Financial Accounting and Reporting—~~Business Enterprises and Accounting and Reporting—Taxation, Managerial, Governmental and Not-for-Profit Organization~~ Regulation sections of the CPA examination provided by the AICPA.

ITEM 5. Rescind subrules **4.8(1)** and **4.8(2)**.

ITEM 6. Renumber subrules **4.8(3)** and **4.8(4)** as **4.8(1)** and **4.8(2)**.

ITEM 7. Amend rule 193A—4.10(542) as follows:

193A—4.10(542) Refunding of examination fees. Examination fees will not be refunded except as provided by the rules concerning the refunding of examination fees to an examination candidate for a certified public accountant certificate outlined in ~~193A—3.10(542)~~ rule 193A—3.11(542).

ITEM 8. Amend subrule 6.2(2) as follows:

6.2(2) Experience shall include all of the following:

a. Experience in applying a variety of ~~auditing~~ attest procedures and techniques to the usual and customary financial transactions recorded in accounting records.

b. Experience in the preparation of ~~audit~~ attest working papers covering the examination of the accounts usually found in accounting records.

c. Experience in the planning of the program of ~~audit~~ attest work including the selection of the procedures to be followed.

d. and e. No change.

ITEM 9. Amend subrule 9.5(2) as follows:

9.5(2) A person who holds in good standing a certificate, license or designation from a foreign authority that is substantially equivalent to an Iowa CPA certificate shall be deemed qualified for an Iowa CPA certificate if the person satisfies all of the provisions of Iowa Code section 542.19(3). The burden is on the applicant to demonstrate that such certificate, license or foreign designation is in full force and effect and that the requirements for that certificate, license or foreign designation are comparable or superior to those required for a CPA certificate in this state. Original verification from the foreign authority which issued the certificate, license or designation shall be required to demonstrate that such certificate, license or designation is valid and in good standing. If the applicant cannot establish comparable or superior qualifications, the board shall require that the applicant pass the uniform certified public accountant examination designed to test the applicant's knowledge of practice in this state and country. If the applicant is a Canadian Chartered Accountant, Australian Chartered Accountant, Hong Kong CPA, Ireland Chartered Accountant, Mexico Contador Público Certificado (CPC), New Zealand Chartered Accountant, ~~or~~ Scottish Chartered Accountant, or South African Chartered Accountant, the applicant may be required to take the International Uniform CPA Qualification Examination (IQEX) in lieu of the uniform certified public accountant examination.

ITEM 10. Amend subrule 10.5(6) as follows:

10.5(6) The board shall have authority to make exceptions for reasons of individual hardship including health, certified by a medical doctor, military service, foreign residency, retirement, or other good cause. No exceptions shall be made solely because of age. Applicants entitled to a full or partial exception under the provisions of Iowa Code section ~~272C.2, subsection 4,~~ 272C.2(4) for active military service or government service outside of the United States may request an exception by submitting acceptable documentation as applicable to the exception requested. Applicants seeking an exception

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

on other grounds of undue hardship must submit an application for waiver or variance as provided in 193—Chapter 5.

ITEM 11. Amend subrule 18.2(2) as follows:

18.2(2) When a licensee is a party to an adverse judgment resulting from a professional malpractice action or is a party to a settlement of a claim resulting from an allegation of malpractice, the licensee shall file a report in writing forwarded to the board office, setting forth the name and address of the client, the date the claim was originally made, a brief description of the circumstances precipitating the claim and a copy of the judgment or settlement agreement resulting from the claim. ~~It is the intent of this rule to require the reporting of all judgments or settlements resulting from claims that were initiated by court action and not claims of malpractice that are made against a licensee that are not filed in a court of law.~~

ARC 5981C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

**Proposing rule making related to out-of-state travel approval
and providing an opportunity for public comment**

The Administrative Services Department hereby proposes to amend Chapter 41, “Auditing Claims,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 8A.104, 17A.3 and 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 8A.512A(2)“a” as amended by 2021 Iowa Acts, Senate File 314.

Purpose and Summary

These proposed amendments comport with 2021 Iowa Acts, Senate File 314. This legislation amends Iowa Code section 8A.512A(2)“a,” which pertains to out-of-state travel for state employees, by allowing an agency director’s designated representative to approve an electronic travel authorization form. This option allows for more efficiency in state government.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

The Department will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department’s rules concerning waivers.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 10, 2021. Comments should be directed to:

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Tami Wienczek
Department of Administrative Services
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Phone: 515.725.2017
Fax: 515.281.6140
Email: tami.wienczek@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 10, 2021
11 a.m. to 12 noon

Procurement Conference Room, A Level
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa
Or via conference call:
Dial: 1.866.685.1580
Conference code: 0009991200

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 11—41.4(8A) as follows:

11—41.4(8A) Authorization for travel.

41.4(1) *Approval by administrative head of the agency.* All official travel shall be authorized by the administrative head of the agency or the designated representative, prior to the travel whenever possible.

41.4(2) *Out of state.* Official travel out of the state for any executive branch employee must receive prior electronic authorization on the Travel Department Authorization form from the administrative head of the agency or the designated representative.

41.4(3) *Requests for out-of-state travel.* All requests for out-of-state travel shall be on a form approved by the administrative head of the agency and shall include information required by Iowa Code section 8A.512A.

41.4(4) *Most economical or advantageous mode of travel.* Reimbursement for transportation approved by the administrative head of the agency or the designated representative shall be for the most economical or advantageous mode and by the usually traveled route.

ITEM 2. Amend subrule 41.5(1) as follows:

41.5(1) *Airline travel accommodations.* When the administrative head of the agency or the designated representative determines that airline travel is the most economical or advantageous to

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

the state, the use of airline travel may be authorized. The most economical mode of airline travel is considered to be coach or economy class, if available.

ITEM 3. Amend paragraph **41.5(4)“b”** as follows:

b. Out of state. If the traveler desires to use a personally owned vehicle instead of common carrier and it is authorized by the administrative head of the agency or the designated representative, the cost of mileage (not to exceed airfare) to the destination's nearest air terminal, plus expenses incurred to final destination and subsistence allowance en route will be allowed. Out-of-state subsistence allowance will be allowed only for the number of meals and nights lodging which would have been necessary had the traveler used the available public transportation to destination instead of a private vehicle. Taxi or mileage expenses will be allowed at the destination if the expenses are incurred while the traveler is on official business.

If two or more travelers on official business travel in one privately owned vehicle instead of common carrier, the use of one vehicle may be authorized on a mileage basis not to exceed the statutory limit per mile.

ITEM 4. Amend subrule 41.5(6) as follows:

41.5(6) *Assignment of more than one employee to a vehicle.* In authorizing the use of privately owned or state-owned vehicles, the ~~agency head~~ administrative head of the agency or the designated representative shall, whenever possible, assign more than one employee to the use of one vehicle.

ITEM 5. Amend subrule 41.7(8) as follows:

41.7(8) *Registration fees.* The payment of registration fees which are required for participation in meetings shall be allowed. Registration fees shall be supported by the official receipt of the conference or convention subject to the following limitations:

a. Expenditures for payment of registration fees for the purpose of obtaining the privileges of membership or other personal benefits from an organization are not reimbursable. Memberships in organizations must be in the name of the state agency and have approval of the director of the department or designated representative requesting the membership and of the director of the department of management and shall be published to the Iowa transparency Internet site established by Iowa Code section 8G.4.

b. and c. No change.

ITEM 6. Amend paragraph **64.10(2)“c”** as follows:

c. If attendance is outside the state of Iowa, travel must be authorized ~~by the head of the employee's department~~ pursuant to Iowa Code section ~~8A.512A(2)“a.”~~ 8A.512A(2)“a” as amended by 2021 Iowa Acts, Senate File 314.

ARC 5980C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Proposing rule making related to blood, bone marrow, and living organ donation leave for state employees and providing an opportunity for public comment

The Administrative Services Department hereby proposes to amend Chapter 63, “Leave,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 8A.104, 8A.413(20), 17A.3 and 17A.4.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 70A.39 as amended by 2021 Iowa Acts, Senate File 336.

Purpose and Summary

These proposed amendments update Chapter 63, "Leave," to comport with changes to the Iowa Code made by 2021 Iowa Acts, Senate File 336, which relates to the blood, bone marrow, and living organ donation incentive program for state employees. These amendments are proposed to update terms to align with this legislation. In addition, they include procedures appointing authorities may take to ensure adequate staffing in the event of blood donation requests.

Fiscal Impact

A fiscal impact cannot be determined because it is impossible to know how many state employees will elect to donate blood and how often. In addition, the Department cannot predict how often or how many employees will donate bone marrow or a living organ and thus cannot estimate the total amount of leave taken from work.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

The Department will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department's rules concerning waivers.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Tami Wiencek
Department of Administrative Services
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Phone: 515.725.2017
Fax: 515.281.6140
Email: tami.wiencek@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 9, 2021
10 to 11 a.m.

Procurement Conference Room, A Level
1305 East Walnut Street
Hoover State Office Building
Des Moines, Iowa
Or via conference call:
Dial: 1.866.685.1580
Conference code: 0009991200

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rule 11—63.20(8A,70A) as follows:

11—63.20(8A,70A) Bone Blood, bone marrow, and living organ donation leave. Employees, excluding employees covered by a collective bargaining agreement that provides otherwise, shall be granted leave pursuant to Iowa Code section 70A.39 as amended by 2021 Iowa Acts, Senate File 336. An employee who is granted a leave of absence under Iowa Code section 70A.39 as amended by 2021 Iowa Acts, Senate File 336, shall receive leave without loss of seniority, pay, vacation time, personal days, sick leave, insurance and health coverage benefits, or earned overtime accumulation. To ensure adequate staffing, an appointing authority may require employees to request leave, in advance, to serve as a voluntary blood donor pursuant to Iowa Code section 70A.39(2)“c” as enacted by 2021 Iowa Acts, Senate File 336. An employee who requests leave to serve as a voluntary blood donor pursuant to Iowa Code section 70A.39(2)“c” as enacted by 2021 Iowa Acts, Senate File 336, may be denied such leave by the appointing authority if granting the leave would unreasonably impact the operational efficiency of the agency. The employee shall be compensated at the employee's regular rate of pay for those regular work hours during which the employee is absent from work. An employee deemed to be on leave under Iowa Code section 70A.39 as amended by 2021 Iowa Acts, Senate File 336, shall not be deemed to be an employee of the state for purposes of workers' compensation or for purposes of the Iowa tort claims Act, Iowa Code chapter 669.

ARC 5982C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Proposing rule making related to continuation of health insurance coverage for surviving spouses and children of eligible department of corrections employees and providing an opportunity for public comment

The Administrative Services Department hereby proposes to amend Chapter 64, “Benefits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 8A.104, 8A.413, 17A.3 and 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 8A.402(1)“c” as amended by 2021 Iowa Acts, House File 861, section 32.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Purpose and Summary

The proposed amendments comport with 2021 Iowa Acts, House File 861, section 32. This legislation creates new Iowa Code section 509A.13D, which provides for continuing health care benefits coverage for the surviving spouse and each surviving child of an eligible employee of the Iowa Department of Corrections. Pursuant to Iowa Code section 8A.402(1)“c,” the Department is the central agency responsible for state human resource management, including employee benefits. This new Iowa Code section says, in part, that the governing body of the State shall permit continuation of existing health insurance coverage for the surviving spouse and each surviving child of an eligible employee of the Iowa Department of Corrections in the event of that employee’s death in the line of duty.

Fiscal Impact

The fiscal impact cannot be determined since it is impossible to predict how many eligible employees would fall into this category in the future and what varying health care coverage details would be involved.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

The Department will not grant waivers under this provision of these rules, other than as may be allowed under Chapter 9 of the Department’s rules concerning waivers.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Tami Wienczek
Department of Administrative Services
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Phone: 515.725.2017
Fax: 515.281.6140
Email: tami.wienczek@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 9, 2021
1 to 2 p.m.

Procurement Conference Room, A Level
Hoover State Office Building
1305 East Walnut Street
Des Moines, Iowa
Or via conference call:
Dial: 1.866.685.1580
Conference code: 0009991200

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 64.15(3) as follows:

64.15(3) The surviving spouse and each surviving child of an eligible peace officer or fire fighter, as defined in ~~2018 Iowa Acts, House File 2502~~ [Iowa Code section 509A.13C](#), are eligible for the continuation of existing, or reenrollment in previously existing, health insurance coverage.

ITEM 2. Adopt the following **new** subrule 64.15(4):

64.15(4) The surviving spouse and each surviving child of an eligible employee of the Iowa department of corrections, as defined in 2021 Iowa Acts, House File 861, section 32, are eligible for the continuation of existing, or reenrollment in previously existing, health insurance coverage.

ARC 5995C

COMMUNITY ACTION AGENCIES DIVISION[427]

Notice of Intended Action

**Proposing rule making related to transfer of rules
and providing an opportunity for public comment**

The Department of Human Rights (Department) hereby proposes to rescind Chapter 2, "Public Records and Fair Information Practices," Chapter 3, "Petitions for Rule Making," Chapter 4, "Agency Procedure for Rule Making," Chapter 5, "Weatherization Assistance Program," Chapter 6, "Declaratory Orders," Chapter 7, "Contested Cases," Chapter 8, "Waiver Rules," Chapter 10, "Low-Income Home Energy Assistance Program," Chapter 11, "Affordable Heating Program," Chapter 14, "Individual Development Accounts (IDAs)," Chapter 15, "Family Development and Self-Sufficiency Program," Chapter 22, "Community Services Block Grant," Chapter 23, "Emergency Community Services Homeless Grant Program," and Chapter 24, "Community Services Block Grant Flood Relief Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 17A and 216A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A and 216A.

Purpose and Summary

The Department underwent statutory reorganization in 2010 (2010 Iowa Acts, Senate File 2088). The Community Action Agencies Division no longer has rule-making authority; rule-making authority is vested in the Department. The Department is proposing to rescind rules under the previous divisions and will be consolidating and adopting new comprehensive rules under the Department of Human Rights[421] (**ARC 6004C**, IAB 10/20/21). The text of the chapters to be rescinded can be located here: www.legis.iowa.gov/law/administrativeRules/chapters?agency=427&pubDate=09-22-2021.

COMMUNITY ACTION AGENCIES DIVISION[427](cont'd)

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Sonya Streit
Iowa Department of Human Rights
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.5640
Fax: 515.242.6119
Email: sonya.streit@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

COMMUNITY ACTION AGENCIES DIVISION[427](cont'd)

- ITEM 1. Rescind **427—Chapter 2.**
- ITEM 2. Rescind **427—Chapter 3.**
- ITEM 3. Rescind **427—Chapter 4.**
- ITEM 4. Rescind **427—Chapter 5.**
- ITEM 5. Rescind **427—Chapter 6.**
- ITEM 6. Rescind **427—Chapter 7.**
- ITEM 7. Rescind **427—Chapter 8.**
- ITEM 8. Rescind **427—Chapter 10.**
- ITEM 9. Rescind **427—Chapter 11.**
- ITEM 10. Rescind **427—Chapter 14.**
- ITEM 11. Rescind **427—Chapter 15.**
- ITEM 12. Rescind **427—Chapter 22.**
- ITEM 13. Rescind **427—Chapter 23.**
- ITEM 14. Rescind **427—Chapter 24.**

ARC 5997C**CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428]****Notice of Intended Action****Proposing rule making related to transfer of rules
and providing an opportunity for public comment**

The Department of Human Rights (Department) hereby proposes to rescind Chapter 1, “Functions,” Chapter 2, “Public Records and Fair Information Practices,” Chapter 3, “Juvenile Justice Youth Development Program,” Chapter 6, “Declaratory Orders,” Chapter 7, “Petitions for Rule Making,” Chapter 8, “Agency Procedure for Rule Making,” and Chapter 9, “Waiver Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 17A and 216A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A and 216A.

Purpose and Summary

The Department underwent statutory reorganization in 2010 (2010 Iowa Acts, Senate File 2088). The Criminal and Juvenile Justice Planning Division[428] no longer has rule-making authority; rule-making authority is vested in the Department. The Department is proposing to rescind rules under the previous divisions and will be consolidating and adopting new comprehensive rules under the Department of Human Rights[421] (**ARC 6004C**, IAB 10/20/21). The text of the chapters to be rescinded can be located here: www.legis.iowa.gov/law/administrativeRules/chapters?agency=428&pubDate=09-22-2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428](cont'd)

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Sonya Streit
Iowa Department of Human Rights
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.5640
Fax: 515.242.6119
Email: sonya.streit@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

- ITEM 1. Rescind **428—Chapter 1.**
- ITEM 2. Rescind **428—Chapter 2.**
- ITEM 3. Rescind **428—Chapter 3.**
- ITEM 4. Rescind **428—Chapter 6.**
- ITEM 5. Rescind **428—Chapter 7.**
- ITEM 6. Rescind **428—Chapter 8.**
- ITEM 7. Rescind **428—Chapter 9.**

ARC 5999C**DEAF SERVICES DIVISION[429]****Notice of Intended Action****Proposing rule making related to transfer of rules
and providing an opportunity for public comment**

The Department of Human Rights (Department) hereby proposes to rescind Chapter 1, “Organization,” Chapter 2, “Services and Procedures,” Chapter 3, “Public Records and Fair Information Practices,” Chapter 4, “Forms,” Chapter 5, “Employment Practices,” Chapter 6, “Declaratory Orders,” Chapter 7, “Petitions for Rule Making,” Chapter 8, “Agency Procedure for Rule Making,” Chapter 9, “Contested Cases,” and Chapter 10, “Waiver Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 17A and 216A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A and 216A.

Purpose and Summary

The Department underwent statutory reorganization in 2010 (2010 Iowa Acts, Senate File 2088). The Deaf Services Division[429] is now the Office of Deaf Services under the Community Advocacy and Services Division in the Department. The Deaf Services Division[429] no longer has rule-making authority; rule-making authority is vested in the Department. The Department is proposing to rescind rules under the previous divisions and will be consolidating and adopting new comprehensive rules under the Department of Human Rights[421] (ARC 6004C, IAB 10/20/21). The text of the chapters to be rescinded can be located here: www.legis.iowa.gov/law/administrativeRules/chapters?agency=429&pubDate=09-22-2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

DEAF SERVICES DIVISION[429](cont'd)

Sonya Streit
 Iowa Department of Human Rights
 Lucas State Office Building
 321 East 12th Street
 Des Moines, Iowa 50319
 Phone: 515.242.5640
 Fax: 515.242.6119
 Email: sonya.streit@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

- ITEM 1. Rescind **429—Chapter 1.**
- ITEM 2. Rescind **429—Chapter 2.**
- ITEM 3. Rescind **429—Chapter 3.**
- ITEM 4. Rescind **429—Chapter 4.**
- ITEM 5. Rescind **429—Chapter 5.**
- ITEM 6. Rescind **429—Chapter 6.**
- ITEM 7. Rescind **429—Chapter 7.**
- ITEM 8. Rescind **429—Chapter 8.**
- ITEM 9. Rescind **429—Chapter 9.**
- ITEM 10. Rescind **429—Chapter 10.**

ARC 5983C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

**Proposing rule making related to STEM BEST appropriation
 and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to adopt a new Chapter 15, “STEM BEST Appropriation,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2021 Iowa Acts, House File 871.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 871.

Purpose and Summary

The STEM BEST Program is administered by the University of Northern Iowa (UNI) on behalf of the Iowa Governor's STEM Advisory Council. Pursuant to 2021 Iowa Acts, House File 871, \$700,000 is appropriated to the Authority for the program and the Authority is directed to adopt rules to establish criteria for the distribution of the appropriated funds.

The proposed new Chapter 15 outlines the transfer of appropriated funds from the Authority to UNI. The chapter would allow funds to be used for grant awards made in accordance with published guidance as well as program recruitment and applicant support.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond the impact of the legislation implemented.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Adopt the following new 261—Chapter 15:

CHAPTER 15
STEM BEST APPROPRIATION

261—15.1(89GA, HF871) Purpose. The authority is directed to adopt rules to establish criteria for the distribution of funds appropriated in 2021 Iowa Acts, House File 871, section 3, subsection 11, to the STEM BEST program.

261—15.2(89GA, HF871) Definitions. As used in this chapter, unless the context otherwise requires:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Council*” means the Iowa governor’s STEM advisory council operated pursuant to Executive Order 74 dated July 26, 2011, and Executive Order 81 dated May 15, 2013.

“*Program administrator*” means the science, technology, engineering, and mathematics collaborative initiative established at the university of northern Iowa pursuant to Iowa Code section 268.7.

“*STEM BEST program*” or “*program*” means the grant program overseen by the council and program administrator to support curriculum development by K-12 schools and industry professionals to prepare students for careers in science, technology, engineering, or mathematics (STEM) or a related field.

261—15.3(89GA, HF871) Eligible uses of funds. Funds appropriated to the authority for the STEM BEST program shall be transferred to the program administrator to fund grant awards. Awards shall be made in accordance with program guidance established by the council and program administrator. The program guidance is published at www.iowastem.org. Funds may also be used for program recruitment and applicant support.

These rules are intended to implement 2021 Iowa Acts, House File 871.

ARC 5984C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rule making related to downtown loan guarantee program and providing an opportunity for public comment

The Economic Development Authority hereby proposes to rescind Chapter 36, “Film, Television, and Video Project Promotion Program,” and to adopt a new Chapter 36, “Downtown Loan Guarantee Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2021 Iowa Acts, Senate File 619.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 619.

Purpose and Summary

Pursuant to 2021 Iowa Acts, Senate File 619, the Authority shall establish a Downtown Loan Guarantee Program. The purpose of the program is to encourage Iowa downtown businesses and banks to reinvest and reopen following the COVID-19 pandemic.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

The loan guarantee is available to businesses that are eligible for a Downtown Resource Center Community Catalyst Building Remediation Grant or Main Street Iowa Challenge Grant. The project must include a housing component and meet Downtown Resource Center and Main Street Iowa design review criteria. Authority staff, in conjunction with Iowa Finance Authority staff, will review applications and make a recommendation as to whether an application should be approved and, if so, the guarantee percentage. The Authority Director may approve, deny, or defer an application.

This new chapter would replace the current chapter relating to the Film, Television, and Video Promotion Program. The program was repealed in 2012.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Rescind 261—Chapter 36 and adopt the following **new** chapter in lieu thereof:

CHAPTER 36
DOWNTOWN LOAN GUARANTEE PROGRAM

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

261—36.1(15) Purpose. Pursuant to Iowa Code section 15.431 as enacted by 2021 Iowa Acts, Senate File 619, the authority, in partnership with the Iowa finance authority, shall establish and administer a downtown loan guarantee program. The purpose of the program is to encourage Iowa downtown businesses and banks to reinvest and reopen following the COVID-19 pandemic.

261—36.2(15) Definitions.

“Authority” means the economic development authority created in Iowa Code section 15.105.

“Authority’s website” means the information and related content found at www.iowaeda.com and may include integrated content at affiliate sites.

“Board” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“Borrower” means a business that is approved for a loan by a lender and that has applied for assistance under the program.

“Director” means the director of the authority.

“Iowa finance authority” means the public instrumentality and agency of the state created by Iowa Code section 16.1A.

“Lender” means a federally insured financial lending institution that issued a loan to a borrower.

“Program” means the downtown loan guarantee program established pursuant to this chapter.

261—36.3(15) Eligibility. To be eligible for approval of a loan guarantee, a borrower must demonstrate that all of the following conditions are met:

36.3(1) The loan finances an eligible downtown resource center community catalyst building remediation grant project or main street Iowa challenge grant project within a designated district. A borrower does not need to receive a grant to be eligible for a loan guarantee under the program, but a borrower and proposed project must meet all eligibility criteria for either the community catalyst building remediation grant or main street Iowa challenge grant.

36.3(2) The loan finances a rehabilitation project, or finances acquisition or refinancing costs associated with the project.

36.3(3) At least 25 percent of the project costs are used for construction on the project or renovation.

36.3(4) The project includes a housing component.

36.3(5) The loan is used for construction of the project, permanent financing of the project, or both.

36.3(6) A federally insured financial lending institution issued the loan.

36.3(7) The loan does not reimburse the borrower for working capital, operations, or similar expenses.

36.3(8) The project meets downtown resource center and main street Iowa design review criteria.

261—36.4(15) Application submittal and review process.

36.4(1) The authority will develop a standardized application process and make information on applying available on the authority’s website. To apply for assistance under the program, the borrower and lender shall submit an application to the authority in the manner prescribed by the authority. Applications will be accepted and processed by authority staff on a continuing basis or the authority may establish application periods as announced on the authority’s website.

36.4(2) Each application shall include, at a minimum, the following: name(s) and address(es) of the borrower and participating lender, amount of loan, amount of loan guarantee requested, and certification of compliance with state law and lending practices.

36.4(3) The authority may refuse to accept incomplete applications.

36.4(4) The authority may refuse to accept applications because of insufficient funds.

36.4(5) Authority staff, in conjunction with Iowa finance authority staff, will review applications and make a recommendation as to whether an application should be approved and the guarantee percentage. The director may approve, deny, or defer an application.

36.4(6) The authority reserves the right to deny a loan guarantee for unreasonable bank loan fees or interest rates.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

261—36.5(15) Loan guarantee limitations.

36.5(1) For a loan amount less than or equal to \$500,000, the authority may guarantee up to 50 percent of the loan amount. For a loan amount greater than \$500,000, the authority may provide a maximum loan guarantee of up to \$250,000.

36.5(2) A project loan must be secured by a mortgage against the project property.

36.5(3) The authority may guarantee loans for up to five years. The authority may extend the loan guarantee for an additional five years if an underwriting review finds that an extension would be beneficial. Extensions are subject to approval by the director.

36.5(4) The loan must not be insured or guaranteed by another local, state, or federal guarantee program.

36.5(5) The loan guarantee is not transferable if the loan or the project is sold or transferred.

36.5(6) In the event of a loss due to default, the loan guarantee proportionally pays the guarantee percentage of the loss to the lender as established in the agreement executed pursuant to rule 261—36.7(15).

261—36.6(15) Annual fee. The lender shall pay an annual loan guarantee fee not to exceed 2 percent of the loan amount for the duration of the loan guarantee. The fee applicable to each approved loan guarantee will be established by the program agreement executed pursuant to rule 261—36.7(15).

261—36.7(15) Agreement. Upon approval of an award, authority staff shall prepare an agreement between the authority, the lender, and the borrower. The agreement, at a minimum, shall include the conditions of the award, including the applicable annual fee to be paid by the lender pursuant to rule 261—36.6(15), the responsibilities of each party, and the potential actions in instances of noncompliance.

261—36.8(15) Reporting. The borrower and lender shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly, or the governor's office.

These rules are intended to implement Iowa Code section 15.431 as enacted by 2021 Iowa Acts, Senate File 619.

ARC 5988C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

**Proposing rule making related to sports tourism program
and providing an opportunity for public comment**

The Enhance Iowa Board hereby proposes to amend Chapter 215, "Sports Tourism Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 15F.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 15F.401 and 15F.402 and 2021 Iowa Acts, House File 862.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Purpose and Summary

2021 Iowa Acts, House File 862, amends Iowa Code sections 15F.401 and 15F.403 relating to the Sports Tourism Program administered by the Board. The purpose of the program is to provide financial assistance for projects that promote sporting events.

The legislation updates the program to allow assistance for projects that promote professional sporting events and exclude infrastructure as an eligible expenditure. The amended statute also limits assistance to 50 percent of the total cost of the project with a maximum award amount of \$500,000.

The proposed amendments reflect the changes made to the Iowa Code and reflect the legislative intent in updating the program. The proposed amendments also clarify administrative aspects of the program.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 213.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 1. Amend rule 261—215.1(15F) as follows:

261—215.1(15F) Definitions. When used in this chapter, unless the context otherwise requires:

“Accredited colleges and universities” means any college, university, or institution of higher learning that is accredited by ~~The~~ the Higher Learning Commission or any other college, university, or institution of higher learning that is accredited by an accrediting agency that is recognized by the U.S. Department of Education.

“Authority” means the economic development authority created in Iowa Code section 15.105.

“Bid fees” means fees paid as part of proposing a location for an event.

“Board” means the enhance Iowa board as created in Iowa Code section 15F.102.

“Convention and visitors bureau” or *“CVB”* means an organization engaged primarily in the marketing and promotion of a local community or communities to businesses and to leisure travelers interested in the area’s facilities. Such organizations are typically engaged in a wide range of activities including but not limited to assisting businesses and leisure travelers in identifying meeting locations and convention sites; providing maps and other travel information; providing information on local attractions, lodging, and restaurants; and organizing tours of local historical, recreational, and cultural attractions.

“District” means a regional sports authority district certified under Iowa Code section 15E.321.

“Financial assistance” means assistance provided only from the funds available to the authority or the board and includes assistance in the form of grants, loans, and forgivable loans.

“Infrastructure” means equipment, appurtenant structures, or site development that is related to the operation of a sporting event that is the subject of the project.

“Marketing” means planning for or implementing efforts to publicize a sporting event using a range of strategies, tools and tactics.

“Organization” means a corporation, conference, association, or other organization which has as one of its primary purposes the sponsoring or administration of extracurricular intercollegiate athletic contests or competitions, or professional sporting events.

“Professional sporting events” means any sporting events for which the competing athletes receive payment for their participation in such sporting event.

“Program” means the sports tourism program administered pursuant to this chapter.

“Promote” or *“promotion”* means to undertake specific identifiable actions that encourage greater awareness of and attendance at a sporting event. This includes the planning, organizing, advertising, marketing, managing, hosting, and sponsoring of a sporting event.

“Public organization” means a not-for-profit economic development organization or other not-for-profit organization including one that sponsors or supports sporting events.

“Sporting event” means an athletic activity requiring skill or physical prowess, usually competitive in nature and governed by a set of rules provided by a nationally recognized sanctioning body. A sporting event typically includes the placing of competitors into a fixed order of finish, depending upon their respective athletic performance within the rules provided for that activity.

“Sports tourism program review committee” or *“review committee”* means the committee established by Iowa Code section 15F.402(2) and shall consist of members of the board, with one member from each congressional district under Iowa Code section 15F.102(2)“a” and one member from the state at large under Iowa Code section 15F.102(2)“b.”

ITEM 2. Amend rule 261—215.3(15F) as follows:

261—215.3(15F) Eligible projects. Eligible projects must actively and directly promote sporting events for accredited colleges and universities, professional sporting events, and other sporting events in the area served by an eligible applicant as defined in rule 261—215.2(15F). Only projects that promote sporting events occurring in Iowa are eligible for assistance.

215.3(1) An eligible applicant may apply for and receive financial assistance for more than one project. The board may require additional information to substantiate the financial need for awarding more than one project in any fiscal year.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

215.3(2) An eligible applicant may apply for financial assistance for a project that spans ~~multiple~~ two fiscal years.

215.3(3) An eligible applicant may apply for ~~renewal of~~ financial assistance ~~awarded in a prior year~~ for a project that spans two fiscal years. If financial assistance is approved for two fiscal years, financial assistance will only be provided for the second fiscal year if all applicable contractual requirements are met. The decision as to whether to renew an award shall be at the discretion of the board. When considering whether to ~~renew an award~~ financial assistance for two fiscal years, the board shall evaluate metrics including the amount of revenue generated by ticket sales, the estimated economic impact, and the number of overnight stays at hotels in the city or county where the sporting event is being held. For example, economic impact may be calculated as total estimated attendance multiplied by daily attendee spending multiplied by average length of stay. If an eligible applicant wishes to supply an alternative formula for calculating economic impact, the applicant must supply a credible source for using an alternative formula. The authority may include such metrics and estimates in a program agreement executed pursuant to Iowa Code section 15F.401.

215.3(4) A convention and visitors bureau shall not in the same fiscal year receive financial assistance under the program created in this chapter and financial assistance as part of a district created pursuant to 261—Chapter 38.

215.3(5) An eligible applicant shall demonstrate matching funds in order to receive financial assistance pursuant to this rule. The amount of matching funds that may be required shall be at the board's discretion. An applicant under the program shall not receive financial assistance in an amount exceeding 50 percent of the total cost of the project.

215.3(6) A city, county, or public organization may use financial assistance received under the program for marketing, ~~and promotions, and infrastructure.~~ Whether an activity or individual cost item is directly related to the promotion of the sporting event shall be within the discretion of the authority.

215.3(7) A city, county, or public organization shall not use financial assistance received under the program as reimbursement for completed projects.

215.3(8) The total amount of financial assistance provided to an applicant in any one fiscal year shall not exceed \$500,000.

ITEM 3. Renumber rules **261—215.4(15F)** to **261—215.6(15F)** as **261—215.5(15F)** to **261—215.7(15F)**.

ITEM 4. Adopt the following new rule 261—215.4(15F):

261—215.4(15F) Eligible and ineligible expenses.

215.4(1) *Eligible expenses.* Expenses directly related to the active promotion of a sporting event will be eligible for reimbursement under the program. Examples of eligible expenses include, but are not limited to:

- a. Sponsorships;
- b. Payments to vendors;
- c. Advertising;
- d. Equipment rental;
- e. Promotional materials;
- f. Production costs.

215.4(2) *Ineligible expenses.* Expenses that are not directly related to the active promotion of a sporting event will be ineligible for reimbursement under the program. Examples of ineligible expenses include, but are not limited to:

- a. Bid fees, rights fees, solicitation efforts or lobbying fees;
- b. Travel costs of applicant staff;
- c. Meals, dining, or alcoholic beverages;
- d. Items that are purchased for resale;
- e. Prizes given to participants;
- f. Costs related to infrastructure or ongoing costs of a facility;

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

g. Other costs that the board determines to be ineligible.

ITEM 5. Amend renumbered rule 261—215.5(15F) as follows:

261—215.5(15F) Threshold application requirements. To be considered for funding under the ~~sports~~ ~~tourism~~ program, an application must meet the following threshold application requirements:

215.5(1) There must be demonstrated local support for the proposed activity.

215.5(2) A detailed description of the project, outlining the sporting event and the plan for promoting it.

215.5(3) The proposed project budget must be spent on marketing, and promotions, or infrastructure ~~expenses~~ directly related to the promotion of the sporting event.

215.5(4) Detailed information and projections sufficient to enable the authority to accurately assess the economic impact of the sporting event described in the application. Such information shall include the estimated number of spectators and estimated quality and quantity of advertising and media coverage the sporting event will generate. If the applicant has previously held substantially similar events, the information shall include actual attendance figures from past events and a summary of the advertising and media coverage generated.

ITEM 6. Amend renumbered rule 261—215.6(15F) as follows:

261—215.6(15F) Application process.

215.6(1) Applications for assistance under the ~~sports tourism~~ program shall be submitted to the authority. For those applications that meet the threshold application requirements and the eligibility criteria, the authority shall forward the applications to the board and provide a staff review analysis and evaluation to the sports tourism program review committee and to the board.

215.6(2) All applications to the authority for financial assistance shall be made at least 90 days prior to a sporting event's scheduled date.

215.6(3) When reviewing the applications, the review committee and the authority shall consider, at a minimum, all of the following:

a. Impact of the project on the local, regional, and state economies. Economic impact will be determined by using the following calculation: Applicants will estimate the number of hotel room nights generated by each proposed sporting event and multiply the number of estimated hotel room nights by the average daily room rate for Iowa hotels. The average daily room rate will be provided by the authority based on information obtained from a hotel market data service. Intentionally inflated estimates of attendance or a history of providing inaccurate estimates will negatively affect the scoring of an application.

b. Potential to attract Iowans and out-of-state visitors. Projects that market or promote a sporting event that is new to Iowa will receive a higher score. Established events will receive a lower score.

c. Amount of positive advertising or media coverage the project generates.

d. Quality, size, and scope of the project.

e. Ratio of public-to-private investment.

f. The extent to which the sporting event to be marketed or promoted is unique, innovative, or diverse.

215.6(4) Upon review of the recommendations of the review committee, the board shall make final funding decisions on each application. The board may approve, defer, deny, or modify applications for financial assistance under the program, in its discretion, in order to fund as many projects with the moneys available as possible. The board and the authority may negotiate with applicants regarding the details of projects and the amount and terms of any award. In making final funding decisions pursuant to this subrule, the board and the authority are exempt from Iowa Code chapter 17A.

ITEM 7. Amend renumbered rule 261—215.7(15F) as follows:

261—215.7(15F) Administration.

215.7(1) *Administration of awards.*

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

a. Each applicant receiving an award of financial assistance from the board shall enter into an agreement with the authority. The agreement shall contain such terms and conditions as the board may place on the award or the authority may deem necessary for the efficient administration of the program established in this chapter. ~~Awards may be conditioned upon commitment of other sources of funds necessary to complete the project.~~ The agreement will also include the terms and conditions under which financial assistance must be repaid or penalties incurred in the event the applicant does not fulfill all obligations under the agreement.

b. These rules and applicable state laws shall be part of the agreement.

c. The applicant must execute and return the contract to the board within 45 90 days of the transmittal of the final contract from the board. Failure to do so may be cause for the board to terminate the award.

d. Awards may be conditioned upon commitment of other sources of funds necessary to complete the project.

e. Awards may be conditioned upon authority receipt and board approval of an implementation plan for the funded project.

215.7(2) Reports. An applicant receiving financial assistance shall provide an annual report to the authority for years in which it receives financial assistance under this rule. The report shall include the information the authority deems relevant. The report shall be submitted in the manner and on forms prescribed by the authority. The authority may perform any reviews or site visits necessary to ensure performance by the applicant.

215.7(3) Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by the authority. Individual requests for funds shall be made in an amount equal to or greater than \$500 per request, except for the final draw of funds.

215.7(4) Record keeping and retention. The recipient shall retain all financial records, supporting documents and all other records pertinent to the sports tourism award for three years after contract closeout. Representatives of the authority shall have access to all recipient records that pertain to sports tourism funds.

215.7(5) Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Substantive changes include time extensions, budget revisions and significant alteration of the funded project that change the scope, location, objectives or scale of the approved project. Amendments must be approved by the enhance Iowa board. The authority may execute nonsubstantive or ministerial changes to the contract without board approval.

215.7(6) Project closeout. Upon expiration of the agreement, the authority shall initiate project closeout procedures.

215.7(7) Compliance. If the board finds that an applicant is not in compliance with the requirements of this program or the terms and conditions of the agreement, the board may find the applicant noncompliant. Remedies for noncompliance may include penalties up to and including the return of program funds to the board. Reasons for a finding of noncompliance include but are not limited to the applicant's use of funds for activities not described in the contract, the applicant's failure to complete funded projects in a timely manner, the applicant's failure to comply with applicable state or local rules, or the lack of a continuing capacity of the applicant to carry out the approved project in a timely manner.

These rules are intended to implement Iowa Code ~~sections~~ section 15F.401 as amended by 2021 Iowa Acts, House File 862, and section 15F.402.

ARC 6004C**HUMAN RIGHTS DEPARTMENT[421]****Notice of Intended Action****Proposing rule making related to reorganization of department rules and providing an opportunity for public comment**

The Human Rights Department hereby proposes to adopt new Chapter 1, "Organization and Operations"; to amend Chapter 2, "Public Records and Fair Information Practices," Chapter 3, "Petitions for Rule Making," Chapter 4, "Agency Procedure for Rule Making," Chapter 5, "Declaratory Orders," Chapter 6, "Contested Cases," and Chapter 7, "Waiver Rules"; and to adopt new Chapter 20, "Functions of Division," Chapter 21, "Community Services Block Grant (CSBG)," Chapter 22, "Low-Income Home Energy Assistance Program (LIHEAP)," Chapter 23, "Weatherization," Chapter 24, "Family Development and Self-Sufficiency (FaDSS) Program," Chapter 25, "Individual Development Account (IDA)," Chapter 30, "Functions of Division," Chapter 31, "Juvenile Justice Youth Development Program," Chapter 40, "Functions of Division," and Chapter 41, "Hall of Fame," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 17A and 216A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A, 216A, 232 and 541A and P.L. 93-415, P.L. 97-35, and P.L. 98-558.

Purpose and Summary

This proposed rule making is intended to reflect the current organizational structure and statutory requirements of Iowa Code chapter 216A. The Department has three major divisions: (1) the Division of Community Action Agencies; (2) the Division of Criminal and Juvenile Justice Planning; and (3) the Division of Community Advocacy and Services, which includes seven offices devoted to advocacy for various populations. The Department's only gubernatorial appointment is the Director. The Human Rights Board guides the work of the Department. Other authority, duties, and responsibilities are outlined in Iowa Code chapter 216A.

This proposed rule making reorganizes the format and structure of the rules, updates the organizational structure and operations of the agency to align with state and federal laws, rescinds rules that are outdated or no longer have statutory or legal authority, and updates legal references.

This rule making proposes to eliminate rules that are outdated, redundant, or inconsistent or incompatible with statute or with this agency's own rules or those of other agencies and to adopt consolidated and comprehensive rules under the Department of Human Rights. The Department proposes, in separate Notices of Intended Action published concurrently with this Notice (**ARCs 5995C, 5997C, 5998C, 5999C, 6000C, 6001C, and 6003C**, IAB 10/20/21), to rescind all rules under Iowa Administrative Code agency identification numbers 427, 428, 429, 431, 433, 434, and 435 in their entirety.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 421—Chapter 7.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Sonya Streit
Iowa Department of Human Rights
Lucas State Office Building
321 East 12th Street, Second Floor
Des Moines, Iowa 50319
Phone: 515.242.5640
Fax: 515.242.6119
Email: sonya.streit@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 9, 2021
3 to 4 p.m.

Via videoconference call

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Persons who wish to participate in the videoconference call should contact Sonya Streit before 4:30 p.m. on November 8, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** 421—Chapter 1:

TITLE I
DEPARTMENT OPERATIONS
CHAPTER 1
ORGANIZATION AND OPERATIONS

421—1.1(17A,216A) Definitions. As used in these rules, unless the context otherwise requires:

“*Board*” means the human rights board.

“*Department*” means the department of human rights.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

“Director” means the director of the department of human rights.

“Underrepresented” means the historical marginalization of populations or groups in the United States and Iowa, including but not limited to African Americans, Asian and Pacific Islanders, persons who are deaf or hard of hearing, persons with disabilities, Latinos, Native Americans, women, persons who have low socioeconomic status, at-risk youth, and adults or juveniles with a criminal history.

421—1.2(17A,216A) Authority. The department is established with the authority, powers, and duties set forth in Iowa Code chapter 216A.

421—1.3(17A,216A) History. The department was originally conceived in 1987 as an umbrella agency for several agencies that had previously operated independently and reported directly to the governor.

In 1993, the department’s statutory provision in Iowa Code chapter 601K was transferred to chapter 216A.

As part of the government reorganization and efficiency bill in 2010 (2010 Iowa Acts, Senate File 2088), the department has streamlined its administrative functions and budget processes to operate as one department in a strategically cohesive manner. The director is appointed by the governor and has general supervision over the administration and operation of the department and its divisions. Administrators of the divisions are appointed by and report to the director. Ten divisions were consolidated into three divisions within the department: the division of community action agencies; the division of criminal and juvenile justice planning; and the division of community advocacy and services. Seven divisions devoted to advocacy for various populations were redesignated as offices, which are included within the division of community advocacy and services. Except for the commission of Native American affairs, all commissions within the division of community advocacy and services are limited to seven voting members. The human rights board is created within the department.

421—1.4(17A,216A) Mission. The mission of the department is to ensure basic rights, freedoms, and opportunities for all by empowering underrepresented Iowans and eliminating economic, social, and cultural barriers. The department helps individuals attain economic independence by ensuring access to government services and advancing educational achievement and entrepreneurial success consistent with their aspirations.

421—1.5(17A,216A) Organization.

1.5(1) Contact information. Requests for assistance, information, inquiries, submissions, petitions, and other communications may be directed to the department as follows: The office is located at 321 E. 12th Street, Des Moines, Iowa 50319. The main telephone number is (515)242-5655. The fax number is (515)242-6119. Regular office hours are Monday through Friday, 8 a.m. to 4:30 p.m., excluding legal holidays. The department’s website is humanrights.iowa.gov.

1.5(2) Director. The duties and responsibilities of the director are described in Iowa Code section 216A.2. The director is appointed by the governor, subject to confirmation by the senate. The director serves at the pleasure of the governor. The director is the chief administrative officer of the department and, in that capacity, administers the programs and services of the department in compliance with applicable federal and state laws and regulations. The duties of the director include preparing a budget, managing the internal operations of the department, appointing the deputy director and administrators of the divisions, and employing personnel. The director serves as an ex officio member of all of the commissions or councils within the department, as well as an ex officio, nonvoting member of the human rights board.

1.5(3) Central administration. The central administration office is responsible for the overall planning, policy, management, communications, finances, and operations of the department.

1.5(4) Divisions. The department is composed of the following divisions and offices:

a. Division of community action agencies. A description of the division is contained in 421—Chapter 20.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

b. Division of criminal and juvenile justice planning. A description of the division is contained in 421—Chapter 30.

c. Division of community advocacy and services. The division of community advocacy and services contains the following offices: the office of Latino affairs, the office on the status of women, the office of persons with disabilities, the office of deaf services, the office on the status of African Americans, the office of Asian and Pacific Islander affairs, and the office of Native American affairs. A description of the division is contained in 421—Chapter 40.

421—1.6(216A) Human rights board. The authority and duties of the human rights board are specified in Iowa Code section 216A.3. The department shall provide staff support to the board.

1.6(1) The board shall consist of 16 members, including 11 voting members and 5 nonvoting members and determined as follows:

a. The voting members shall consist of nine voting members selected by each of the permanent commissions within the department, and two voting members appointed by the governor. For purposes of this subrule, “permanent commissions” means the commission of Latino affairs, commission on the status of women, commission of persons with disabilities, commission on community action agencies, commission of deaf services, justice advisory board, commission on the status of African Americans, commission of Asian and Pacific Islander affairs, and commission of Native American affairs. The term for voting members is four years. The board shall select a chairperson from the voting members of the board.

b. The nonvoting members shall consist of the department director; two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house of representatives; and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate. The regular term of an appointment made by a member of the general assembly shall be two years pursuant to Iowa Code section 69.16B.

1.6(2) A majority of the voting members of the board shall constitute a quorum, and the affirmative vote of two-thirds of the voting members present is necessary for any substantive action taken by the board.

1.6(3) The board shall meet not less than four times a year. Meetings shall comply with the open meetings law, Iowa Code chapter 21. Agendas and approved minutes will be posted on the department’s website.

1.6(4) The board shall have the following duties:

a. Develop and monitor implementation of a comprehensive strategic plan to remove barriers for underrepresented populations and, in doing so, to increase Iowa’s productivity and inclusivity, including performance measures and benchmarks.

b. Approve, disapprove, amend, or modify the budget recommended by the director for the operation of the department, subject to the budget requirements pursuant to Iowa Code chapter 8.

c. Adopt administrative rules pursuant to Iowa Code chapter 17A, upon the recommendation of the director, for the operation of the department.

d. By November 1 of each year, approve the department report to the general assembly and the governor that covers activities during the preceding fiscal year.

421—1.7(216A) Potential conflicts of interest. Any member of the department’s boards, commissions, or councils established in Iowa Code chapter 216A who may have a conflict of interest shall not vote on any substantive action on the matter in conflict. When a conflict of interest is determined to exist, the member shall abstain from voting and shall be recorded as abstaining when votes are taken. A quorum may include any member who has a conflict of interest, and a statement of a conflict of interest shall be conclusive for this purpose. Any vote by a member with a conflict shall be excluded.

These rules are intended to implement Iowa Code chapters 17A and 216A.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

ITEM 2. Amend 421—Chapter 2, introductory paragraph, as follows:

CHAPTER 2
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department of human rights hereby adopts, with the following exceptions and amendments, the uniform rules on agency procedure relating to public records and fair information practices ~~printed in the first volume of the Iowa Administrative Code published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.~~

ITEM 3. Amend rule 421—2.1(22) as follows:

421—2.1(22) Definitions. As used in this chapter:

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert ~~the “Department of Human Rights and the Divisions for Community Action Agencies, Criminal and Juvenile Justice Planning, Deaf Services, Persons with Disabilities, Latino Affairs, Status of Women, and Status of African-Americans.”~~ “department of human rights”.

“Custodian.” In lieu of the words “means the agency;”, insert “means the director of the department of human rights or the administrator of the division within which the records are maintained”.

“Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

ITEM 4. Amend subrule 2.3(1) as follows:

2.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “director of the department of human rights, or the administrator of the appropriate division within the department”. In lieu of the words “(insert agency name and address)”, insert the “Department of Human Rights or the appropriate division within the department, Lucas State Office Building, Des Moines, Iowa 50319.”

ITEM 5. Amend rule 421—2.14(22) as follows:

421—2.14(22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule ~~2.1(22)~~ 421—2.1(22). For each record system, this rule describes the legal authority for the collection or maintenance of that information; the means of storage of that information and indicates when applicable; if a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system; and when the record system is confidential, indicates the statutory authority. The record systems maintained within the agency are:

2.14(1) Personnel records.

a. The agency maintains files containing information about employees, families and dependents, and applicants for ~~commission members or~~ staff positions within the agency. These files include, but are not limited to, payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports and other information concerning employees and related issues. ~~The files are maintained by department and by division. Some of this information is confidential under Iowa Code section 22.7(11).~~

b. The legal authority for maintaining the records for state-funded programs ~~is~~ is Iowa Code sections ~~19A.11 and 91A.6, section 8A.106 and chapter 601K 216A.~~ The legal authority for maintaining the records for federally funded programs is the Omnibus Budget Reconciliation Act, P.L. 97-35, Subtitle B, Section 675(c), P.L. 93-569, Title; Freedom of Information Act, 5; U.S.C. 552a; Juvenile Justice and Delinquency Prevention Act, P.L. 93-415; Victims Compensation and Assistance Act, P.L. 98-473, Title H, Chapter 14, P.L. 98-457; and other federal statutes from which federal funds are granted.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

c. and *d.* No change.

2.14(2) Advocacy records.

a. The agency maintains files containing information pertaining to clients receiving advocacy or referral services to help alleviate or solve a problem. Such information may include, but is not limited to, names and addresses of clients, documents or other material relating to advocacy issues, social or economic conditions or circumstances of particular clients, department ~~or division~~ evaluations of information about clients, medical or psychiatric data provided to the department ~~or division~~ concerning a client, and legal data related to the client. These files ~~are maintained by division~~ and may be indexed by advocacy files, client files, interpreting files or any direct service involving individual client assistance set forth in this rule or by statute.

b. The authority for maintaining these records is Iowa Code chapter ~~601K and~~ 216A; the Omnibus Budget Reconciliation Act, P.L. 97-35, P.L. 93-569; Juvenile Justice and Delinquency Prevention Act, P.L. 93-415; Victims Compensation and Assistance Act, P.L. 98-473, P.L. 98-457; and other federal statutes from which federal funds are granted.

c. ~~Most of the information is maintained on paper; however, some divisions have some records in computer form which are maintained by the respective division.~~ Information is maintained on paper, electronically, and in other available mediums.

d. Information contained within this record system is confidential under the authority of Iowa Code ~~subsection sections~~ sections 22.7(18) and 1988 Iowa Acts, House File 2255 216A.6.

2.14(3) Fiscal records.

a. The agency maintains files containing fiscal information for state-funded programs and federally funded grants or contracts that may contain personally identifiable information. ~~These records are maintained by department and by division.~~

b. The authority for maintaining these records is Iowa Code chapter ~~601K, P.L. 97-35, P.L. 93-569, P.L. 93-415, P.L. 98-473, P.L. 98-457~~ 216A and other federal statutes from which federal funds are granted.

c. and *d.* No change.

2.14(4) General correspondence, mailing lists, and program or grant data.

a. The agency maintains correspondence files, grant notices and applications, conference or committee listings and reports, board and commission meeting minutes, mailing lists, program and grant information including surveys or specialized reports and activities that contain some personally identifiable information that may include names, addresses or other descriptive data. ~~These records are generally collected and maintained by division.~~

b. The authority for maintaining these records is Iowa Code chapter ~~601K~~ 216A, Omnibus Budget Reconciliation Act, as amended, P.L. 97-35, P.L. 93-569; Juvenile Justice and Prevention Act, P.L. 93-415; Victims Compensation and Assistance Act, P.L. 98-473, P.L. 98-457; and other federal statutes from which federal funds are granted.

c. The information is maintained on paper and in computer systems ~~within each respective division.~~

d. No change.

2.14(5) No change.

ITEM 6. Amend subrule 2.15(3) as follows:

2.15(3) Office publications. ~~The divisions distribute~~ department distributes to the public a variety of materials including brochures and typed information regarding issues pertinent to ~~their~~ its programs or constituent groups. Also included are statistical reports, program reports and news releases.

ITEM 7. Rescind rule 421—2.16(22) and adopt the following **new** rule in lieu thereof:

421—2.16(22) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.

3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the rules of another agency.

4. Apply to grantees, including local governments or subdivisions thereof, that administer state-funded programs, unless otherwise provided by law or agreement.

5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

6. Require the agency to create, compare, or procure a record solely for the purpose of making it available.

ITEM 8. Amend **421—Chapter 2**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapters 17A, 22 and 216A.~~

ITEM 9. Amend rule 421—3.1(17A), introductory paragraph, as follows:

421—3.1(17A) Adoption by reference. The department of human rights hereby adopts the petitions for rule making segment of the uniform rules on agency procedure ~~printed in the first volume of the Iowa Administrative Code~~ published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf, with the following amendments:

ITEM 10. Amend **421—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202.~~

ITEM 11. Amend rule 421—4.1(17A) as follows:

421—4.1(17A) Adoption by reference. The department of human rights hereby adopts the agency procedure for rule making segment of the uniform rules on agency procedure ~~printed in the first volume of the Iowa Administrative Code~~ published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf, with the following amendments:

1. In lieu of the words “(commission, board, council, director)”, insert “director”.

2. In lieu of the words “(specify time period)”, insert “one year”.

3. In lieu of the words “(identify office and address)”, insert “Director, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.

4. In lieu of the words “(designate office and telephone number)”, insert “the director at ~~(515)281-7300 voice/tty~~ (515)242-5655”.

5. In lieu of the words “(designate office)”, insert “Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.

6. In lieu of the words “(specify the office and address)”, insert “Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319”.

7. In lieu of the words “(agency head)”, insert “director”.

ITEM 12. Amend **421—Chapter 4**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202.~~

ITEM 13. Amend rule 421—5.1(17A), introductory paragraph, as follows:

421—5.1(17A) Adoption by reference. The department of human rights hereby adopts the declaratory orders segment of the uniform rules on agency procedure ~~printed in the first~~

HUMAN RIGHTS DEPARTMENT[421](cont'd)

~~volume of the Iowa Administrative Code published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf, with the following amendments:~~

ITEM 14. Amend **421—Chapter 5**, implementation sentence, as follows:

~~These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.~~

ITEM 15. Amend rule 421—6.1(17A) as follows:

421—6.1(17A) Adoption by reference. The department of human rights hereby adopts the contested cases segment of the uniform rules on agency procedure ~~printed in the first volume of the Iowa Administrative Code published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf, with the following amendments:~~

1. In lieu of the words "(agency name)", insert "department of human rights".
2. In lieu of the words "(designate official)", insert "director".
3. In subrule ~~7.3(2)~~ 6.3(2), delete the words "or by (specify rule number)".
4. In lieu of the words "(agency specifies class of contested case)", insert "division contested cases".
5. In lieu of the words "(specify office and address)", insert "Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319".
6. In lieu of the words "(designate office)", insert "department of human rights".
7. In lieu of the words "(agency to designate person to whom violations should be reported)", insert "director".
8. In lieu of the words "(board, commission, director)", insert "director".
9. In lieu of the words "(the agency)", insert "department of human rights".

ITEM 16. Amend **421—Chapter 6**, implementation sentence, as follows:

~~These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.~~

ITEM 17. Amend rule 421—7.1(17A) as follows:

421—7.1(17A) Definition. The term "waiver" as used in this chapter means a prescribed waiver ~~or variance~~ from a specific rule or set of rules of this department applicable only to an identified person on the basis of the particular circumstances of that person.

ITEM 18. Amend rule 421—7.3(17A) as follows:

421—7.3(17A) Applicability. This chapter applies only to waivers of those ~~departmental administrative~~ rules that are within the exclusive rule-making authority of the department. This chapter shall not apply to rules that merely define the meaning of a statute, or other provisions of law or precedent, if the department does not possess statutory authority to bind a court, to any extent, with its definition.

ITEM 19. Amend rule 421—7.5(17A), introductory paragraph, as follows:

421—7.5(17A) Criteria for a waiver. The department may issue an order, in response to a completed petition ~~or on its own motion~~, granting a waiver from a rule adopted by the department, in whole or in part, as applied to the circumstances of a specified person, if the department finds that the waiver is consistent with rules ~~7.3(17A) and 7.4(17A) of this chapter~~ 421—7.3(17A) and 421—7.4(17A), that the waiver would not prejudice the substantial legal rights of any person, and either that:

ITEM 20. Rescind rule 421—7.17(17A) and adopt the following **new** rule in lieu thereof:

421—7.17(17A) Submission of waiver information. Within 60 days of granting or denying a waiver, the board shall make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information. The submission shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation

HUMAN RIGHTS DEPARTMENT[421](cont'd)

to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the department's actions on waiver requests. If practicable, the report shall detail the extent to which granting a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself.

ITEM 21. Reserve **421—Chapter 8 to Chapter 19.**

ITEM 22. Adopt the following **new** 421—Chapter 20:

TITLE II
DIVISION OF COMMUNITY ACTION AGENCIES
CHAPTER 20
FUNCTIONS OF DIVISION

421—20.1(216A) Definitions. As used in these rules, unless the context otherwise requires:

“*Administrator*” means the administrator of the division of community action agencies within the department of human rights.

“*Division*” means the division of community action agencies within the department of human rights.

421—20.2(216A) Functions of division. The functions of the division are described in Iowa Code chapter 216A, subchapter 6. The division is under the direction of an administrator who reports to the director.

421—20.3(216A) Purpose. The purpose of the division is to strengthen, supplement, and coordinate efforts to develop the full potential of each citizen by recognizing certain community action agencies and supporting certain community-based programs delivered by community action agencies.

These rules are intended to implement Iowa Code chapters 17A and 216A.

ITEM 23. Adopt the following **new** 421—Chapter 21:

CHAPTER 21
COMMUNITY SERVICES BLOCK GRANT (CSBG)

421—21.1(216A,PL97-35) Definitions. For the purpose of these rules, unless context otherwise requires:

“*Community action agency*” or “*eligible entity*” means any organization which was officially recognized as a community action agency under the provisions of Section 673(1) of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, Title VI, Subtitle B, as amended, and Iowa Code sections 216A.91 and 216A.93.

“*CSBG*” means community services block grant program.

“*CSBG Act*” means the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, Title VI, Subtitle B, as amended.

“*DCAA*” means the division of community action agencies of the department of human rights.

“*Program year*” means the year beginning October 1 and ending the succeeding September 30. The program year is numbered for that year in which it ends.

“*Reduction*” means funding reduced below the proportional share of funding the eligible entity received in the previous program year.

“*Termination*” means permanent withdrawal of the eligible entity's authority to obligate funds before that authority would otherwise expire. If an eligible entity's authority to obligate funds is terminated, no funds may be obligated by the eligible entity after the effective date of the termination.

421—21.2(216A,PL97-35) Purpose. The CSBG as established by the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, Title VI, Subtitle B, as amended, provides assistance to states and local communities, working through a network of community action agencies and other neighborhood-based

HUMAN RIGHTS DEPARTMENT[421](cont'd)

organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become self-sufficient.

Pursuant to Iowa Code section 216A.92, DCAA shall administer the community services block grant.

421—21.3(216A,PL97-35) Uses of funds. The CSBG makes available to the state of Iowa funds to be used:

21.3(1) To support activities that are designed to assist low-income families and individuals:

- a. To remove obstacles and solve problems that block the achievement of self-sufficiency;
- b. To secure and retain meaningful employment;
- c. To attain an adequate education;
- d. To make better use of available income;
- e. To obtain and maintain adequate housing and a suitable living environment;
- f. To obtain emergency assistance through loans, grants, or other means to meet immediate and urgent family and individual needs; and
- g. To achieve greater participation in the affairs of the communities involved.

21.3(2) To address the needs of youth in low-income communities through youth development programs.

21.3(3) To make more effective use of, and to coordinate with, other programs related to the purposes of this program.

421—21.4(216A,PL97-35) Apportionment distribution.

21.4(1) *Iowa apportionment.* There is appropriated to DCAA from the fund created by Iowa Code section 8.41(1) funds to implement the CSBG as described in the CSBG Act.

21.4(2) *Distribution of funds.* CSBG funds received according to subrule 21.4(1) shall be allocated to the DCAA and eligible entities as provided by federal law and in accordance with the Iowa Acts.

21.4(3) *Poverty-level population.* The state shall use U.S. census statistics to determine the poverty-level population in each community action area.

21.4(4) *Local share.* There shall be no local share required under the CSBG.

421—21.5(216A,PL97-35) Eligibility requirements. The eligibility requirements for an organization to receive and administer CSBG funds are as follows:

21.5(1) *Organization.* The organization must meet the definition of a “community action agency” as defined in these rules.

21.5(2) *Board composition.* A recognized community action agency shall be governed by a board of directors composed of at least nine members. The board membership shall follow the requirements in Iowa Code section 216A.94.

421—21.6(216A,PL97-35) Community action plan. All eligible entities shall submit a community action plan for the purpose of applying for CSBG funds. Community action plans must be outcome-based and antipoverty-focused and tie directly to the eligible entity’s community assessment.

21.6(1) *Timing.* Eligible entities shall be informed in writing by the DCAA of the due date for the community action plan and the amount of their allocation in accordance with subrule 21.4(2).

21.6(2) *Contents.* Instructions for preparing the community action plan shall be provided by the DCAA to all eligible entities. In addition to other information specified in the instructions, the community action plan must:

- a. Document the continuous use of the full Results Oriented Management and Accountability cycle of assessment, planning, implementation, achievement of results, and evaluation for planning and administering the CSBG;
- b. Include a budget that equals the amount of the eligible entity’s allocation;
- c. Include a description of the service delivery system targeted to low-income individuals and families in the service area;

HUMAN RIGHTS DEPARTMENT[421](cont'd)

d. Include a description of how linkages will be developed to fill identified gaps in the services, through the provision of information, referrals, case management, and follow-up consultations;

e. Include a description of how CSBG funds will be coordinated with other public and private resources;

f. Include a description of how CSBG funds will be used to support innovative community and neighborhood-based initiatives related to the purposes in rule 421—21.2(216A,PL97-35); and

g. Include outcome measures to be used to measure eligible entity performance in promoting self-sufficiency, family stability, and community revitalization.

21.6(3) *Nondiscrimination provisions.* Eligible entities must ensure that no person shall, on the basis of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any activity funded in whole or in part with CSBG funds.

21.6(4) *Community assessment.* Eligible entities must conduct a community assessment at least once every three years. The community assessment shall include data specific to poverty, qualitative and quantitative data, and key findings on the causes and conditions of poverty and the needs of the communities assessed. The results of the assessment shall be used to plan activities contained in the community action plan.

21.6(5) *Contract.* The DCAA will issue the eligible entity a CSBG contract once the DCAA accepts the community action plan. The contract shall specify required and allowable program activities, general and special conditions, program and fiscal reporting, and audit requirements.

421—21.7(216A,PL97-35) Review and acceptance of community action plans.

21.7(1) *Compliance review.* All activities proposed in the community action plan shall be reviewed by DCAA personnel for:

a. Compliance with the specific purposes and uses of funds outlined in rules 421—21.2(216A,PL97-35) and 421—21.3(216A,PL97-35);

b. Inclusion of assurances that the eligible entity will conduct the CSBG in compliance with all applicable laws; and

c. Inclusion and proper completion of all forms and instructions included in the request for community action plans.

21.7(2) *Performance.* Acceptance of community action plans is dependent on the satisfactory performance of the eligible entity in the past funding year(s). The minimum standards include: timely and adequate expenditure report submissions and program report submissions, prudent management of funds, conformance with state and federal laws relative to the restrictions in the use of funds, requirements regarding the eligible entity's annual audit, and adequate record keeping. Additionally, available records, audits, and determinations from other relevant state and federal agencies may be utilized.

421—21.8(216A,PL97-35) Payments.

21.8(1) *Method of payment.* Eligible entities receiving CSBG funds shall submit a monthly funding request and expenditures report containing the monthly expenditures of the eligible entity in carrying out the activities funded through the CSBG for each month in which activity occurred.

21.8(2) *Payment refusal.* DCAA may refuse or withhold payment of funds for good cause, such as evidence of fraud, lack of management controls, or noncompliance with CSBG contract conditions. Such refusal or withholding shall be appropriately documented, and the eligible entity shall be informed of the reason for refusal or withholding. Regular payment procedures may resume after corrective action and CSBG contract conditions have been met by the eligible entity.

21.8(3) *Receipt of federal funds.* All payments shall be subject to the receipt of CSBG funds by DCAA. The termination, reduction or delay of CSBG funds to the DCAA shall, at DCAA's option, be reflected in a corresponding modification to CSBG contracts already made.

421—21.9(216A,PL97-35) Amendments to CSBG contract.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

21.9(1) Total budget. The total of all payments to the eligible entity by the DCAA for the activities required under the eligible entity's CSBG contract shall not exceed the total budget unless modified by a budget amendment to the CSBG contract or by written notice of a funding change by the DCAA.

21.9(2) Budget deviations. Eligible entity expenditures that exceed budgeted cost category amounts will not be disallowed for payment solely because of minor deviations from the budgeted amount. However, any deviation exceeding 10 percent of the budgeted cost category amount shall require a budget amendment to the CSBG contract, with prior approval granted by the DCAA.

21.9(3) Other amendments. Requests for community action plan or CSBG contract amendments other than those addressed in subrules 21.9(1) and 21.9(2) shall be considered on a case-by-case basis in conformance with applicable federal and state laws.

421—21.10(216A,PL97-35) Ineligible items. CSBG funds may not be used for the following activities or costs:

1. Any partisan or nonpartisan political activity or any political activity associated with a candidate, or faction group, in an election for public or party office; any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or any voter registration activity.

2. The purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility. Exceptions shall only be provided through the waiver procedure described in Section 678F(a) of the CSBG Act.

421—21.11(216A) Audits and records. Eligible entities shall arrange and pay for an annual audit. Audits shall be performed by a certified public accountant and in accordance with generally accepted auditing standards. Audit procedures shall conform to the 2 CFR Chapter I, Office of Management and Budget Governmentwide Guidance for Grants and Agreements; and Chapter II, Part 200, et al., Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. In addition, DCAA may request more frequent audits or examinations of financial records of the eligible entity in order to ensure adequate financial controls are in place and operating.

421—21.12(216A,PL97-35) Designating eligible entities for unserved areas. If any geographic area of the state is not, or ceases to be, served by a community action agency, and the governor decides to serve such area, the DCAA will adhere to the requirements in Section 676A of the CSBG Act, U.S. Department of Health and Human Services statutory guidance, and other federal and state laws to solicit applications from qualified organizations.

421—21.13(216A,PL97-35) Termination and reduction of funding. The DCAA may terminate the designation of or reduce the share of CSBG funds allocated to an eligible entity if the DCAA determines that an eligible entity fails to comply with the terms of an agreement, or the Iowa CSBG State Plan, to provide CSBG services or to meet appropriate standards, goals, and other requirements established by the DCAA, including performance objectives. If the DCAA finds cause to terminate the designation of or reduce the funding of an eligible entity, the DCAA will adhere to the requirements in Section 678C of the CSBG Act, U.S. Department of Health and Human Services statutory guidance, and other federal and state laws, including provisions of notification, technical assistance, corrective action, opportunity for a hearing, and federal review, to initiate proceedings to terminate the designation of or reduce the funding of the eligible entity.

421—21.14(216A,PL97-35) Client appeal and hearing. Eligible entities shall adopt a client appeal and hearing procedure to address CSBG client complaints. The procedure shall be used for all clients to file a complaint for the services or benefits provided by the eligible entity and funded solely by the CSBG. The procedure shall also be used when a community action program, co-funded with the eligible entity's CSBG funds, does not have a community action program-specific client appeal and hearing procedure.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

421—21.15(216A,PL97-35) Further criteria. The Iowa CSBG State Plan and Application and the Iowa CSBG Policies and Procedures Manual are incorporated by reference as part of these rules. If any rule in this chapter conflicts with federal law or rules, federal law or rules shall prevail.

These rules are intended to implement Iowa Code chapter 216A and P.L. 97-35.

ITEM 24. Adopt the following new 421—Chapter 22:

CHAPTER 22

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

421—22.1(216A,PL97-35,PL98-558) Purpose. Pursuant to the requirements of the U.S. Department of Health and Human Services (DHHS) and the Social Security Administration (SSA), as set forth in Title XXVI of the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35 as amended by P.L. 98-558, and Iowa Code section 216A.92, the department of human rights (department), division of community action agencies (division), will administer the low-income home energy assistance program (LIHEAP).

LIHEAP is designed to aid qualifying low-income Iowa households (homeowners and renters) in the payment of a portion of their residential heating costs for the winter heating season, to encourage regular utility payments, to promote energy awareness and to encourage reduction of energy usage through energy efficiency, client education, and weatherization.

421—22.2(216A,PL97-35,PL98-558) Household eligibility.

22.2(1) Households with incomes at or below the annually determined federal poverty guidelines, but not to exceed 150 percent of the guidelines, or an amount equal to 60 percent of the state median income for the state, according to DHHS, which are published annually in the Federal Register, may be eligible for assistance under LIHEAP. To receive benefits, an application must be made, eligibility determined, and program funds available before any payments may be made.

22.2(2) Proof of income eligibility is required as outlined in the Iowa LIHEAP Policy and Procedures Manual. Any individual listed on a LIHEAP-approved application for the current fiscal year may not be listed on another application unless an exception is granted by the division.

22.2(3) Income criteria and guidelines are contained in the Iowa LIHEAP State Plan and the Iowa LIHEAP Policy and Procedures Manual.

22.2(4) All payments are contingent upon the availability of federal funds.

22.2(5) The amount of assistance a household may receive is determined by a payment matrix that considers household income, household size, fuel type, and other targeting factors, as described in the current Iowa LIHEAP Policy and Procedures Manual.

22.2(6) All households applying for this program will simultaneously be making application for weatherization assistance, and 421—Chapter 23 shall govern weatherization applications.

22.2(7) Both owner-occupied and renter-occupied households will be assisted.

421—22.3(216A,PL97-35,PL98-558) Local administering agencies (LAAs).

22.3(1) The department shall administer the LIHEAP program by contracting with LAAs meeting program and fiscal guidelines as required by federal law. Contracts with the LAAs will specify required and allowable program activities, DHHS regulations, special conditions, transfer of electronic data to fuel vendors and the state, program and fiscal reporting to the department, and audit requirements.

22.3(2) Each LAA will conduct outreach activities to ensure that eligible households are made aware of the program. In addition to its normal outreach functions, each LAA will authorize its workers to take applications in an applicant's home as well as at local community, church, and elderly centers and other locations deemed appropriate. A notice of the appeal and hearing procedure must be posted at each intake site, and a copy of the appeal and hearing procedure and any other state-required handouts must be given to each client at the time of application or determination.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

421—22.4(216A,PL97-35,PL98-558) Application period. The application period for the program is between October 1, or the first working day of October, and April 30, or the last working day of April, or as defined in the annual Iowa LIHEAP Policy and Procedures Manual.

421—22.5(216A,PL97-35,PL98-558) Payments.

22.5(1) Types of payments. The following types of energy assistance payments may be made:

a. To suppliers on behalf of eligible households. The client's assistance shall remain as a credit on the client account until the program assistance is expended or the account is terminated.

b. Eligible households that pay an undesignated portion of the rent toward energy costs will receive assistance sent directly to the secondary vendor.

c. Direct payments may be made to eligible households as outlined in the Iowa LIHEAP Policy and Procedures Manual.

22.5(2) Duplicate and fraudulent payment control. Each LAA is required to monitor and prevent possible duplicate and other fraudulent applications and payments. Duplication cross-checks shall be based on household members' names, addresses, and social security numbers, as well as vendor account numbers.

22.5(3) Referrals. Each LAA is required to refer all suspected cases of fraud, including duplicate payments, overpayments, and fraudulent statements on applications, to the division for investigation.

421—22.6(216A,PL97-35,PL98-558) Change in status. The level of assistance for the program year will be determined based on the household's circumstances at the time of approval. If a household moves, a household of one passes away, or a household moves to a different service territory, etc., after applying for the program, the process outlined in the Iowa LIHEAP Policy and Procedures Manual is to be followed.

421—22.7(216A,PL97-35,PL98-558) Vendor agreement. A signed utility vendor agreement must be on file with the LAA before payments may be made to the vendor. If a fuel supplier does not sign a vendor agreement, a direct payment may be made to the eligible applicant. In cases where a vendor has not complied with all provisions of the vendor agreement, the state may approve direct payments to clients as an alternative.

421—22.8(216A,PL97-35,PL98-558) Crisis assistance. To be eligible for crisis assistance, a household must file an application, meet the income guidelines of LIHEAP, and meet the definition of "crisis" as defined in the Iowa LIHEAP Policy and Procedures Manual.

22.8(1) Definition.

"Energy crisis" means weather-related and supply shortage emergencies and other household-related emergencies, as defined in the current Iowa LIHEAP State Plan, including: a nonworking heating system, a temporary need for alternate shelter, disconnection from utility service, disconnection from utility service imminent, low or empty propane tank, and, when medically necessary, a window/portable air-conditioning unit or a repair of an existing central air unit.

22.8(2) Evaluation. Each crisis application will be evaluated individually by the LAA, who shall determine the appropriate resolution and the amount of assistance to be provided, as defined by the current Iowa LIHEAP State Plan and Iowa LIHEAP Policy and Procedures Manual.

22.8(3) Appeal procedure. Any household which has been denied crisis assistance may utilize the LIHEAP appeal procedure as described in rule 421—22.10(216A,PL97-35,PL98-558).

421—22.9(216A,PL97-35,PL98-558) Assurance 16 activities. LIHEAP customer services that encourage and enable households to reduce their home energy needs, and thereby reduce their need for energy assistance, shall be provided as assurance 16 activities. Services may include conservation education, referrals to other programs, needs assessment, budget counseling, vendor negotiations, energy assessment, energy plans, and low-cost energy efficiency measures.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

421—22.10(216A,PL97-35,PL98-558) Appeal and hearing procedures. The following appeal and hearing procedures shall be used.

22.10(1) An applicant may initiate an appeal if the application was denied or if incorrect facts or improper procedures were used to determine eligibility, assistance amounts, or services. The applicant has 30 calendar days from the date of the approval or denial letter to appeal that decision by mailing or delivering the request for appeal to the LAA at which the application was made.

22.10(2) If the LAA neither approves nor denies the application within 30 calendar days of receipt of a complete application, the applicant may treat the failure to act as a denial. The applicant then has 30 additional calendar days to appeal.

22.10(3) To appeal, the applicant (claimant) must submit a written appeal to the LAA at which the applicant applied and include the action the applicant would like taken and any other information which might affect the decision. Those claimants unable to read or write shall have the LAA assist them in reading, writing, or understanding appeals and hearings and their associated procedures.

22.10(4) The LAA will act on the claimant's request and notify the claimant of the result in writing within seven calendar days of the date an appeal was requested (postmark date if sent in mail).

22.10(5) If the claimant does not agree with the decision reached, the claimant may write the LAA within 14 calendar days of the decision (postmark date if sent in mail) and request that a state hearing be held with the division. The claimant must explain in writing why the agency's decision is being appealed and include any information which might affect the decision.

22.10(6) The LAA will forward all information about the request for a hearing to the division, and a hearing will be scheduled within 14 calendar days of receipt of the appeal and request for a hearing. The claimant will receive written notice of a scheduled state hearing from the division. The notice will include the date, time, and place of the hearing. State hearings may be held by telephone at a mutually convenient time or in person. During the hearing, all information will be reviewed and a decision will be rendered by the division within seven calendar days.

22.10(7) The claimant may appeal the decision of the division to the Iowa department of inspection and appeals. The claimant must submit a written appeal to the division within seven calendar days (postmark date if sent in mail) of receiving the division's decision. The division will follow the appeal procedures outlined in this chapter.

421—22.11(216A,PL97-35,PL98-558) Further criteria. The Iowa LIHEAP State Plan, the Iowa LIHEAP Policy and Procedures Manual, and assistance award criteria for the program are incorporated by reference as part of these rules. If any rule in this chapter conflicts with federal law or rule, federal law or rule shall prevail.

These rules are intended to implement Iowa Code chapter 216A, P.L. 97-35, and P.L. 98-558.

ITEM 25. Adopt the following new 421—Chapter 23:

CHAPTER 23
WEATHERIZATION

421—23.1(216A,PL94-385,PL98-558) Purpose. Pursuant to the Energy Conservation and Production Act, P.L. 94-385; the Omnibus Budget Reconciliation Act, P.L. 98-558; and Iowa Code section 216A.99, the department of human rights (department), division of community action agencies (division), will administer the weatherization assistance program.

The purpose of the program is to reduce heating and cooling costs for low-income households, particularly those with elderly members, persons with disabilities, or young children, by improving the energy efficiency of their homes while ensuring their health and safety.

421—23.2(216A,PL94-385,PL98-558) Eligible households.

23.2(1) A household occupying a dwelling unit is eligible for assistance under the weatherization assistance program if the household:

HUMAN RIGHTS DEPARTMENT[421](cont'd)

a. Has an annual income no higher than 200 percent of the federal poverty guidelines determined in accordance with criteria established by the Director of the Office of Management and Budget (OMB).

b. Is receiving supplemental security income (SSI) or family investment program (FIP) assistance, regardless of income.

23.2(2) Household eligibility, including income verification, will be determined in accordance with the application requirements for the low-income home energy assistance program (LIHEAP), the application for which is considered a joint application. Household eligibility and prioritization for weatherization services are established annually.

23.2(3) Both owner-occupied and renter-occupied dwellings may be weatherized. However, rental units occupied by low-income residents shall be weatherized providing benefits accrue primarily to the low-income tenants, rents are not raised because of the weatherization, and no undue or excessive enhancement occurs to the value of the dwelling unit. Landlords of rental dwellings must agree to have their dwellings weatherized before assistance is provided.

23.2(4) Provision of all weatherization program services are contingent upon the availability of funds.

421—23.3(216A,PL94-385,PL98-558) Local administering agencies (LAAs).

23.3(1) The division shall administer the program by utilizing community action agencies (CAAs), their approved subcontractors, or other public or nonprofit entities that have shown the ability or have the capacity to undertake a timely and effective weatherization program. Program funds shall be used for the purchase and installation of weatherization materials; training and technical assistance; administration; and supportive services.

23.3(2) LAAs will be required to sign a contractual agreement which specifies required and allowable program activities, including U.S. Department of Energy regulations, special conditions, participant forms, program and fiscal reporting, and audit requirements.

421—23.4(216A,PL94-385,PL98-558) Application period. Households may apply for weatherization assistance between October 1, or the first working day of October, and September 30, or the last working day of September, as defined in the annual Weatherization Assistance Program State Plan.

421—23.5(216A,PL94-385,PL98-558) Payments.

23.5(1) *Duplicate and fraudulent payment control.* Each LAA is required to provide a system to monitor and prevent possible duplicate and other fraudulent applications and payments. Duplication cross-checks shall be based on the unique client/vendor identifier.

23.5(2) *Referrals.* Each LAA is required to refer all suspected cases of fraud, including duplicate payments, overpayments, and fraudulent statements on applications, to the division for investigation.

421—23.6(216A,PL94-385,PL98-558) Appeal and hearing procedures. The following appeal and hearing procedures shall be used.

23.6(1) When an applicant is denied assistance or wishes to file a complaint about the quality or extent of work performed, the applicant has 30 days from the date of the denial letter or completion of the work to appeal that decision by mailing or delivering the request for appeal to the LAA. Appeals for quality of work performed shall be subject to warranty requirements of the LAA and its subcontractors.

23.6(2) If the LAA neither approves nor denies an appeal within 30 calendar days of receipt, the applicant may treat the failure to act as a denial. The applicant then has 30 additional calendar days to appeal.

23.6(3) To appeal, the applicant (claimant) must submit a written appeal to the LAA through which weatherization services were provided and include the action the applicant would like taken and any other information which might affect the decision. Those claimants unable to read or write shall have the LAA assist them in reading, writing or understanding appeals and hearings and their associated procedures.

23.6(4) The LAA will act on the claimant's request and notify the claimant of the result in writing within 30 calendar days of the date an appeal was requested (postmark date if sent in mail).

HUMAN RIGHTS DEPARTMENT[421](cont'd)

23.6(5) If the claimant does not agree with the decision reached, the claimant may write the LAA within 14 calendar days of the decision (postmark date if sent in mail) and request that a state hearing be held with the division. The claimant must explain in writing why the agency's decision is being appealed and include any information which might affect the decision.

23.6(6) The LAA will forward all information concerning the request for hearing to the division, and a hearing will be scheduled within 14 calendar days of receipt of the appeal and request for a hearing. The claimant will be sent written notice of the date, time, and place of the hearing. State hearings may be held by telephone at a mutually convenient time or in person. At the hearing, all information will be reviewed and a decision rendered by the division within seven calendar days.

23.6(7) The claimant may appeal the decision of the division to the Iowa department of inspection and appeals. The claimant must submit a written appeal to the division within seven calendar days (postmark date if sent in mail) of receiving the division's decision. The division will follow the appeal procedures outlined in this chapter.

421—23.7(216A,PL94-385,PL98-558) Further criteria. The Weatherization Assistance Program State Plan and Weatherization Assistance Program Policy and Procedures Manual are incorporated by reference as part of these rules. If any rule in this chapter conflicts with federal law or rule, the federal law or rule shall prevail.

These rules are intended to implement Iowa Code section 216A.99, P.L. 94-385, and P.L. 98-558.

ITEM 26. Adopt the following new 421—Chapter 24:

CHAPTER 24
FAMILY DEVELOPMENT AND SELF-SUFFICIENCY (FaDSS) PROGRAM

PREAMBLE

These rules define and structure the family development and self-sufficiency council within the department of human rights and the family development and self-sufficiency program administered by the division of community action agencies of the department of human rights. The purpose of the program is to fund, evaluate, and provide recommendations on programs that provide services to assist families at risk of instability or dependency on the family investment program to move toward self-sufficiency.

These rules establish council membership and duties, provisions for the grant proposal process and the awarding of grants, grant contract provisions, criteria and conditions for at-risk families, provisions for referral of families, grantee responsibilities, and the requirement for program evaluation.

421—24.1(216A) Definitions. As used in these rules, unless the context otherwise requires:

“*Applicant*” means a public or private organization that applies for a family development and self-sufficiency grant through the request for proposal process.

“*Council*” means the family development and self-sufficiency council.

“*Department*” means the department of human rights.

“*Division*” means the division of community action agencies of the department of human rights.

“*Grant*” means an award approved by the council to fund a family development and self-sufficiency project.

“*Grantee*” means an applicant whose proposal is selected by the council and who enters into a grant agreement with the division.

“*Program*” or “*FaDSS program*” means the family development and self-sufficiency (FaDSS) program.

“*Proposal*” or “*grant proposal*” means an application for grant funds to fund specific projects.

421—24.2(216A) Council membership and duties. Council membership, powers and duties are established in Iowa Code section 216A.107.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

421—24.3(216A) Council terms and procedures.

24.3(1) Terms of office. Unless otherwise provided by law, terms of members, election of officers, and other procedural matters shall be as determined by the council pursuant to Iowa Code section 216A.107(2).

a. The term of office for the members of the council selected by the other members of the council pursuant to Iowa Code sections 216A.107(1) “*f*” to “*h*” and “*l*” shall be three years. Such members whose terms expire may be reappointed and shall receive actual expenses incurred while serving in their official capacity, subject to statutory limits. The members as specified under Iowa Code sections 216A.107(1) “*f*” and “*g*” shall also receive per diem compensation as provided in Iowa Code section 7E.6.

b. The term of office of a legislative member of the council shall end if the legislative member ceases to be a member of the general assembly.

c. Vacancies in membership of the council shall be filled in the same manner as the original appointment.

24.3(2) Meetings and procedures.

a. The council shall meet at least four times per year. Special meetings may be called by the chairperson or upon the written request of a majority of council members.

b. Members of the council shall elect a chairperson, vice chairperson and such other officers as the council deems necessary to two-year terms at the first council meeting held after July 1 in even-numbered years. Officers shall assume office at the first meeting following the election. A vacancy in any elective office shall be filled by council action.

c. A quorum shall consist of a majority of the members eligible to vote. When a quorum is present, a position is carried by a majority of the members, or members’ designees, eligible to vote.

d. Copies of the minutes of council meetings shall be filed in the office of the administrator of the Division of Community Action Agencies, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319.

e. The council is a governmental body subject to the provisions of Iowa Code chapters 21 and 22. Procedural matters of the council not addressed by these rules shall be determined according to Robert’s Rules of Order, consistent with Iowa law.

f. The provisions of Iowa Code section 69.15 regarding nonattendance and vacancies shall apply to the council except that, with respect to Iowa Code section 69.15(3), the council chairperson shall accept or reject resignations and notify the member of such decision. Vacancies shall be filled as provided in subrule 24.3(1).

421—24.4(216A) Identification of conditions and criteria for families at risk. The council has identified the following conditions and criteria which may place families at risk of instability or of dependency on the family investment program:

24.4(1) Educational level of head of household.

a. Head of household has less than a high school education.

b. Head of household lacks basic literacy skills.

24.4(2) Work experience of head of household.

a. Head of household has never been employed.

b. Head of household has multiple episodes of employment lasting less than one year.

c. Head of household is currently unemployed.

24.4(3) Household composition.

a. Members are homeless or nearly homeless.

b. Members outside the nuclear family are in residence.

c. One or more children in the household were born while the parent was on public assistance.

d. One or more children in the household are identified as having special needs.

e. Household includes an alcohol or substance abuser.

f. Household includes a past or current perpetrator of child abuse or domestic violence.

g. Household includes a member with a record of incarceration.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

24.4(4) Background of head of household.

- a. Head of household was a teenager at birth of first child.
- b. Head of household has a disability or chronic illness (mental or physical).
- c. Head of household is a past or current victim of child abuse or domestic violence.
- d. Head of household grew up in a household with alcohol or substance abuse.

24.4(5) Public assistance history.

- a. Head of household grew up in a household that received public assistance.
- b. Household has experienced multiple episodes of receipt of public assistance.
- c. Household has been on public assistance for three or more years.

24.4(6) Other conditions. The council has also identified the following conditions that may contribute to instability or long-term dependency:

- a. Geographic location.
- b. Lack of employment opportunity.
- c. Lack of available services.
- d. Lack of transportation.

421—24.5(216A) Referral of families. Families who meet one or more of the conditions and criteria identified in rule 421—24.4(216A) may be referred to the program by the department of human services, the department of workforce development, family self-referral, or other sources. The department of human services shall provide to the division on a monthly basis a list of families who are identified as receiving family investment program benefits and who are not currently participating in the FaDSS program.

421—24.6(216A) Funding of grants.

24.6(1) Availability of funds. The council shall develop requests for proposals for the awarding of grants, subject to availability of funds. Grants shall not exceed 36 months; however, the division shall approve grantee budgets on an annual basis, based upon and subject to available funds.

24.6(2) Grant application process. Applications for grants shall be distributed by the division through a request for proposals. Applicants shall submit proposals to the division in accordance with instructions. Applications shall be submitted by mail or hand delivery to the Bureau of Community Services, Division of Community Action Agencies, Department of Human Rights, Second Floor, Lucas State Office Building, Des Moines, Iowa 50319, by the date and time indicated in the request for proposals.

24.6(3) Grant proposals. Grant proposals for the program shall include the following elements:

a. Designation of the families to be served that meet one or more criteria for being at risk of family instability or of dependency on the family investment program, and agreement to serve families who are referred by the department of human services from the family investment program and who meet the criteria.

b. Designation of the services to be provided for the families served, including assistance regarding job-seeking skills, family budgeting, nutrition, self-esteem, methamphetamine education, health and hygiene, parenting and child education preparation, and goal-setting. Proposals shall indicate the support groups and support systems to be developed for the families during the transition between the need for assistance and self-sufficiency.

c. Designation of the manner in which other needs of the families will be provided for, including but not limited to child care assistance, transportation, substance abuse treatment, support group counseling, food, clothing, and housing.

d. Designation of the process for training of staff that provides services and the appropriateness of training for the purposes of meeting family development and self-sufficiency goals of the families served.

e. Designation of the support available within the community for the program and for meeting subsequent needs of families and the manner in which community resources will be made available to the families served.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

- f.* Designation of the manner in which the program will be subject to audit and evaluation.
- g.* Designation of agreement provisions for tracking and reporting performance measures.
- h.* Description of project budget. Budgets must conform to all applicable state and federal requirements regarding allowable costs.
- i.* Description of overall organizational capacity to successfully meet program goals, including personnel and fiscal management capacity.

24.6(4) Selection of grant proposals. Criteria for selection of grant proposals include, but are not limited to, the elements identified in subrule 24.6(3). All proposals timely received shall be reviewed by the division, which shall make recommendations to the council. The council shall review the projects recommended by the division and make the final decision with respect to grant awards.

24.6(5) Notification of applicants. Applicants shall be notified of grant award decisions within 60 days after the due date for receipt of proposals.

421—24.7(216A) Grants not renewed and grants terminated or reduced. If the council determines that a grantee's project funding will not be renewed or if the council terminates or reduces a grantee's funding, the balance of funds not renewed or terminated or reduced shall be awarded by the council to other grantees for which funding is approved, based on criteria approved by the council. In the event no previously approved grantees have been selected, the council shall fund new grantees selected by the council as a result of a competitive grant application process.

421—24.8(216A) Appeal. Applicants dissatisfied with the council's actions regarding grant proposals for funds and grantees dissatisfied with termination of a contract may appeal the council's decision. The letter appealing the decision shall be submitted to the division within ten business days of the date of the notice of decision. The appeal must be based on a contention that the process violated state or federal law, policy, or rule; did not provide adequate public notice or was altered without adequate public notice; or involved conflict of interest or was biased or unfair. The appeal must specify the basis for the appeal and must include supporting evidence. Within 15 working days of the receipt of the appeal, the director of the department shall issue a final decision.

In the case of a grant award, no disbursements will be made to a grantee for a period of ten calendar days following issuance of the notice of decision to award. If an appeal is filed within the ten days, all disbursements will be held pending a final decision on the appeal. All applicants will be notified if an appeal is filed.

421—24.9(216A) Contract with grantee. Funds for grants approved by the council shall be awarded pursuant to a contract entered into by the division and the grantee.

24.9(1) Negotiation. The division shall conduct contract negotiations with the selected applicant, including negotiations regarding possible modifications to a grant proposal.

24.9(2) Withdrawal of contract offer. If the applicant and the division are unable to successfully negotiate a contract, the council may withdraw the award offer and award the grant to the applicant with the next-highest-scoring proposal.

24.9(3) Contract revisions. The division and the grantee may negotiate revisions to the contract to allow for nonmaterial expansion or modification of services so long as such revisions do not increase the total amount of the grant. The division shall have the right to approve an amendment to the contract budget moving grant funds between budget line items if the funds represent more than 10 percent of the budget line item.

421—24.10(216A) Grantee responsibilities.

24.10(1) Marketing. The grantee shall be responsible for marketing its services to referral sources and to families who have been referred to the program. All marketing plans, procedures, and material used by the grantee must be approved in writing by the division prior to use.

24.10(2) Selection of families. Grantees shall serve referred families who meet one or more of the risk criteria, subject to capacity limitations. For the families who voluntarily agree to participate in the

HUMAN RIGHTS DEPARTMENT[421](cont'd)

program, the grantee is responsible to timely notify the division through the FaDSS data system of the enrollment. This notification shall identify the families in the department's database who are receiving grantee services.

24.10(3) Record management. The grantees shall maintain records which include, but are not limited to:

- a. Specific family information.
- b. Specific services provided.
- c. Fiscal records of expenditures.
- d. Any other specific records as may be determined necessary by the division.

24.10(4) Reports. Grantees shall provide to the division the following reports:

- a. A monthly funding request and expenditure report that includes, but is not limited to, grant funds expended as they relate to each line item in the budget.
- b. An annual report that includes a summary of the activities by the grantee during the contract period.
- c. Other reports as deemed necessary by the division.

421—24.11(216A) Evaluation. The grantee shall be evaluated by the division at least once prior to the end of each 12-month period of the contract. The purpose of the evaluation is to evaluate the progress of the grantee toward the stated goals and objectives of the project, as well as other matters relating to contractual obligations. The grantee shall receive a written report of the evaluation from the division.

These rules are intended to implement Iowa Code section 216A.107 and chapter 17A.

ITEM 27. Adopt the following new 421—Chapter 25:

CHAPTER 25
INDIVIDUAL DEVELOPMENT ACCOUNT (IDA)

421—25.1(541A) Definitions. As used in these rules, unless the context otherwise requires:

“*Account holder*” means an individual who is the owner of an individual development account.

“*Administrator*” means the administrator of the division of community action agencies of the Iowa department of human rights.

“*Charitable contributor*” means an individual, company or organization that makes a contribution through a nonprofit association described in Section 501(c)(3) of the Internal Revenue Code, which association makes a deposit to an individual development account and which association is exempt from taxation under Section 501(a) of the Internal Revenue Code.

“*Division*” means the division of community action agencies of the Iowa department of human rights.

“*Federal poverty level*” means the poverty income guidelines established annually for a calendar year and published in the Federal Register by the U.S. Department of Health and Human Services.

“*Financial institution*” means a financial institution including, but not limited to, a bank, savings and loan, or credit union approved by the division to accept individual development accounts.

“*Household*” means the adults related by blood, marriage or adoption, or who are unrelated but have maintained a stable family relationship together over a period of time, and individuals under 18 years of age related to the above adults by marriage, blood or adoption who are living together. “Living together” refers to domicile as evidenced by the parties' intent to maintain a home for their family and does not include a temporary visit.

“*Individual contributor*” means an individual who makes a deposit to an individual development account and is not the account holder or a charitable contributor.

“*Individual development account*” or “*IDA*” means an investment account which has the characteristics described in Iowa Code section 541A.2 and is operated by the operating organization.

“*Individual development account state match fund*” means the fund established in the state treasury under the authority of the division into which are deposited funds for payment to operating organizations

HUMAN RIGHTS DEPARTMENT[421](cont'd)

for state match payments to individual investment accounts and administrative costs to implement the individual investment account program.

“*Minor account holder*” means an account holder who is younger than 18 years of age.

“*Operating organization*” means an entity selected by the division for involvement in operating individual development accounts directed to the eligible target population.

“*Source of principal*” means any of the following sources of a deposit:

1. Deposits made by the account holder.
2. Deposits of state match payments.
3. Deposits of individual development account moneys that are transferred from another individual development account holder. The moneys transferred from another individual development account shall be considered to be a deposit of principal made by the account holder.
4. Deposits made on behalf of the account holder by an individual contributor or a charitable contributor.

421—25.2(541A) Establishment of individual development accounts. An investment account qualifies as an IDA when it is established and operates in accordance with the following:

25.2(1) *Operating organization.* The investment account shall be established through an operating organization.

25.2(2) *Account.* The account shall be opened at a financial institution and kept in the name of an individual account holder.

25.2(3) *Deposits.* Deposits made to an IDA are also known as sources of principal and shall be made in any of the manners indicated in the definition of “source of principal” in rule 421—25.1(541A).

25.2(4) *Investment of funds.* The funds deposited in the IDA may be invested in any investment that the financial institution is authorized to offer to the public.

25.2(5) *Income.* The account earns income.

25.2(6) *Maximum deposits of principal.* The total of all sources of principal in an individual development account may not exceed \$30,000.

421—25.3(541A) Individual development account state match fund. An individual investment account state match fund is created in the state treasury under the authority of the division, the administrator of the IDA program. Funds in the state match fund shall be used by the division to provide the state match payment for account holder deposits in accordance with Iowa Code section 541A.3 and for the costs of administration of the IDA program. At least 85 percent of the funds appropriated to the state match fund shall be used for state match payments, and the remainder may be used for the administrative costs of the operating organization. Interest or earnings on moneys deposited in the state match fund shall be credited to the fund. Notwithstanding Iowa Code section 8.33, moneys appropriated to the state match fund shall not revert to any other fund.

421—25.4(541A) Eligibility, state match payments, and state tax provisions.

25.4(1) *Eligibility based on countable household income level.* Eligibility shall be based on the prospective account holder’s household income for the calendar year preceding the calendar year in which the IDA will be opened. The household income shall not exceed 200 percent of the federal poverty level as published in the same year. If an account holder’s household income exceeds 200 percent of the federal poverty level in any subsequent year following the year that the account holder established the account, the account shall remain open, but the account holder shall not be eligible to receive the state savings match payment for deposits made during the year following the year when the household income exceeds 200 percent of the federal poverty level. If the prospective account holder files an income tax return on a fiscal year basis, the household income must nonetheless be computed on a calendar year basis.

25.4(2) *Countable household income.*

a. The household’s countable income shall be the Iowa net income as defined in Iowa Code section 422.7, with the following inclusions and exclusions:

HUMAN RIGHTS DEPARTMENT[421](cont'd)

- (1) Inclusions to the extent not already included in Iowa net income are as follows:
 1. Capital gains.
 2. Alimony.
 3. Child support money.
 4. Cash public assistance and relief, except property tax relief under Iowa Code chapter 425, subchapter II.
 5. The gross payment amount of any pension or annuity including, but not limited to, railroad retirement benefits.
 6. Military retirement and veterans' disability pensions.
 7. Interest which is received from local, state or federal government securities.
 8. Workers' compensation.
 9. The gross amount of disability income or "loss of time" insurance.
- (2) Exclusions are as follows:
 1. Gifts from nongovernmental sources.
 2. Surplus foods, including food assistance.
 3. Payments received by an individual under the age of 18 under the federal Social Security Act.
 4. Other in-kind relief supplied by a governmental agency.
 - b. Income shall not be reduced by either a net operating loss carryover or by a capital loss carryover.

25.4(3) Determination of income status and eligibility.

a. In lieu of calculating countable household income as provided in subrule 25.4(2) to determine income status and eligibility of an individual to hold an IDA, the operating organization may use evidence of the individual's enrollment in a program with income eligibility restrictions that are equal to or less than the maximum household income provided in subrule 25.4(1) as sufficient for determining an individual's eligibility to hold an IDA.

b. In order to determine the amount of countable household income of the individual seeking to open an IDA and to maintain household income records on an annual basis, the operating organization shall use any of the following methods or other methods deemed appropriate by the operating organization to obtain accurate income information:

(1) The operating organization shall ask both the individual who wishes to establish an IDA and other members of the individual's household who have filed federal or state income tax returns to furnish a copy of the returns with attached W-2 statements, to sign a release of information form permitting the operating organization to receive from the Iowa department of revenue summary information indicating the Iowa net income, or to receive a copy of the state income tax return for the specific calendar year used to establish income eligibility to participate in the IDA program and for specified successive calendar years during which the IDA account is open. The operating organization shall protect the confidentiality of this information.

(2) If the individual and members of the individual's household have not filed federal or state income tax returns for the calendar year used to determine eligibility, the operating organization shall ask the individual to provide copies of available financial records of the household to determine the amount of countable income for the calendar year used to determine eligibility.

(3) The operating organization may also ask the individual seeking to hold an IDA to sign a release of information form allowing the operating organization to obtain individual and household income records held by agencies administering the programs referred to in paragraph 25.4(3) "a." The operating organization shall use this information to verify and maintain household income records of individuals seeking to hold an IDA, thereby facilitating the administration of the IDA program. The operating organization shall maintain the confidentiality of this information. Countable household income determinations shall include the amount of the cash assistance provided through the programs referred to in paragraph 25.4(3) "a."

(4) If an individual has minimal or no financial records and the operating organization determines that the totality of the individual's circumstances corroborates a credible explanation for the absence

HUMAN RIGHTS DEPARTMENT[421](cont'd)

of said records, the operating organization may accept a written self-declaration from the individual as sufficient to document initial income eligibility to hold an IDA.

c. The operating organization shall obtain and maintain income information records from the account holder and all members of the account holder's family on a yearly basis to determine continued IDA eligibility.

25.4(4) Exemption from income tax for income earned on assets in an IDA. Income earned on principal in an IDA shall be exempt from state income tax even if the account holder's household income is greater than 200 percent of the federal poverty level for the tax year.

25.4(5) State match payments. The operating organization shall determine the account holder's countable household income and account deposits on an annual basis for the purpose of computing the state match payment. The operating organization shall file with the division a claim for a state match payment on behalf of the account holder by April 30 of the year following the year in which the account holder made deposits into the IDA. The claim shall be filed on a form provided by the division. The division shall make a payment of a savings match on a 1:1 ratio on amounts of up to \$2,000 that an eligible account holder deposited in the account holder's account the previous year. The total state savings match for all years shall not exceed \$2,000 for any IDA. Neither the moneys transferred to an IDA from another IDA nor the state match received by the account holder pursuant to this subrule shall be considered an account holder deposit for purposes of determining a state match payment. The division or operating organization shall make the state match payment directly to the IDA in the manner deemed appropriate by the division.

25.4(6) Tax implications. IDAs shall be subject to department of revenue rule 701—40.44(422,541A).

421—25.5(541A) Requests for proposals—operation of IDAs.

25.5(1) Issuance of requests for proposals. The division shall issue requests for proposals (RFPs) for operating organizations interested in operating an IDA program. The RFP shall require the operating organization to provide information in its proposal regarding the financial institution that the operating organization will use for the proposed IDA program. The division shall include such information in evaluating proposals submitted in response to the RFP.

25.5(2) Review criteria used to evaluate and select proposals responding to the RFP. The division shall evaluate and select proposals submitted by operating organizations in response to the RFP based upon, but not limited to, the criteria as provided in the RFP and the following criteria, which shall be ongoing responsibilities of the operating organization:

a. The project shall provide for a safe and secure investment mechanism for IDAs using a financial institution approved by the division. This provision shall include assurances to contributors that a process is in place to ensure that contributions will be used for approved purposes as provided in subrule 25.6(1).

b. The proposed project shall link the making of an account holder's contributions to an IDA with other services provided by or outcomes identified by the operating organization in the proposal. The proposed project shall include mechanisms for the operating organizations to monitor and enforce the identified outcomes and services.

c. The operating organization shall provide documentation establishing experience and ability to execute the project as proposed. Minimum capabilities shall include:

- (1) An ability to provide financial education including asset-specific education;
- (2) An ability to link with tax preparation assistance;
- (3) Familiarity and ability to work with the proposed target population; and
- (4) A strong record of successful management.

d. The operating organization's proposal shall include a commitment by the operating organization to provide independent matching funds for contributions made by account holders to an IDA on not less than a 1:1 ratio.

e. The proposal shall include a monitoring and evaluation plan for certifying the proposed project's outcomes.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

f. The proposal shall include agreement and acknowledgment by the operating organization that it shall have ongoing responsibility for:

(1) Certifying that an investment account is an IDA based on its having the characteristics described in Iowa Code section 541A.2.

(2) Certifying annually the income eligibility of each account holder and the amount of contributions made by the account holder to the IDA during the preceding tax year, in order to determine the account holder's eligibility for the state match payment for such year.

(3) Recording annually the contributions made by the account holder, individual and charitable contributors, and the state.

(4) Submitting information regarding the IDA and account holders to the division as requested.

25.5(3) *Additional evaluation criteria in the RFP.* The division may include additional evaluation criteria in the RFP, including but not limited to the operating agency's ability to network with other agencies or to form a communitywide consortium of agencies, if desirable, to operate IDAs; ability to form an effective working relationship with banks or other financial institutions; and ability to raise funds to provide an independent match on account holder deposits.

25.5(4) *Other considerations and guidelines.* Other considerations and guidelines in implementing IDAs are:

a. The division shall have authority to designate and limit the number of locations where IDA projects shall be implemented, taking into account demographic characteristics and geographic considerations.

b. The division shall require all IDA operating organizations and projects to comply with any federal individual development account program requirements for drawing federal funding.

c. The division and the operating organization shall enter into an agreement that specifies the responsibilities of both parties. The agreement shall incorporate by reference the provisions of the RFP.

d. The operating organization shall maintain a clear and precise audit trail of all deposits and withdrawals of funds in IDAs. All withdrawals from an IDA shall require a signature of approval from the operating organization. Upon the termination of the agreement between the operating organization and the division or upon the discontinuance of the IDA program for any reason, the IDA accounts under the management of that operating organization shall terminate and the funds in the IDAs shall be distributed to the account holders, unless the operating organization and a successor operating organization located in the same geographic area and operating an IDA program approved by the division enter into an agreement for the transfer of IDA accounts to the successor operating organization. The division shall have authority to review and approve in advance the agreement between the two operating organizations.

e. Upon the termination of an operating organization's relationship with the financial institution holding its IDA accounts, the operating organization managing the accounts shall enter into an agreement with a division-approved successor financial institution to hold the accounts and shall arrange for the transfer of the accounts to the new financial institution. The new agreement shall be subject to the division's review and advance approval.

f. If an account holder moves within the state to a location that is not served by the operating organization but is served by another operating organization with a division-approved IDA program, the original operating organization shall arrange for the transfer of the account to a financial institution that has an agreement with the operating organization in the new location. If there is no operating organization in the new location, the IDA account shall be closed, with funds in the account distributed to the account holder; alternatively, the operating organization and the account holder may jointly agree to maintain the account under the management of the existing operating organization and financial institution. The operating organization shall provide a written notification to the division of all transfers of IDA accounts to the management of a new operating organization.

421—25.6(541A) Authorized withdrawals of principal and income.

25.6(1) *Approved purposes for withdrawal of funds from an IDA.* An account holder may withdraw principal and income earned on principal from an IDA only with the written approval of the operating organization and only for the following approved purposes:

HUMAN RIGHTS DEPARTMENT[421](cont'd)

- a. Educational costs at an accredited institution of higher education, which costs include, but are not limited to, tuition, laboratory fees or other fees for use of facilities, books, and other supplies.
- b. Training costs for an accredited or licensed training program, or training program approved by the division, which costs include, but are not limited to, tuition, laboratory fees or other fees for use of facilities, books, and other supplies.
- c. Purchase of a primary residence.
- d. Capitalization of a small business start-up.
- e. An improvement to a primary residence which increases the tax basis of the property.
- f. Emergency medical costs for the account holder or for a member of the account holder's family. However, only one withdrawal from an IDA can be made for this purpose, and the amount of the withdrawal shall not exceed 10 percent of the account balance at the time of the withdrawal.
- g. Purchase of an automobile.
- h. Purchase of assistive technology, home or vehicle modification, or other device or physical improvement to assist an account holder or family member with a disability.

25.6(2) *Conditions on withdrawals of principal and income.* An account holder may withdraw funds from the account holder's IDA subject to the following conditions:

- a. Any amount of principal and income earned on principal, provided the sum is authorized under subrule 25.6(1) and in accordance with the procedure for authorized withdrawals set forth under subrule 25.6(3).
- b. If the account holder is 59½ years of age or older, any amount of principal and income earned on principal. Such withdrawals shall not require the approval of the operating organization.

25.6(3) *Procedures for account holder deposits and withdrawals.* The following procedures (or such other procedures as agreed upon by the operating organization and financial institution to facilitate authorized withdrawals) shall apply to account holder deposits and withdrawals from an IDA:

- a. For deposits, the account holder shall fill out and sign a deposit form provided by the operating organization, indicating the amount and date of a deposit by the account holder into the IDA, and shall submit the form to the financial institution. The form shall be signed by the financial institution, which shall send copies to the account holder and the operating organization.
- b. For a withdrawal, the account holder shall fill out and sign a withdrawal form provided by the operating organization, indicating the amount, date, and purpose of the withdrawal. The account holder shall submit the form to the operating organization or its designated agent for approval and signature. The operating organization shall retain a copy and submit the withdrawal form to the financial institution to implement the electronic transfer of the funds or issuance of a check, payable to the account of the vendor as payment for an approved purpose for the withdrawal; or, if neither electronic transfer nor check issuance is possible or cost-effective, then the financial institution shall issue a two-party payee check made out to the account holder and to the vendor. If the approved purpose is for capitalization of a small business, the check shall be payable to the account holder's business account at a financial institution and to the vendor requiring payment for providing the service or product relative to the account holder's business.

421—25.7(541A) Notice of nonapproved withdrawals and closure of the account.

25.7(1) *Nonapproved withdrawals and attempted withdrawals for nonapproved purposes.* The financial institution shall notify the operating organization within five calendar days of any withdrawals or attempted withdrawals that appear to be nonapproved. The financial institution shall refuse to release any funds that do not have the written authorization of approval from the operating organization.

25.7(2) *Closure of an IDA by the operating organization.* The operating organization may close an IDA if the operating organization determines any of the following:

- a. The account holder has withdrawn funds from the account for a purpose not authorized by subrule 25.6(1), or funds have been withdrawn under false pretenses and have been used for purposes other than for the approved purposes indicated at the time of the withdrawal.
- b. There has been no activity in the IDA during the preceding 12 months.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

c. The account holder has not complied with the terms of an IDA participation agreement between the account holder and the operating organization, after being provided notice of the requirement to comply with the agreement by the operating organization.

421—25.8(541A) Transfers of assets of an IDA.

25.8(1) *Transfers by an adult account holder.* An adult account holder may transfer all or part of the assets in the adult account holder's IDA to any other account holder's IDA. Upon compliance by the operating organization and financial institution with the requirements of rule 421—25.6(541A), IDA account holders who have transferred funds into another individual's IDA account and any beneficiaries of the transferee's IDA account shall sign a waiver of liability form releasing the operating organization and the financial institution from civil liability and responsibility for the wrongful withdrawals of funds by the account holder due to the account holder's false representation of the purpose of the withdrawal, resulting in the loss to the account balance of deposited principal funds, including individual and charitable contributions, transferred funds, and the state match payments.

25.8(2) *No transfers of assets from a minor account holder's IDA.* Neither a minor account holder nor the parents or legal guardian of such minor account holder shall have the right or ability to transfer assets from the minor account holder's IDA to the IDA of any other account holder.

25.8(3) *Transfers when the account holder dies.* At the time an IDA is established, the account holder shall name a contingent beneficiary(ies) or an account holder transferee to whom the assets of the account holder's IDA shall be transferred upon the account holder's death. Upon the account holder's death, the account assets shall be transferred to the named contingent beneficiary or to the transferee's IDA, as applicable. A named beneficiary or transferee may be changed at the discretion of the account holder. If the named beneficiary or transferee is deceased or otherwise does not accept the transfer, the assets of the deceased account holder's IDA shall be transferred to the IDA state match fund.

These rules are intended to implement Iowa Code chapter 541A.

ITEM 28. Reserve **421—Chapter 26 to Chapter 29.**

ITEM 29. Adopt the following **new** 421—Chapter 30:

TITLE III
DIVISION OF CRIMINAL AND JUVENILE JUSTICE PLANNING
CHAPTER 30
FUNCTIONS OF DIVISION

421—30.1(216A) Definitions. As used in these rules, unless the context otherwise requires:

“Administrator” means the administrator of the division of criminal and juvenile justice planning within the department of human rights.

“Council” means an advisory council or board established in Iowa Code chapter 216A, subchapter 9.

“Department” means the department of human rights.

“Director” means the director of the department of human rights.

“Division” means the division of criminal and juvenile justice planning within the department of human rights.

“Juvenile justice advisory council” or *“JJAC”* means the state advisory group described in P.L. 93-415, Section 223(a)(3), and established through executive memorandum to oversee the administration of the Juvenile Justice and Delinquency Prevention Act (JJDP) formula grants in Iowa.

421—30.2(216A,PL93-415) Functions of the division. The division of criminal and juvenile justice planning is under the direction of an administrator, who reports to the director. The division's functions include identifying issues to improve the criminal and juvenile justice system through planning, research, data analysis, policy, youth development, and grant administration.

The functions of the division are described in Iowa Code chapter 216A, subchapter 9.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

30.2(1) The division shall provide staff support to the councils and the JJAC and shall assist them with the coordination of their efforts. Additionally, the division shall perform functions consistent with the duties and requirements outlined in Iowa Code chapter 216A, subchapter 9; the Juvenile Justice and Delinquency Prevention Act, P.L. 93-415; and other relevant federal and state requirements.

30.2(2) The division shall establish and maintain procedures to collect and report all instances of juvenile detention and confinement occurring in the state of Iowa consistent with P.L. 93-415, Section 223(a)(15). The monitoring function shall include the following:

a. The division shall collect relevant self-report information and perform on-site verification of data from jails, police lockups, juvenile detention facilities, state training schools, mental health institutes, locked residential treatment facilities for youth, and other secure facilities.

b. Through written agreement, the jail inspection unit of the department of corrections shall provide the division and the specific jails and lockups with certification of their ability to separate juveniles and adults, consistent with P.L. 93-415, Section 223(a)(12)(A).

c. Through written agreement, the department of human services shall provide information to the division on holdings relative to P.L. 93-415, Section 223(a)(11), in contracted private facilities that the department of human services has the authority to license.

d. Through written agreement, the department of human services shall provide information to the division on holdings relative to P.L. 93-415, Section 223(a)(11), in state institutions that the department of human services administers.

30.2(3) Inquiries shall be directed to the department, the division, the councils, or the JJAC, at Lucas State Office Building, Des Moines, Iowa 50319. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays. The department's telephone number is (515)242-5655, and its fax number is (515)242-6119. The department's website is humanrights.iowa.gov.

421—30.3(216A) Functions and activity of the councils. The councils are established by Iowa Code chapter 216A, subchapter 9, and are charged with the responsibility to identify and analyze justice system issues of concern; develop and assist others in implementing recommendations and plans for system improvement; and provide for a clearinghouse of justice system information to coordinate with data resource agencies and to assist others in the use of justice system data. The councils shall advise the division on its administration of state and federal grants and appropriations and shall carry out other functions consistent with Iowa Code chapter 216A, subchapter 9.

421—30.4(216A,PL93-415) Functions and activities of the JJAC. The JJAC is established through executive memorandum pursuant to P.L. 93-415 to advise the division on juvenile justice issues; make recommendations to the governor and legislature; review and comment on the division's reporting of Iowa's compliance with the requirements of P.L. 93-415, Sections 223(a)(11), (12), (13), (14) and (23); advise the division on its administration of state and federal grants and appropriations; supervise the division's administration of federal funds received from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) established in P.L. 93-415; and carry out other functions consistent with P.L. 93-415.

421—30.5(216A,PL93-415) Council and JJAC meetings.

30.5(1) Notice of meetings of councils and the JJAC shall be published 24 hours in advance of the meeting and will be mailed to interested persons upon request. The notice shall contain the specific date, time, and place of the meeting. Agendas shall be available by mail from the division to any interested persons if requested not less than five days in advance of the meeting. All meetings shall be open to the public unless a closed session is voted by two-thirds of the entire membership or by all members present for one of the reasons specified in Iowa Code section 21.5. Special or electronic meetings may be called by the chairperson upon a finding of good cause and shall be held in accordance with Iowa Code section 21.8. Meetings of councils and the JJAC shall be governed by the following procedures:

a. Persons wishing to appear before a council or the JJAC shall submit the request to the respective council not less than five days prior to the meeting. Presentations may be made at the discretion of the respective chairperson and only upon matters appearing on the agenda.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

b. Persons wishing to submit written material shall do so at least five days in advance of the scheduled meeting to ensure that council or JJAC members have adequate time to receive and evaluate the material.

c. At the conclusion of each meeting, the time, date, and place of the next meeting shall be set unless the next meeting was previously scheduled and announced.

d. Cameras and recording devices may be used at open meetings provided they do not obstruct the meeting. The chairperson may request a person using such a device to discontinue its use when it is obstructing the meeting. If the person fails to comply with this request, the presiding officer shall order that person excluded from the meeting.

e. The chairperson may exclude any person from the meeting for repeated behavior that disrupts or obstructs the meeting.

f. Other meeting protocol and procedures consistent with this subrule and Iowa Code chapter 21 may be established by the councils or the JJAC through bylaws approved by a majority of the members subject to the bylaws.

30.5(2) Minutes of council or JJAC meetings are prepared and are available for inspection at the division office during business hours. Upon approval by the respective council or JJAC, the minutes will be posted on the division's website.

30.5(3) The councils or JJAC may form committees to carry out those duties as are assigned by the respective council. Meetings of the committees shall conform to the conditions listed in subrule 30.5(1) governing council and JJAC meetings.

These rules are intended to implement Iowa Code chapter 17A; Iowa Code chapter 216A, subchapter 9; and P.L. 93-415.

ITEM 30. Adopt the following new 421—Chapter 31:

CHAPTER 31
JUVENILE JUSTICE YOUTH DEVELOPMENT PROGRAM

421—31.1(216A,232) Definitions. As used in this chapter:

“Administrator” means the administrator of the division of criminal and juvenile justice planning within the department of human rights.

“Applicant” means a city, county, judicial district or other designated eligible entity preparing and submitting an application for funding through this program.

“Application” means a request to the division for funding that complies with federal and state requirements.

“Decategorization,” as established in Iowa Code section 232.188, means the department of human services' program whereby approved counties are permitted to pool their allocations of designated state and federal child welfare and juvenile justice funding streams, establish local planning and governance structures, and design and implement service systems that are more effective in meeting local needs.

“Decategorization governance board” means the board required to provide direction and governance for a decategorization project, pursuant to Iowa Code section 232.188.

“Division” means the division of criminal and juvenile justice planning within the department of human rights.

“Formula-based allocation” means a process that uses a formula to determine funding amounts to units of government or local public planning entities on a statewide basis.

“Grant review committee” means a committee established by the JJAC, the councils, or the division to review and rank applications for funding. Individuals who are not members of the JJAC or the councils may serve on this committee.

“Justice Research and Statistics Association” or *“JRSA”* is a national nonprofit organization that provides a clearinghouse of current information on state criminal justice research, programs, and publications.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

“*Juvenile justice advisory council*” or “*JJAC*” means the state advisory group described in P.L. 93-415, Section 223(a)(3), and established through executive memorandum to oversee the administration of the JJDPA formula grants in Iowa.

“*Juvenile Justice and Delinquency Prevention Act*” or “*JJDPA*” means the federal Act, P.L. 93-415.

“*Law enforcement expenditures*” means the expenditures associated with police, prosecutorial, legal, and judicial services, and corrections as reported by the units of local government to the U.S. Census Bureau during the census of governments.

“*Local public planning entities*” means entities that have a local governance structure to plan, develop and coordinate services for children and families, and provide for implementation of services for children and families. Examples of local public planning entities include, but are not limited to, units of local government such as cities or counties, decategorization governance boards, community empowerment area boards, and school districts.

“*Office of Juvenile Justice and Delinquency Prevention*” or “*OJJDP*” means the federal office within the U.S. Department of Justice that administers the JJDPA and other discretionary grants.

“*Subgrantee*” means any applicant receiving funds through the juvenile justice youth development program from the division.

“*Unit of local government*” means a county, township, city, or political subdivision of a county, township, or city that is a unit of local government as determined by the Secretary of Commerce for general statistical purposes, and the recognized governing body of an Indian tribe that carries out substantial governmental duties and powers.

421—31.2(216A,232) Purpose and goals.

31.2(1) The purpose of the juvenile justice and youth development program is to assist the state in the establishment and operation of juvenile crime prevention programs; provide for greater accountability in the juvenile justice system; promote positive youth development; and comply with the JJDPA core requirements regarding the deinstitutionalization of status offenders, sight and sound separation of adults and juveniles in secure facilities, prohibitions on the use of adult jails to hold juveniles, and the disproportionate confinement of minority youth.

31.2(2) The primary goal of the coordinated juvenile justice and prevention program is to promote positive youth development by helping communities provide their children, families, neighborhoods, and institutions with the knowledge, skills, and opportunities necessary to foster healthy and nurturing environments that support the growth and development of productive and responsible citizens. Other specific goals of this program are to reduce youth violence, truancy, involvement in criminal gangs, substance abuse and other delinquent behavior.

421—31.3(216A,232,PL93-415) Program funding distribution.

31.3(1) The division shall distribute funds available for this program through the following methods:

- a. Competitive grants.
- b. Formula-based allocations.
- c. Sole source contracts.

31.3(2) Funding through any of the methods listed in subrule 31.3(1) may be on an annual or multiyear basis.

421—31.4(216A,232,PL93-415) Competitive grants.

31.4(1) *Application announcement.* The administrator shall announce through public notice the opening of any competitive grant application process. The announcement shall provide potential applicants with information that describes eligibility conditions, purposes for which the program funding shall be available, application procedures, and all relevant time frames established for proposal submittal and review, grant awards, and grant expenditure periods.

31.4(2) *Preapplication.* The division may request potential applicants to submit a preapplication summary of their proposals. If a preapplication is required, the division shall provide all potential applicants with sufficient information detailing the extent of the preapplication and the criteria for

HUMAN RIGHTS DEPARTMENT[421](cont'd)

review. Preapplications received in a timely manner shall be presented to the grant review committee for screening. The committee shall use the same ranking system for each preapplication. The ranking system shall be based on the criteria provided to the applicant through the division activities specified in subrule 31.4(1). Applicants shall be notified in writing of the screening decisions.

31.4(3) *Content of applications.* Required elements of the applications shall be published in the request for applications and shall be based on a point system established by the division that reflects the requirements of federal and state funding sources. The division shall develop the application and selection criteria.

31.4(4) *Application review and selection process.* The division shall conduct a preliminary review of each application to ensure that the applicant is eligible and the application is complete. All applications that are submitted in a timely manner by eligible applicants and contain the necessary information shall be presented to the grant review committee. Members of the grant review committee shall review each application and shall assign numerical scores to each application using criteria and point values established by the division and listed in the request for applications. The rank order of scores assigned to the applications by the review committee shall be the basis for funding recommendations for each application reviewed. The grant review committee shall forward its funding recommendations for approval and final award decisions pursuant to rule 421—31.7(216A,232,PL93-415). Decisions to make final awards shall be consistent with applicable state and federal program requirements.

31.4(5) *Conflict of interest.* Persons shall not serve on the grant review committee or otherwise participate personally through decisions, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, grant, cooperative agreement, claim, controversy, or other particular matter in which funds administered by the division are used when, to the person's knowledge, the person or a member of the person's immediate family, a partner, an organization in which the person is serving as an officer, director, trustee, partner, or employee or any person or organization with whom the person is negotiating or has any arrangement concerning prospective employment, or has a financial interest of less than an arms-length transaction. If a person's agency or organization submits an application, the person shall not be present when the grant review committee's recommendations are acted upon by the JJAC or the councils.

421—31.5(216A,232,PL93-415) Formula-based allocations.

31.5(1) *Funding recipients.* Only units of local government, local public planning entities, and judicial districts may be considered eligible applicants to receive funding through this distribution method. The determination of which units of local government, local public planning entities, and judicial districts are eligible applicants shall be made according to the state or federal law or regulation that makes funding available to the division for this distribution method. When such a determination is not established in law or regulation, the administrator shall make the determination with the advice of the appropriate council or the JJAC.

31.5(2) *Formula to determine individual allocation amounts.* Allocation amounts to individual units of local government or local public planning entities shall be calculated according to the state or federal law or regulation that makes funding available to the division for this distribution method. When an allocation formula for funding to be distributed by the division is not established in this chapter or other law or regulation, the division shall calculate allocations based on a formula determined by the administrator. The formula shall be based on the number of children residing in the respective areas and may also be based on poverty rates, delinquency rates and other data relevant to child and family well-being. Application materials provided to the eligible units of local government, local public planning entities, or judicial districts shall specify the formula used to calculate the allocation.

31.5(3) *Application procedures and requirements.*

a. Each unit of local government, local public planning entity, or judicial district that is eligible to be an applicant for funds pursuant to subrule 31.5(1) shall be contacted by the division and provided an application that must be completed by the applicant prior to the applicant's receipt of the allocation.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

b. The application may require the submission of a comprehensive plan to prevent and reduce juvenile crime that reflects the purposes and goals in rule 421—31.2(216A,232) and that structures the coordination and collaboration of other relevant community programs and activities. Evidence of such coordination and collaboration may be required to include assurances and documentation that the plan for this program was developed to include, or be an integral part of, other areawide plans related to, for example, child welfare, substance abuse, health, or education.

c. The application may require documentation that the application was completed with the participation of representatives from, for example, law enforcement, county attorneys, county and city governments, and health, human services, education, and community service agencies.

d. The application may also require the applicant to certify and make assurances regarding policies and practices related to, but not limited to, funding eligibility, program purposes, service delivery and planning and administration capacities.

e. Each notified applicant shall submit the required information by the deadline established and announced by the division. The division reserves the right to extend the deadline.

f. Following its receipt and approval of a completed application, the division shall offer the applicant a contract authorizing the obligation of funds. These rules and all applicable state and federal laws and regulations shall become part of the contract by reference.

31.5(4) *Allocations declined, waived or combined.*

a. As allowed by federal or state law, when an eligible local public planning entity, judicial district, or unit of local government declines to submit an application for funds, such funds shall be retained by the division to be reallocated among all participating units of local government, judicial districts, or local public planning entities or to be otherwise distributed for the development of services that have a statewide impact.

b. As allowed by federal or state law, the division may permit an eligible unit of local government to waive its right to a direct allocation and request that its allocation be awarded to and expended for its benefit by a larger or contiguous unit of local government or local public planning entity. A written waiver shall be required from the unit of local government that waives its right to a direct allocation and names a requested unit of local government or local public planning entity to receive and expend the funds. The unit of local government, judicial district, or local public planning entity receiving the funds must agree, in writing, to accept the redirected funds, to carry out all planning and application requirements and to serve as the fiscal agent for receiving the waived allocation. The division's instructions to eligible applicants shall describe the procedures required to implement this paragraph.

c. As allowed by federal or state law, the division may permit applicants to enter into regional coalitions by planning for and utilizing combined allocations from the participating units of local government or local public planning entities. A unit of local government, judicial district, or local public planning entity shall serve as the applicant and fiscal agent for purposes of carrying out planning and application requirements, and for receiving the allocation and obligating and expending funds for the benefit of the combined units. The division's instructions to eligible applicants shall describe the process to implement this paragraph.

421—31.6(216A,232,PL93-415) Sole source contracts. The division may determine, because of the nature of a certain problem or desired programmatic response, that a competitive grant or formula-based allocation process would not be the most appropriate or expeditious process through which to award funds. In such cases, the division may seek out a potential subgrantee with which it can develop a sole source contract for services. The division shall be alert to organizational conflicts of interest and noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. The division's awarding and administration of any sole source contract shall be governed by all relevant state and federal laws and regulations.

421—31.7(216A,232,PL93-415) Program funding sources and related provisions.

31.7(1) Sources of funding may include state, federal, and other funds made available to the division for the purpose of assisting units of local government, judicial districts, and local public planning entities

HUMAN RIGHTS DEPARTMENT[421](cont'd)

in improving the criminal and juvenile justice systems. The division may combine funding from federal and state appropriations and grant programs to distribute through any of the methods outlined in rule 421—31.3(216A,232,PL93-415), as allowable by the sources of the funds.

31.7(2) Other funds. With the advice of the JJAC and the councils, the division shall, consistent with applicable state and federal law and regulation, determine the distribution methods, eligible applicants and any allocation formulas to be used when making such funding available.

421—31.8(216A,232) Appeals.

31.8(1) Applicants choosing to appeal funding decisions must file a written appeal with the administrator within ten calendar days of the written notification of the program's funding decisions.

31.8(2) All letters of appeal shall clearly state the reason(s) for the appeal and evidence of the reason(s) stated. Reason(s) for appeal must be based on a contention that the rules and procedures governing the funding process have not been applied properly. All appeals must clearly state in what manner the division failed to follow the rules of the selection process as governed by these administrative rules or procedures outlined in the application materials provided to all applicants by the division. The letter of appeal must also describe the remedy being sought.

31.8(3) If an appeal is filed within the ten calendar days, the division shall not enter into a contract with any applicant involved in the application process being appealed until the administrator has reviewed and decided on all appeals received in accordance with the criteria in subrules 31.8(1) and 31.8(2). The administrator shall consider the information submitted by the appellant and relevant information from division staff when conducting the review. The review shall be conducted as expeditiously as possible so that all funds can be distributed in a timely manner.

31.8(4) The decision of the administrator shall represent the final division action for the purpose of implementing Iowa Code chapter 17A.

421—31.9(216A,232) Contract agreement.

31.9(1) *Contract offer.* Applicants shall be notified in writing of the division's intent to fund, contingent upon the funds available. The administrator shall have flexibility in determining which state and federal funds shall be utilized in awards and allocations to subgrantees. These rules and all applicable state and federal laws and regulations shall become a part of the contract by reference.

31.9(2) *Preadward negotiation.* The applicant may be requested to modify the original application in the negotiation process. The division reserves the right to fund all or part of the applicant's application.

31.9(3) *Withdrawal of contract offer.* If the applicant and the division are unable to successfully negotiate a contract, the division may withdraw the award offer and redistribute program funds in a manner consistent with the provisions of rule 421—31.14(216A,232).

31.9(4) *Contract modifications.* The subgrantee or the division may request a modification or revision of the contract.

31.9(5) *Reimbursement of expenditures.* Funds are to be spent to meet program goals as provided in the contract. Expenditures shall be reimbursed pursuant to regular reimbursement procedures of the state of Iowa.

421—31.10(216A,232) Contract termination.

31.10(1) *Termination by subgrantee.* The contract may be terminated by the subgrantee at any time during the contract period by giving 30 days' notice to the division.

31.10(2) *Termination by the division.*

a. The division may terminate a contract upon ten days' notice when the subgrantee or any of its subcontractors fail to comply with the grant award stipulations, standards or conditions. The division may terminate a contract upon 30 days' notice when there is a reduction of funds by executive order.

b. Termination for convenience. The performance of work under the contract may be terminated by the division in accordance with this clause in whole or, from time to time, in part whenever the division shall determine that such termination is in the best interest of the state. The division shall pay all reasonable costs associated with the contract that the subgrantee has incurred up to the date

HUMAN RIGHTS DEPARTMENT[421](cont'd)

of termination. The division shall not pay for any work that has not been done prior to the date of termination.

c. Termination for default. If the subgrantee fails to fulfill its obligations under this contract properly or on time, or otherwise violates any provision of this contract, the division may terminate the contract by written notice to the subgrantee. The notice shall specify the acts of commission or omission relied on as cause for termination. All finished or unfinished products and services provided by the subgrantee shall, at the option of the division, become the state's property. The division shall pay the subgrantee fair and equitable compensation for satisfactory performance prior to receipt of notice of termination.

31.10(3) Responsibility of subgrantee at termination. Within 45 days of the termination, the subgrantee shall supply the division with a financial statement detailing all costs up to the effective date of the termination.

421—31.11(216A,232) Required reports.

31.11(1) Expenditure claim reports shall be required from subgrantees on provided forms. The division, pursuant to regular reimbursement procedures of the state of Iowa, shall reimburse subgrantees for actual expenditures specified in the approved budget.

31.11(2) Progress reports on program outcomes, program status and financial status shall be required from subgrantees on provided forms.

31.11(3) Other reports, including audit reports prepared by independent auditors, may be required by the division and specified in the request for applications or contract to assist in the monitoring and evaluation of programs.

31.11(4) Failure to submit required reports by the due date shall result in suspension of financial payments to the subgrantee by the division until such time as the reports are received. No new awards shall be made for continuation programs where there are delinquent reports from prior grants.

421—31.12(216A,232) Subgrantee records. Financial records, supporting documents, statistical records, and all other records pertinent to the program shall be retained by the subgrantee in accordance with the following:

31.12(1) Records for any project shall be retained for three years after final closeout and audit procedures are completed and accepted by the division.

31.12(2) Representatives of the state auditor's office and the division shall have access to all books, accounts, documents, and other property belonging to or in use by a subgrantee pertaining to the receipt of funds under these rules.

421—31.13(216A,232) Allowable costs and cost restrictions.

31.13(1) Grant funds from this program shall be used to support only those activities and services specified and agreed to in the contract between the subgrantee and the division. The contract shall identify specific cost categories against which all allowable costs must be consistently charged.

31.13(2) Funds appropriated for this program shall not be expended for supplantation of federal, state, or local funds supporting existing programs or activities. Instructions for the application and acceptance of competitive grants, formula-based allocations, and sole source contracts may specify other cost limitations, including but not limited to costs related to political activities, interest costs, fines, penalties, lawsuits or legal fees, and certain fixed assets and program equipment.

421—31.14(216A,232) Redistribution of funds. The division reserves the right to recapture and redistribute awarded funds based upon projected expenditures if it appears that funds shall not be expended by a subgrantee according to the conditions of the subgrantee's contract. Recaptured funds may be granted by the administrator to other applicants or subgrantees for services and activities consistent with the purposes and goals of the program.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

421—31.15(216A,232) Compliance with state and federal laws. In acceptance of a grant, the subgrantee shall agree to comply with all applicable state and federal rules and laws, including but not limited to the JJDP.

421—31.16(216A,232) Immunity of state and agencies. The subgrantee shall defend and hold harmless the state and any federal funding source for the state from liability arising from the subgrantee's performance or attempted performance of its contract, and the subgrantee's activities with subcontractors and all other third parties.

These rules are intended to implement Iowa Code chapter 17A; Iowa Code chapter 216A, subchapter 9; P.L. 93-415; and P.L. 105-119.

ITEM 31. Reserve **421—Chapter 32 to Chapter 39.**

ITEM 32. Adopt the following new 421—Chapter 40:

TITLE IV
DIVISION OF COMMUNITY ADVOCACY AND SERVICES
CHAPTER 40
FUNCTIONS OF DIVISION

421—40.1(216A) Definitions. As used in these rules, unless context otherwise requires:

“Administrator” means the administrator of the division of community advocacy and services, which is composed of the following offices:

1. Office of Latino affairs.
2. Office on the status of women.
3. Office of deaf services.
4. Office on the status of African Americans.
5. Office of Asian and Pacific Islander affairs.
6. Office of Native American affairs.
7. Office of persons with disabilities.

“Commission” means the following commissions established in Iowa Code chapter 216A:

1. Commission of Latino affairs.
2. Commission on the status of women.
3. Commission of deaf services.
4. Commission on the status of African Americans.
5. Commission of Asian and Pacific Islander affairs.
6. Commission of Native American affairs.
7. Commission of persons with disabilities.

“Commissioner” means a member of one of the commissions, appointed by the governor, and subject to confirmation by the senate pursuant to Iowa Code section 2.32.

“Department” means the department of human rights.

“Division” means the division of community advocacy and services within the department of human rights.

421—40.2(216A) Functions of the division. The division of community advocacy and services is under the direction of an administrator, who is appointed by and reports to the director of the department. The functions and responsibilities of the division and respective commissions are described in Iowa Code chapter 216A.

40.2(1) The administrator will assign members of the division to meet the responsibilities of each office and to assist corresponding commissions with their efforts. Commission assistance shall be provided by coordinating meetings as required in Iowa Code sections 216A.12, 216A.53, 216A.74, 216A.113, 216A.142, 216A.152, and 216A.162; providing public notice as required in the open meetings law, Iowa Code chapter 21; maintaining commission meeting records; providing data and

HUMAN RIGHTS DEPARTMENT[421](cont'd)

information on programs, rules and laws which impact or serve Iowans who identify with groups represented by the offices in the division; updating the commission website in accordance with department guidelines; and reporting on division and office results, policies and processes at meetings.

40.2(2) The division will focus on achieving long-term economic, social and cultural equity for Iowans who identify with groups represented by the offices in the division. To ascertain key needs and areas of focus, the division will assess relevant data, create opportunities for Iowans who identify with groups represented by the offices in the division to connect with one another, and with state government, to raise concerns and suggest workable solutions. This will be accomplished by holding regular listening sessions, providing leadership development opportunities, and facilitating community engagement. The division will actively engage commissioners in these initiatives.

40.2(3) The division will provide assistance, training and consultation to state departments and agencies to enhance services that allow underrepresented populations to participate fully in the economic, social, and cultural life of the state.

40.2(4) The division will use its knowledge of programming and information clearinghouse to provide assistance for Iowans who identify with groups represented by the offices in the division. Direct assistance consists of the following:

- a. Connecting Iowans with state departments, agencies and other organizations that provide the specific services, expertise or knowledge necessary to meet their needs.
- b. Training or assisting Iowans to self-advocate with state and local government when possible.
- c. Enhancing statewide and local knowledge of existing services and programs available for Iowans who identify with groups represented by the offices in the division.
- d. Communicating about and advocating for the needs and the value to Iowa's economy, culture and society of Iowans who identify with groups represented by the offices in the division.

40.2(5) The division will work in collaboration with statewide and local organizations to assess the availability and accessibility of state and local services for Iowans who identify with groups represented by the offices in the division and shall identify gaps in available services, collect data relevant to the work of the division, make recommendations for improvements, and develop and facilitate the implementation of improvements when necessary. Time may be allocated by the division to develop, coordinate and assist statewide and local organizations when the provision of that coordination or assistance is determined to be in alignment with the department's or division's strategic plan, and staff resources are available.

40.2(6) The division will provide assistance to develop, coordinate and assist other organizations. This may include providing division members to serve on committees, boards or working groups; to assist in creating strategic plans or action plans; to speak at events or deliver training; to provide information about the perspective and needs of members of underrepresented groups. Time may be allocated by the division to develop, coordinate and assist other public organizations when the provision of that coordination or assistance is determined to be in alignment with the department's or division's strategic plan, and staff resources are available.

421—40.3(216A) Organization of the commissions.

40.3(1) Each commissioner is an equal voting member of the commission on which the commissioner serves. A majority of the members shall constitute a quorum, and the affirmative vote of the majority is necessary for any substantive action taken by the commission.

40.3(2) Commissions shall appoint officers to serve two-year terms by voting at a commission meeting held in the first quarter of each even-numbered fiscal year. To qualify to serve as an officer, a commissioner must have at least two years remaining in the commissioner's term of appointment to one of the commissions. Commissions may appoint officers to positions as provided in Iowa Code sections 216A.12, 216A.53, 216A.74, 216A.113, 216A.142, 216A.152, and 216A.162. The roles of officer positions that are filled by commissions include, but are not limited to, the following:

- a. Chairperson. This member shall establish the draft agenda, chair each commission meeting, and work with the division to establish a meeting schedule and communicate with members of the commission on which the chairperson serves to ensure a quorum at commission meetings.

HUMAN RIGHTS DEPARTMENT[421](cont'd)

b. Vice chairperson. This member shall work with the chairperson to establish the draft agenda and chair commission meetings in the absence of the chairperson.

40.3(3) Commissions shall appoint a member to serve as a voting member of the human rights board to serve a four-year term. Commissioners who are members of the human rights board shall serve their appointed term on the board unless a majority of a commission votes to appoint a new member to represent the commission on the human rights board, or the appointed commissioner is no longer able to serve or is no longer a member of a commission.

40.3(4) To carry out its duties, a commission may establish an advisory committee, work group, or other coalition composed of any combination of the following: members of the division, members of the public, and commissioners from its own commission or from other commissions within the division. The establishment of an advisory committee, work group or coalition requires a majority affirmative vote of the membership of the commission, including the identification of a commissioner who will facilitate the work of the committee, group or coalition. Advisory committees, work groups and coalitions may make recommendations to the commission. Enactment of those recommendations requires a majority affirmative vote of the membership of the commission. Advisory committees shall include a facilitating member who is also a member of a commission. The facilitating member shall report on committee, work group or coalition meetings at regularly scheduled commission meetings and via electronic updates that shall be public record as required in the open records law, Iowa Code chapter 22.

40.3(5) Any member of a commission shall be deemed to have submitted a resignation if the member does not attend three or more consecutive commission meetings or if the member attends less than one half of the scheduled meetings held within any 12-month calendar period.

40.3(6) A member of the division or the administrator shall attend each meeting of the commissions to provide information and assistance in accordance with subrule 40.2(1).

421—40.4(216A) Meetings of the commissions.

40.4(1) Commissions shall meet as required by Iowa Code sections 216A.12, 216A.53, 216A.74, 216A.113, 216A.142, 216A.152, and 216A.162. No later than October 1, commissions shall establish and make public an annual schedule of required meetings for the following calendar year. A commission may alter its schedule with an affirmative vote of the majority of the members of the commission. The public shall be notified of alterations to the schedule within two business days of the official vote for alteration. A commission may hold additional special meetings with an affirmative vote of a majority of the membership of the commission. All meetings, including special meetings, shall be public meetings unless a closed session is approved pursuant to Iowa Code section 21.5. All official commission communication shall include each member of the commission, including the ex officio member, and the administrator.

40.4(2) Meeting agendas shall be posted as required by Iowa Code section 21.4. Meeting agendas will be available on the department website at least 24 hours in advance of the meeting unless the meeting meets criteria established in Iowa Code section 21.4 for an emergency meeting. Minutes of the meeting will be posted on the department website upon approval by the commission.

40.4(3) Members of the public attending a commission meeting shall request any necessary reasonable accommodations for their attendance at least five business days in advance of the scheduled meeting. Accommodations requested after this time frame will be made if reasonably possible. Accommodations may be made using appropriate services at the discretion of the department, with consideration of the needs of the public in attendance.

40.4(4) All commission meetings shall provide an opportunity for public comment. Commissions shall not limit public comment to persons who have preregistered with the commission. All members of the public addressing the commission shall be present at the meeting in person or via conference call or provide written comments. All members of the public addressing the commission in person, via conference call or in writing shall provide their full name, mailing address or other appropriate information to allow future correspondence, and city and state of residence. Commissions may limit the duration of public comment in total or per individual. The time and duration of public comment will be published on the meeting agenda at least 24 hours in advance of the meeting. The chairperson, vice

HUMAN RIGHTS DEPARTMENT[421](cont'd)

chairperson, director, administrator, or member of the division may exclude any person from the meeting for comments or behavior that disrupts or obstructs the meeting.

40.4(5) Members of the public requesting to be placed on the commission agenda for a specific topic and duration shall make that request in person, by phone, by email or via the U.S. postal service to the commission chairperson or the division no later than three business days in advance of the commission meeting. The chairperson shall accept or deny a request and shall inform the individual making the request and the division of the decision no later than two business days in advance of the meeting using the same method of communication through which the request was received, followed by a written confirmation via U.S. postal service. The chairperson has sole discretion to accept or deny a request to appear on the agenda; however, denial of a scheduled time on the agenda does not preclude a member of the public from participating in the public comment portion of a meeting.

40.4(6) Substantial alterations to a published draft commission agenda shall be subject to an affirmative vote of the majority of a commission.

40.4(7) Positions of the commission, and publicly communicated messages regarding those positions from the commission, require an affirmative vote of the majority of a commission in a public meeting.

421—40.5(216A) Functions of commissions.

40.5(1) Commissions shall focus on achieving long-term economic, social and cultural equity for Iowans who identify with groups represented by the commission.

40.5(2) Biennial recommendations. To ascertain key needs and areas of focus, commissions shall provide insight and input regarding the changing needs of Iowans who identify with groups represented by the commission. This will be accomplished by assessing available data, participating in division-sponsored listening sessions or sponsoring additional listening sessions; and using this and other information to compile and present biennial policy and program recommendations to the department, board, legislature and governor by October 15 of each even-numbered year. The division shall compile all recommendations on behalf of the commissions into one document for presentation to the department, board, legislature and governor by November 15 of each even-numbered year. Commissions may offer more frequent recommendations with an affirmative vote of the majority of a commission.

These rules are intended to implement Iowa Code chapters 17A and 216A.

ITEM 33. Adopt the following new 421—Chapter 41:

CHAPTER 41
HALL OF FAME

421—41.1(216A) Iowa Women's Hall of Fame.

41.1(1) *Purpose.* The purpose of the Iowa Women's Hall of Fame shall be to recognize significant achievements of Iowa women and to educate the public by identifying those whose efforts have enhanced and improved the quality of life for women in Iowa, the community, state, nation or world, or a particular profession or discipline.

41.1(2) *Committee.* The Iowa Women's Hall of Fame committee shall consist of three commissioners of the commission on the status of women, one serving as the committee chairperson; two public members appointed by the committee chairperson; and the chairperson of the commission on the status of women as an ex officio member.

41.1(3) *Selection procedure.* The committee shall solicit nominations for the Iowa Women's Hall of Fame. The committee shall recommend to the commission on the status of women for its approval no more than four individuals to be inducted into the Iowa Women's Hall of Fame. The committee shall plan the ceremony and reception each year for the Iowa Women's Hall of Fame.

41.1(4) *Cristine Wilson Medal for Equality and Justice.* The Cristine Wilson Medal for Equality and Justice shall memorialize the efforts and accomplishments of the commission on the status of women's

HUMAN RIGHTS DEPARTMENT[421](cont'd)

first chairperson. The medal is awarded on an intermittent basis to persons whose work is deemed outstanding and a significant contribution to Iowa's recognition as a state characterized by equality and justice. The Iowa Women's Hall of Fame committee shall make recommendations to the commission for persons to receive this award.

41.1(5) *Nomination forms and deadlines.* Nomination forms and deadlines shall be posted on the human rights department's website at humanrights.iowa.gov/cas.

421—41.2(216A) Iowa Latino Hall of Fame.

41.2(1) *Purpose.* The purpose of the Iowa Latino Hall of Fame shall be to recognize and honor outstanding Iowa Latinos that have contributed their talents and skills to improve the quality of life in Iowa and to provide visible examples for tomorrow's Latino leaders.

41.2(2) *Committee.* The Iowa Latino Hall of Fame committee shall consist of three commissioners of the commission of Latino affairs, one serving as the committee chairperson; two public members selected by the commission of Latino affairs; and the chairperson of the commission of Latino affairs as an ex officio member.

41.2(3) *Selection procedure.* The committee shall solicit nominations for the Iowa Latino Hall of Fame. The committee shall recommend to the commission of Latino affairs for its approval no more than three individuals to be inducted into the Iowa Latino Hall of Fame, one individual for the Robert D. Ray Award for Equity and Justice, and one individual for the Iowa Latinx Youth Leadership Award. The committee shall plan the ceremony and reception each year for the Iowa Latino Hall of Fame.

41.2(4) *Robert D. Ray Award for Equity and Justice.* The Robert D. Ray Award for Equity and Justice shall recognize and honor the efforts and accomplishments of non-Latino and Latino Iowans. The award is awarded to persons whose work is deemed outstanding and a significant contribution to the equity and justice for Iowa's new immigrants. The Iowa Latino Hall of Fame committee shall make recommendations to the commission for persons to receive this award.

41.2(5) *Iowa Latinx Youth Leadership Award.* The Latinx Youth Leadership Award is awarded to an Iowa Latinx youth or young professional who is making a difference in that individual's community.

41.2(6) *Nomination forms and deadlines.* Nomination forms and deadlines shall be posted on the human rights department's website at humanrights.iowa.gov/cas.

These rules are intended to implement Iowa Code chapters 17A and 216A.

ARC 6002C

INSURANCE DIVISION[191]

Notice of Intended Action

**Proposing rule making related to review of rules
and providing an opportunity for public comment**

The Insurance Division hereby proposes to amend Chapter 29, "Continuation Rights Under Group Accident and Health Insurance Policies," Chapter 35, "Accident and Health Insurance," Chapter 36, "Individual Accident and Health—Minimum Standards and Rate Hearings," Chapter 71, "Small Group Health Benefit Plans," Chapter 73, "Health Insurance Purchasing Cooperatives," Chapter 74, "Health Care Access," Chapter 75, "Iowa Individual Health Benefit Plans," Chapter 76, "External Review," Chapter 79, "Prior Authorization—Prescription Drug Benefits," Chapter 80, "Well-Child Care," Chapter 81, "Postdelivery Benefits and Care," and Chapter 85, "Regulation of Navigators," Iowa Administrative Code.

INSURANCE DIVISION[191](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 505.8, 505.21, 509.13, 509A.14, 513B.1, 513B.18, 513C.12, 514C.4, 514C.23, 514C.28, 514C.34, 514D.3, 514J.117 and 514K.1 and 1993 Iowa Acts, Senate File 380 [chapter 158].

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 509, 509A, 513B, 513C, 514C, 514D, 514J and 514K; Iowa Code sections 505.21, 509B.3 and 509B.5; and 1993 Iowa Acts, chapter 158.

Purpose and Summary

The proposed amendments are a result of the Division's review of rules. These amendments generally update the chapters by removing duplicative definitions and unnecessary language, clarifying procedures, correcting statute references, conforming to current Iowa Code language, and reflecting current practices.

Chapter 73 is proposed to be rescinded and reserved. Health insurance purchasing cooperatives (HIPCs) were created by 1993 Iowa Acts, chapter 158. HIPCs preceded the Affordable Care Act (ACA), which was enacted in 2010. The ACA now provides health insurance options to individuals and small groups, rendering HIPCs obsolete as a mechanism to purchase health insurance.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received no later than 12 noon on November 15, 2021. Comments should be directed to:

Tracy Swalwell
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6549
Email: tracy.swalwell@iid.iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

November 15, 2021
9 a.m.

Via conference call

INSURANCE DIVISION[191](cont'd)

A conference call number will be available prior to the hearing on the Division's web page at iid.iowa.gov/hearings. Persons wishing to attend the hearing may also contact Tracy Swalwell for hearing information. Persons who wish to make oral comments at the public hearing must submit a request to Tracy Swalwell prior to the public hearing to facilitate an orderly hearing. Persons will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy Swalwell and advise of specific needs.

The public hearing will be canceled without further notice if no public hearing is requested by 12 noon on November 10, 2021.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **191—29.1(509B)**, definition of "COBRA," as follows:

"COBRA" means ~~Title X~~ of the federal Consolidated Omnibus Budget Reconciliation Act (~~P.L. 99-272~~), as amended by the Tax Reform Act of 1986 (~~P.L. 99-514~~), 29 U.S.C. §1161, that may allow an employee or member to temporarily keep health coverage.

ITEM 2. Amend rule **191—35.6(509)**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~509.6~~ 509.5.

ITEM 3. Adopt the following **new** implementation sentence in rule **191—35.7(509)**:

This rule is intended to implement Iowa Code section 509.6.

ITEM 4. Amend subrule 35.8(1) as follows:

35.8(1) Purpose. The purpose of this rule is to authorize the electronic delivery of accident and health group insurance certificates in an efficient manner by insurers and group policyholders, while guaranteeing that individual plan members still receive the important information contained in such group insurance certificates, as required by Iowa Code section ~~509.3(2)~~, 509.3(1) "b," and as allowed by the uniform electronic transactions Act, Iowa Code chapter 554D.

ITEM 5. Amend subrule 35.8(3), introductory paragraph, as follows:

35.8(3) Electronic delivery—insurance companies. The insurer will be deemed to comply with the requirements of Iowa Code section ~~509.3(2)~~ 509.3(1) "b" if the group insurance certificate is delivered to the group policyholder electronically and if:

ITEM 6. Amend subrule 35.8(4), introductory paragraph, as follows:

35.8(4) Electronic delivery—group policyholders. The group policyholder will be deemed to comply with the requirements of Iowa Code section ~~509.3(2)~~ 509.3(1) "b" if the group insurance certificate is delivered to the individual plan member electronically and if:

ITEM 7. Amend rule **191—35.20(509A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 509A ~~and 2003 Iowa Acts, chapter 83.~~

ITEM 8. Amend rule **191—35.34(509A)**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 509 and 514C ~~and 1999 Iowa Acts, Senate File 276.~~

INSURANCE DIVISION[191](cont'd)

ITEM 9. Amend rule 191—35.36(514K) as follows:

191—35.36(514K) Purpose. These rules implement Iowa Code Supplement section 514K.1(2) which requires the commissioner and the director of public health to annually publish a consumer guide. These rules apply to all carriers providing health insurance coverage in the individual, small employer group and large group markets that utilize a preferred provider arrangement and to all health maintenance organizations.

ITEM 10. Amend subrule 35.37(3) as follows:

35.37(3) Each health maintenance organization and insurer using a preferred provider organization health network shall transmit the requested information by electronic mail or ~~diskette~~ in a format prescribed by the division.

ITEM 11. Amend rule **191—35.38(514C)**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement section 514K.1(2).

ITEM 12. Amend subrule **35.40(2)**, definition of “Autism spectrum disorders,” as follows:

“*Autism spectrum disorders*” means the following neurological disorders as defined under the following diagnostic classes within the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, edition ~~DSM-IV-TR~~ DSM-5:

1. Autistic disorders. Diagnostic code 299.00.
2. Rett’s Disorder. Diagnostic code 299.80.
3. Childhood Disintegrative Disorder. Diagnostic code 299.10.
4. Asperger’s Disorder. Diagnostic code 299.80.
5. Pervasive Developmental Disorder NOS. Diagnostic code 299.80.

ITEM 13. Amend paragraph **36.7(1)“j”** as follows:

j. Insurers issuing policies which provide hospital or medical expense coverage on an expense-incurred or indemnity basis other than incidentally, to a person(s) eligible for Medicare by reason of age, shall provide to the policyholder a Medicare supplement buyer’s guide in the form of the booklet “~~Guide to Health Insurance for People with Medicare~~” “Choosing a Medigap Policy: A Guide to Health Insurance for People with Medicare” developed jointly by the National Association of Insurance Commissioners and the ~~Health Care Financing Administration~~ Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services. Delivery of the buyer’s guide shall be made whether or not the policy qualifies as a “Medicare supplement coverage” in accordance with 191—Chapter 37. Except in the case of direct response insurers, delivery of the buyer’s guide shall be made at the time of application and acknowledgment of receipt of certification of delivery of the buyer’s guide shall be provided to the insurer. Direct response insurers shall deliver the buyer’s guide upon request but not later than at the time the policy is delivered.

ITEM 14. Amend paragraph **36.7(1)“k”** as follows:

k. Outlines of coverage delivered in connection with policies defined in this chapter as Hospital Confinement Indemnity, Specified Disease or Limited Benefit Health Insurance Coverages to persons eligible for Medicare by reason of age shall contain, in addition to the requirements of 36.7(6), 36.7(10) and 36.7(12), the following language which shall be printed on or attached to the first page of the outline of coverage:

This policy IS NOT A MEDICARE SUPPLEMENT policy. If you are eligible for Medicare review the ~~Medicare Supplement Buyer’s Guide~~ Choosing a Medigap Policy: Guide to Health Insurance for People with Medicare, issued by the Centers for Medicare and Medicaid Services, available from the company.

ITEM 15. Amend subrule 36.7(8), introductory paragraph, as follows:

36.7(8) Disability income protection coverage (outline of coverage). An outline of coverage, in the form prescribed below, shall be issued in connection with policies meeting the standards of ~~36.6(6)~~ 36.6(7) of this chapter. The items included in the outline of coverage must appear in the sequence prescribed:

INSURANCE DIVISION[191](cont'd)

ITEM 16. Amend subrule 36.7(9), introductory paragraph, as follows:

36.7(9) *Accident only coverage (outline of coverage)*. An outline of coverage, in the form prescribed below, shall be issued in connection with policies meeting the standards of ~~36.6(7)~~ 36.6(8). The items included in the outline of coverage must appear in the sequence prescribed:

ITEM 17. Amend rule ~~191—36.20(514D,83GA,SF2201)~~, parenthetical implementation statute, as follows:

~~191—36.20(514D,83GA,SF2201 505)~~ Rate hearings.

ITEM 18. Amend paragraph **36.20(1)“b”** as follows:

b. Applicability. This rule applies to all individual health insurance policies issued or to be issued in Iowa except those excluded by ~~2010 Iowa Acts, Senate File 2201, section 8(4A)~~. Iowa Code section 505.19(5)“a.”

ITEM 19. Amend subrule **36.20(2)**, definitions of “Carrier,” “Filing” and “Health insurance,” as follows:

“*Carrier*” shall mean a health insurance carrier licensed to do business in the state as used in ~~2010 Iowa Acts, Senate File 2201, section 8~~ Iowa Code section 505.19.

“*Filing*” shall mean a rate filing presented to the division for approval pursuant to this chapter, and Iowa Code chapter chapters 505 and 514D and 2010 Iowa Acts, Senate File 2201, through the National Association of Insurance Commissioners’ System for Electronic Rate and Form Filing.

“*Health insurance*” shall mean the same as “health insurance” is used in ~~2010 Iowa Acts, Senate File 2201, section 8~~, Iowa Code section 505.19 and excludes the types of insurance listed in ~~2010 Iowa Acts, Senate File 2201, section 8(4A)~~. Iowa Code section 505.19(5)“a.”

ITEM 20. Amend subrule 36.20(7) as follows:

36.20(7) *Confidentiality*. Information submitted to the division as part of a filing and as part of the hearing process shall constitute a public record under Iowa Code chapter 22 except as provided in Iowa Code ~~section sections~~ sections 505.17 and 2010 Iowa Acts, Senate File 2201, section 6 505.19.

ITEM 21. Amend rule ~~191—36.20(514D)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~chapter chapters~~ chapters 505 and 514D and 2010 Iowa Acts, Senate File 2201.

ITEM 22. Amend rule ~~191—71.10(513B)~~ as follows:

~~191—71.10(513B)~~ Creditable coverage. For purposes of this chapter, creditable coverage shall have the same definition as ~~1997 Iowa Acts, House File 701, section 10~~ Iowa Code section 513B.2.

ITEM 23. Amend rule ~~191—71.22(514C)~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapters~~ chapters 513B and 514C and 1999 Iowa Acts, Senate File 276.

ITEM 24. Amend rule ~~191—71.26(513B)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 513B.18.

ITEM 25. Rescind and reserve ~~191—Chapter 73~~.

ITEM 26. Amend rule ~~191—74.6(505)~~, introductory paragraph, as follows:

~~191—74.6(505)~~ Violation of chapter. A violation of this chapter may be reported to the ~~consumer and legal affairs~~ market regulation bureau of the division. The division, upon finding that the employer has failed to offer an eligible employee access to health care or health insurance, may do any of the following:

ITEM 27. Amend rule ~~191—75.2(513C)~~ as follows:

~~191—75.2(513C)~~ Definitions. As used in this chapter:

“*Eligible resident*” means an individual who has been legally domiciled in this state for a period of 60 days. For purposes of this chapter, legal domicile is established by living in this state and obtaining

INSURANCE DIVISION[191](cont'd)

an Iowa motor vehicle operator's license, registering to vote in Iowa, or filing an Iowa income tax return. A child is legally domiciled in this state if the child lives in this state and if at least one of the child's parents or the child's guardian is legally domiciled in this state for a period of 60 days. A person with a developmental disability or another disability which prevents the person from obtaining an Iowa motor vehicle operator's license, registering to vote in Iowa, or filing an Iowa income tax return, is legally domiciled in this state by living in the state for 60 days.

"*Insured group health plan*" as that term is referenced in Iowa Code section 513C.3 includes a health benefit plan offered directly through an employer with two or more employees and a plan offered through an employer with two or more employees under a group discretionary trust or association plan.

"*Risk characteristic*" means the health status, claims experience or any similar characteristic related to the health status or experience of an individual under a health benefit plan.

"*Risk load*" means the percentage above the applicable base premium rate that is charged by a carrier to an individual to reflect the risk characteristics of such individual.

Other terms shall be defined pursuant to ~~1995 Iowa Acts, chapter 5~~ Iowa Code chapter 513C.

ITEM 28. Amend rule 191—75.16(514C) as follows:

191—75.16(513C,514C) Diabetic coverage. All carriers shall provide benefits in the standard health benefit plan for the cost associated with equipment, supplies, and education for the treatment of diabetes pursuant to Iowa Code section ~~514C.14~~ 514C.18.

ITEM 29. Amend rule **191—75.16(514C)**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 513C and 514C ~~and 1997 Iowa Acts, House File 701; 1995 Iowa Acts, chapter 204, section 14; 1996 Iowa Acts, chapter 1219, section 52; and 1999 Iowa Acts, Senate File 276.~~

ITEM 30. Strike "e-mail" wherever it appears in **191—Chapter 76** and insert "email" in lieu thereof.

ITEM 31. Strike "E-mail" wherever it appears in **191—Chapter 76** and insert "Email" in lieu thereof:

ITEM 32. Amend rule 191—76.1(514J) as follows:

191—76.1(514J) Purpose. This chapter is intended to implement Iowa Code chapter 514J and the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148 as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, which amends the Public Health Service Act and adopts, in part, ~~new~~ 42 U.S.C. Section 300gg-19. These rules address issues which are unique to the external review process in this state and provide a uniform process for covered persons of health carriers providing health insurance coverage or the covered persons' authorized representatives to request and receive an external review of adverse determinations and final adverse determinations as defined in Iowa Code sections 514J.102(1) and 514J.102(18) and as referenced in Iowa Code section 514J.109(1). Health carriers defined in Iowa Code section 514J.102(23), and included in paragraph 76.2(2)"c" are subject to these rules.

ITEM 33. Amend subrule 76.2(1) as follows:

76.2(1) The rules contained in this chapter shall apply to any health benefit plan as defined in Iowa Code section ~~514J.102(19)~~ 514J.102 other than those excluded under Iowa Code section 514J.103(2), for any plan that is offered or issued by a health carrier as defined in Iowa Code section ~~514J.102(23)~~ 514J.102, if the plan was issued in Iowa, and if the external review request is filed with the commissioner on or after July 1, 2011.

ITEM 34. Amend subrule 76.4(2) as follows:

76.4(2) Requests for expedited review may be made orally to initiate the process, and the commissioner may require submission of additional documentation such as physician certifications ~~or~~ and medical information releases as is deemed practicable under the time constraints.

INSURANCE DIVISION[191](cont'd)

ITEM 35. Amend subrule 76.9(6) as follows:

76.9(6) A list of certified independent review organizations shall be maintained by the commissioner and shall be available through the ~~Web site~~ website of the Iowa insurance division, ~~www.iid.state.ia.us~~ iid.iowa.gov.

ITEM 36. Amend **191—Chapter 76**, Appendix A, unnumbered paragraph “7,” as follows:
You can obtain a copy of the External Review Request Form from: the Iowa Insurance Division, 1963 Bell Avenue, Suite 100, Des Moines, Iowa 50315; telephone 877-955-1212 or 515-654-6600; facsimile 515-654-6500; ~~Web site~~ www.iid.iowa.gov ~~website~~ iid.iowa.gov.

ITEM 37. Amend **191—Chapter 76**, Appendix B, Section 4, as follows:

SECTION 4. SIGNATURE AND RELEASE OF MEDICAL RECORDS

To appeal your health carrier’s denial, you must sign and date this external review request form and consent to the release of medical records.

I, _____, hereby request an external review. I attest that the information provided in this application is true and accurate to the best of my knowledge. I authorize my insurance company and my health care providers to release all relevant medical or treatment records to the independent review organization ~~and the Iowa Insurance Division~~. I understand that the independent review organization ~~and the Iowa Insurance Division~~ will use this information to make a determination on my external review and that the information will be kept confidential and will not be released to anyone else. This release is valid for one year.

Signature of covered person/patient or legal representative (parent, guardian, conservator or other – please specify)

Date:

ITEM 38. Amend **191—Chapter 76**, Appendix E, numbered paragraph “6,” as follows:

6. Set forth a description of fees to be charged by the independent review organization for external reviews:_____

ITEM 39. Strike “as amended by 2015 Iowa Acts, House File 632, section 9” wherever it appears in **191—Chapter 79**.

ITEM 40. Amend subrule 79.3(2) as follows:

79.3(2) *Posting of prior authorization form.* The approved prior authorization form shall be made available electronically on the ~~Web site~~ website of the division and on the ~~Web site~~ website of each health carrier, health benefit plan or pharmacy benefits manager that uses the form. Health carriers, health benefit plans and pharmacy benefits managers shall allow health care providers to submit a prior authorization request electronically.

ITEM 41. Amend **191—Chapter 80** as follows:

CHAPTER 80
WELL-CHILD CARE

191—80.1(505,514H) Purpose. The purpose of this chapter is to ~~implement Iowa Code section 514H.7A, as amended by 1993 Iowa Acts, House File 236, thereby setting~~ set forth those requirements deemed appropriate by the commissioner for the general provision of coverage for benefits for routine well-child care.

INSURANCE DIVISION[191](cont'd)

191—80.2(505,514H) Applicability and scope. This chapter shall apply to all group accident and sickness insurance, group nonprofit health service plans and prepaid group plans of health maintenance organizations delivered or issued for delivery in this state after March 1, 1993. However, this chapter shall not apply to those basic benefit policies approved under Iowa Code chapter ~~514H~~ 513C.

191—80.3(505,514H) Effective date. This chapter shall be effective on July 2, 1993, and shall be applicable to all new filings of group accident and sickness insurance, group nonprofit health service plans and prepaid group plans of health maintenance organizations made after that date and all other policies and contracts covered by this chapter delivered or issued for delivery prior to July 2, 1993, upon the date of renewal.

191—80.4(505,514H) Policy definitions. No group accident and sickness insurance, group nonprofit health service plan or prepaid group plan of a health maintenance organization delivered or issued for delivery in this state shall contain definitions respecting the matters set forth unless such definitions comply with the requirements of this rule.

80.4(1) “*Well-child care*” means pediatric preventive services appropriate to the age of a child from birth to age seven as defined by current Recommendations for Preventive Pediatric Health Care of the American Academy of Pediatrics. The Recommendations may be obtained by contacting the American Academy of Pediatrics at 141 Northwest Point Boulevard, P.O. Box 927, Elk Grove Village, Illinois 60009-0927. Pediatric preventive services shall include, at a minimum, a history and complete physical examination as well as developmental assessment, anticipatory guidance, immunizations, vision and hearing screening, and laboratory services including, but not limited to, screening for lead exposure as well as blood levels.

80.4(2) “*Developmental assessment*” and “*anticipatory guidance*” mean the services described in the Guidelines for Health Supervision II, published by and obtainable from the American Academy of Pediatrics.

191—80.5(505,514H) Benefit plan.

80.5(1) Every group accident and sickness insurance policy, group nonprofit health service plan or prepaid group plan of a health maintenance organization shall provide benefits for well-child care for any child covered by the policy or contract at approximately the following age intervals: birth, 2 weeks, 2 months, 4 months, 6 months, 9 months, 12 months, 15 months, 18 months, 24 months or two years, three years, four years, five years and six years.

80.5(2) Minimum benefits may be limited to one visit payable to one provider for all services provided at each visit cited in this rule.

80.5(3) Benefits shall be subject to any policy provisions which apply to other services covered by such policy, except as set forth in 80.5(5).

80.5(4) This rule does not apply to disability income, specified disease, Medicare supplement, hospital indemnity, long-term care or trip/travel policies.

80.5(5) The provisions of this benefit will supersede any deductible requirements.

These rules are intended to implement Iowa Code ~~sections~~ section 505.8 and ~~514H.7A~~.

ITEM 42. Amend rule 191—81.3(514C) as follows:

191—81.3(514C) Postdelivery benefits. Every person issuing contracts under the scope of this chapter providing maternity benefits, which are not limited to complications of pregnancy, or newborn care benefits, shall not terminate inpatient benefits or require discharge of a mother or the newborn from a hospital following delivery earlier than determined to be medically appropriate by the attending physician after consultation with the mother and in accordance with the most recent edition of the Guidelines for Perinatal Care, ~~Third Edition, 1992~~, by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, which provide that when complications are not present, the postpartum hospital stay ranges from a minimum of 48 hours for a vaginal delivery to a minimum of 96 hours for

INSURANCE DIVISION[191](cont'd)

a Cesarean birth, excluding the day of delivery. In accordance with those guidelines, in the event of a discharge from the hospital prior to the minimum stay established in the guidelines, a postdischarge follow-up visit shall be provided to the mother and newborn by providers competent in postpartum care and newborn assessment if determined medically appropriate as directed by the attending physician. Copies of this publication may be obtained through the Iowa Insurance Division, 1963 Bell Avenue, Suite 100, Des Moines, Iowa 50315, telephone (515)654-6600.

ITEM 43. Amend subrule 85.8(3) as follows:

85.8(3) If a navigator has provided an ~~e-mail~~ email address to the division, the division has the option to send information to the navigator through the ~~e-mail~~ email address rather than through the mail.

ITEM 44. Amend subrule 85.12(5) as follows:

85.12(5) A listing of subjects that could potentially be included on the navigator's examination may be provided on the division's ~~Web site at~~ <http://www.iid.state.ia.us/> website.

ARC 5979C**LABOR SERVICES DIVISION[875]****Notice of Intended Action****Proposing rule making related to boiler and pressure vessel codes and providing an opportunity for public comment**

The Boiler and Pressure Vessel Board hereby proposes to amend Chapter 90, "Administration of the Boiler and Pressure Vessel Program," and Chapter 91, "General Requirements for All Objects," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 89.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 89.

Purpose and Summary

These proposed amendments adopt by reference the most recent versions of national consensus codes pertaining to boilers and pressure vessels. The proposed adoption of new codes is due to significant changes regarding the design, manufacture, installation, and inspection requirements. Due to the quantity and wide range of the revisions, please contact the Division of Labor Services with any specific questions about the revisions.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 66.

LABOR SERVICES DIVISION[875](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 15, 2021. Comments should be directed to:

Kathleen Uehling
Division of Labor Services
150 Des Moines Street
Des Moines, Iowa 50309
Email: kathleen.uehling@iwd.iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

November 15, 2021
10:30 a.m.

150 Des Moines Street
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 90.6(1) as follows:

90.6(1) *General.* All boilers and unfired steam pressure vessels covered by Iowa Code chapter 89 shall be inspected according to the requirements of the National Board Inspection Code ~~(2019)~~ (2021), which is hereby adopted by reference. A division inspector or special inspector must perform the inspections.

ITEM 2. Amend subrule 91.1(1) as follows:

91.1(1) *ASME boiler and pressure vessel codes adopted by reference.* The ASME Boiler and Pressure Vessel Code ~~(2019)~~ (2021) is adopted by reference. Regulated objects shall be designed and constructed in accordance with the ASME Boiler and Pressure Vessel Code ~~(2019)~~ (2021) except for objects that meet one of the following criteria:

a. to d. No change.

ITEM 3. Amend subrules 91.1(3) to 91.1(5) as follows:

91.1(3) *Inspection code adopted by reference.* The National Board Inspection Code ~~(2019)~~ (2021) is adopted by reference, and reinstallations, installations, alterations, and repairs after ~~April 15, 2020~~ February 15, 2022, shall comply with it.

91.1(4) *Electric code adopted by reference.* The National Electrical Code, NFPA 70, (2020) is adopted by reference, and reinstallations and installations after April 15, 2020, shall comply with it.

91.1(5) *Piping codes adopted by reference.* The Power Piping Code, ASME B31.1 ~~(2018)~~ (2020), and the Building Services Piping Code, ASME B31.9 ~~(2017)~~ (2020), are adopted by reference, and

LABOR SERVICES DIVISION[875](cont'd)

reinstallations and installations after ~~April 15, 2020~~ February 15, 2022, shall comply with them up to and including the first valve.

ITEM 4. Amend subrules 91.1(7) to 91.1(9) as follows:

91.1(7) *Mechanical code adopted by reference.* Excluding Section 701.1, Chapters 2 and 7 of the International Mechanical Code (IMC) (~~2018~~) (2021) are adopted by reference, and installations and reinstallations after ~~September 1, 2018~~ February 15, 2022, shall comply with them.

91.1(8) *Oil burning equipment code adopted by reference.* National Fire Protection Association Standard for the Installation of Oil Burning Equipment, NFPA 31 (~~2016~~) (2020), is adopted by reference, and installations and reinstallations after ~~September 1, 2018~~ February 15, 2022, shall comply with it.

91.1(9) *Fuel gas code adopted by reference.* National Fire Protection Association National Fuel Gas Code, NFPA 54 (~~2018~~) (2021), is adopted by reference, and installations and reinstallations after ~~September 1, 2018~~ February 15, 2022, shall comply with it.

ARC 5998C**LATINO AFFAIRS DIVISION[433]****Notice of Intended Action****Proposing rule making related to transfer of rules and providing an opportunity for public comment**

The Department of Human Rights (Department) hereby proposes to rescind Chapter 1, "Organization," Chapter 2, "Qualification of Language Interpreters," Chapter 3, "Petitions for Rule Making," Chapter 4, "Agency Procedure for Rule Making," Chapter 5, "Declaratory Orders," Chapter 6, "Public Records and Fair Information Practices," and Chapter 7, "Contested Cases," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 17A and 216A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A and 216A.

Purpose and Summary

The Department underwent statutory reorganization in 2010 (2010 Iowa Acts, Senate File 2088). The Latino Affairs Division[433] is now the Office of Latino Affairs under the Community Advocacy and Services Division in the Department. The Latino Affairs Division[433] no longer has rule-making authority; rule-making authority is vested in the Department. The Department is proposing to rescind rules under the previous divisions and will be consolidating and adopting new comprehensive rules under the Department of Human Rights[421] (**ARC 6004C**, IAC 10/20/21). The text of the chapters to be rescinded can be located here: www.legis.iowa.gov/law/administrativeRules/chapters?agency=433&pubDate=09-22-2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

LATINO AFFAIRS DIVISION[433](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Sonya Streit
Iowa Department of Human Rights
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.5640
Fax: 515.242.6119
Email: sonya.streit@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

- ITEM 1. Rescind **433—Chapter 1.**
- ITEM 2. Rescind **433—Chapter 2.**
- ITEM 3. Rescind **433—Chapter 3.**
- ITEM 4. Rescind **433—Chapter 4.**
- ITEM 5. Rescind **433—Chapter 5.**
- ITEM 6. Rescind **433—Chapter 6.**
- ITEM 7. Rescind **433—Chapter 7.**

ARC 6000C

PERSONS WITH DISABILITIES DIVISION[431]

Notice of Intended Action

**Proposing rule making related to transfer of rules
and providing an opportunity for public comment**

The Department of Human Rights (Department) hereby proposes to rescind Chapter 1, “Organization,” Chapter 2, “Public Records and Fair Information Practices,” Chapter 4, “Petitions for Rule Making,” Chapter 5, “Agency Procedure for Rule Making,” Chapter 6, “Declaratory Orders,” and Chapter 7, “Waiver Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 17A and 216A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A and 216A.

Purpose and Summary

The Department underwent statutory reorganization in 2010 (2010 Iowa Acts, Senate File 2088). The Persons with Disabilities Division[431] is now the Office of Persons with Disabilities under the Community Advocacy and Services Division in the Department. The Persons with Disabilities Division[431] no longer has rule-making authority; rule-making authority is vested in the Department. The Department is proposing to rescind rules under the previous divisions and will be consolidating and adopting new comprehensive rules under the Department of Human Rights[421] (ARC 6004C, IAB 10/20/21). The text of the chapters to be rescinded can be located here: www.legis.iowa.gov/law/administrativeRules/chapters?agency=431&pubDate=09-22-2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

PERSONS WITH DISABILITIES DIVISION[431](cont'd)

Sonya Streit
 Iowa Department of Human Rights
 Lucas State Office Building
 321 East 12th Street
 Des Moines, Iowa 50319
 Phone: 515.242.5640
 Fax: 515.242.6119
 Email: sonya.streit@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

- ITEM 1. Rescind **431—Chapter 1.**
- ITEM 2. Rescind **431—Chapter 2.**
- ITEM 3. Rescind **431—Chapter 4.**
- ITEM 4. Rescind **431—Chapter 5.**
- ITEM 5. Rescind **431—Chapter 6.**
- ITEM 6. Rescind **431—Chapter 7.**

ARC 5990C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to tuition and textbook tax credit
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.12 as amended by 2021 Iowa Acts, House File 847, sections 7 and 8.

REVENUE DEPARTMENT[701](cont'd)

Purpose and Summary

This proposed rule making is intended to implement statutory changes related to eligibility for the tuition and textbook tax credit and the rate of the credit. 2021 Iowa Acts, House File 847, increases the tax credit rate to 25 percent of the first \$2,000 of eligible expenses from 25 percent of the first \$1,000 of eligible expenses for tax years beginning on or after January 1, 2021. The legislation also expands eligibility for the credit to taxpayers whose dependents receive private instruction. Previously, the credit was limited to taxpayers whose dependents attend a public or private elementary or secondary school in Iowa.

The proposed rule making clarifies that a tuition or textbook expense must be required by an elementary or secondary school in Iowa to be eligible for the credit. The rule making provides a list of examples of tuition items that may be eligible for the credit. The rule making also adds examples of extracurricular expenses that will or will not qualify for the credit.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Kurt Konek
Department of Revenue
Hoover State Office Building
P.O. Box 10547
Des Moines, Iowa 50306
Phone: 515.587.0440
Email: kurt.konek@iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

November 15, 2021
2 to 3 p.m.

Via video/conference call

Persons who wish to participate in the video/conference call should contact Kurt Konek before 4:30 p.m. on November 12, 2021, to facilitate an orderly hearing. A video link or conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

REVENUE DEPARTMENT[701](cont'd)

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rule 701—42.4(422) as follows:

701—42.4(422) Tuition and textbook credit for expenses incurred for dependents attending grades kindergarten through 12 in Iowa. ~~Effective for tax years beginning on or after January 1, 1998, taxpayers~~ Taxpayers who pay tuition and textbook expenses of dependents who attend grades kindergarten through 12 in an Iowa school may receive a tax credit of 25 percent of up to ~~\$1,000~~ \$2,000 (\$1,000 for tax years beginning prior to January 1, 2021) of qualifying expenses for each dependent attending who receives private instruction, as defined in Iowa Code section 422.12(1) as amended by 2021 Iowa Acts, House File 847, or attends an elementary or secondary school located in Iowa. A taxpayer whose dependent receives private instruction is only eligible for the tuition and textbook credit for tax years beginning on or after January 1, 2021.

~~For a taxpayer whose dependent attends an elementary or secondary school, in order for the taxpayer to qualify for the tax credit for tuition and textbooks~~ tuition and textbook credit, the elementary school or secondary school that the dependent is attending must meet the standards for accreditation of public and nonpublic schools in Iowa provided in Iowa Code section 256.11. In addition, the school the dependent is attending must not be operated for profit and must adhere to the provisions of the United States Civil Rights Act of 1964, and the provisions of Iowa Code chapter 216, which is known as the Iowa civil rights Act of 1965. The following definitions and criteria apply to the determination of the tax credit for amounts paid by the taxpayer for tuition and textbooks for a dependent attending an elementary or secondary school in Iowa:

42.4(1) Tuition. ~~For purposes of the tuition and textbook tax credit, “tuition” means any charge made by an elementary or secondary school for the expense of personnel, buildings, equipment, and materials other than textbooks, and other expenses of elementary or secondary schools which relate to the teaching of only those subjects that are legally and commonly taught in public elementary or secondary schools in Iowa. “Tuition” includes charges by a qualified school for summer school classes or for private instruction of a child who is physically unable to attend classes at the site of the elementary or secondary school. Expenses paid by a taxpayer, including a taxpayer whose dependent receives private instruction, for equipment and materials other than textbooks must be for equipment and materials required for attendance by any accredited elementary or secondary school in Iowa in order to be eligible for the tuition and textbook tax credit. The following are examples of equipment and materials that may qualify for the credit provided they are required for attendance:~~

- a. Pocket folders and binders.
- b. Spiral notebooks and loose-leaf paper.
- c. Writing utensils including pens, pencils, highlighters, colored pencils, crayons, and markers.
- d. Backpacks.
- e. Rulers.
- f. Calculators.
- g. Scissors.
- h. Flash drives.
- i. Computers, including rental fees paid to a school for the use of a computer.
- j. Facial tissues.

REVENUE DEPARTMENT[701](cont'd)

k. Antibacterial products.

l. Protective face coverings.

“Tuition” does not include charges or fees which relate to the teaching of religious tenets, doctrines, or worship in cases where the purpose of the teaching is to inculcate the religious tenets, doctrines, or worship. In addition, “tuition” does not include amounts paid to an individual or other entity for ~~private instruction of a dependent who attends an elementary or secondary school in Iowa.~~ instruction that is supplementary to elementary or secondary school instruction or private instruction. Amounts paid to a an elementary or secondary school or to a person providing private instruction for meals, lodging, or clothing for a dependent do not qualify for the tax credit for tuition. “Tuition” also does not include expenses for Internet services or Internet upgrades to facilitate remote learning.

~~Amounts paid to an individual or organization for home schooling of a dependent or the teaching of a dependent outside of an elementary or secondary school may not be claimed for purposes of the tuition and textbook tax credit.~~

42.4(2) Textbooks. For purposes of the tuition and textbook tax credit, “textbooks” means books and other instructional materials used in elementary and secondary schools in Iowa to teach only those subjects legally and commonly taught in public elementary and secondary schools in Iowa. “Textbooks” includes fees or charges ~~by the elementary or secondary school~~ for required supplies or materials for classes in art, home economics, shop₂, or similar courses. “Textbooks” also includes books and materials used for extracurricular activities, such as sporting events, musical events, dramatic events, speech activities, driver’s education, or programs of a similar nature.

“Textbooks” does not include amounts paid for books or other instructional materials used in the teaching of religious tenets, doctrines, or worship, in cases where the purpose of the teaching is to inculcate the religious tenets, doctrine, or worship. ~~“Textbooks” also~~ For tax years beginning before January 1, 2021, “textbooks” does not include amounts paid for books or other instructional materials used in teaching a dependent subjects in the home or outside of an elementary or secondary school. For tax years beginning on or after January 1, 2021, “textbooks” does include amounts paid for books or other instructional materials used in teaching a dependent subjects in the home or outside of an elementary or secondary school if that dependent is receiving private instruction. To qualify for the tuition and textbook tax credit, the textbook must be one used in an accredited elementary or secondary school in Iowa.

42.4(3) Extracurricular activities. For purposes of the tuition and textbook tax credit, amounts paid for dependents to participate in or to attend extracurricular activities may be claimed as part of the tuition and textbook tax credit. “Extracurricular activities” includes sporting events, musical events, dramatic events, speech activities, driver’s education if provided at a school, and programs of a similar nature.

a. The following are specific examples of expenditures related to a dependent’s participation in or attendance at extracurricular activities that may qualify for the tuition and textbook tax credit:

- (1) Fees for participation in school sports activities.
- (2) Fees for field trips if the trip is during school hours.
- (3) Rental fees for instruments for school bands or orchestras but not rental fees in rent-to-own contracts.
- (4) Driver’s education fees, if paid to a school.
- (5) Cost of activity tickets or admission tickets to school sporting, music₂, and dramatic events.
- (6) Fees for events such as homecoming, winter formal, prom, or similar events.
- (7) Rental of costumes for school plays.
- (8) Purchase of costumes for school plays if the costumes are not suitable for street wear.
- (9) Purchase of track shoes, football shoes, or other athletic shoes with cleats, spikes, or other features that are not suitable for street wear.
- (10) Costs of tickets or other admission fees to attend banquets or buffets for school academic or athletic awards.
- (11) Trumpet grease, woodwind reeds, guitar picks, violin strings₂, and similar types of items for maintenance of instruments used in school bands or orchestras.
- (12) Band booster club or athletic booster club dues, but only if dues are for the dependent attending the school and not the parent or adult.

REVENUE DEPARTMENT[701](cont'd)

- (13) Rental of a formal gown or tuxedo for a school dance or other school event.
 - (14) Dues paid to school clubs or school-sponsored organizations such as chess club, photography club, debate club, or similar organizations.
 - (15) Amounts paid for music that will be used in school music programs, including vocal music programs.
 - (16) Fees paid for required general materials for shop class, agriculture class, home economics class, or auto repair class and general fees for equivalent classes.
 - (17) Fees for a dependent's bus trips to attend school if paid to the school.
 - (18) Costs of school-associated band or athletic uniforms.
 - (19) Costs of instrument lessons at a school.
- b. The following are specific examples of expenditures related to a dependent's participation in or attendance at extracurricular activities that will not qualify for the tuition and textbook credit.
- (1) Purchase of a musical instrument used in a school band or orchestra.
 - (2) Purchase of basketball shoes or other athletic shoes that are readily adaptable to street wear.
 - (3) Amounts paid for special testing such as SAT or PSAT, and for Iowa talent search tests.
 - (4) Payments for senior trips, band trips, and other overnight school activity trips which involve payment for meals and lodging.
 - (5) Fees paid to K-12 schools for courses for college credit.
 - (6) Amounts paid for T-shirts, sweatshirts, and similar clothing that is appropriate for street wear.
 - (7) Amounts paid for special programs at universities and colleges for high school students.
 - (8) Payment for private instrumental lessons, voice lessons, or similar lessons.
 - (9) Amounts paid for a school yearbook, annual, or class ring.
 - (10) Fees for special materials paid for shop class, agriculture class, auto repair class, home economics class, and similar classes. For purposes of this paragraph, "special materials" means materials used for personal projects of the dependents, such as materials to make furniture for personal use, automobile parts for family automobiles, and other materials for projects for personal or family benefit.
 - (11) Purchase of a formal gown or tuxedo for a school dance or other school event.
 - (12) Amounts paid for sports-related social events.

42.4(4) No change.

This rule is intended to implement Iowa Code section 422.12 as amended by 2021 Iowa Acts, House File 847.

ARC 5987C

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rule making related to tax credit for volunteer fire fighters,
volunteer emergency medical services personnel, and reserve peace officers
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 42, "Adjustments to Computed Tax and Tax Credits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 422.12 and 2021 Iowa Acts, Senate File 619, sections 73, 74, and 75.

REVENUE DEPARTMENT[701](cont'd)

Purpose and Summary

This proposed rule making is intended to implement statutory changes to the tax credit amount for volunteer fire fighters, volunteer emergency medical services personnel, and reserve peace officers. 2021 Iowa Acts, Senate File 619, division XXIII, increases the amount of the credit from \$100 per year to \$250 per year for tax years beginning on or after January 1, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Kurt Konek
Department of Revenue
Hoover State Office Building
P.O. Box 10547
Des Moines, Iowa 50306
Phone: 515.587.0440
Email: kurt.konek@iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in person will be held as follows:

November 12, 2021
9:30 to 10:30 a.m.

Via video/conference call

Persons who wish to participate in the video/conference call should contact Kurt Konek before 4:30 p.m. on November 10, 2021, to facilitate an orderly hearing. A video link or conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's

REVENUE DEPARTMENT[701](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rule 701—42.49(422) as follows:

701—42.49(422) Volunteer fire fighter, volunteer emergency medical services personnel member, and reserve peace officer tax credit. ~~Effective for tax years beginning on or after January 1, 2013, a tax credit is available for individual income tax for volunteer fire fighters and volunteer emergency medical services (EMS) personnel.~~ Effective for tax years beginning on or after January 1, 2014, a tax credit is available for individual income tax for volunteer fire fighters, volunteer emergency medical services (EMS) personnel members, and reserve peace officers.

42.49(1) Definitions. The following definitions are applicable to this rule:

“*Emergency medical services personnel member*” or “*EMS personnel member*” means an emergency medical care provider, as defined in Iowa Code section 147A.1, who is certified as a first responder in accordance with Iowa Code chapter 147A. For tax years beginning on or after January 1, 2014, “*emergency medical services personnel member*” or “*EMS personnel member*” also includes an individual who is a paid employee of an emergency medical services program and who is also a volunteer emergency medical services personnel member in a city, county, or area governed by an agreement pursuant to Iowa Code chapter 28E.

“*Reserve peace officer*” means a reserve peace officer as defined in Iowa Code section 80D.1A who has met the minimum state training standards established by the Iowa law enforcement academy in accordance with Iowa Code chapter 80D.

“*Volunteer fire fighter*” means a volunteer fire fighter, as defined in Iowa Code section 85.61, who has met the minimum training standards established by the fire service training bureau pursuant to Iowa Code chapter 100B. For tax years beginning on or after January 1, 2014, “*volunteer fire fighter*” means an individual who is an active member of an organized volunteer fire department in Iowa or is performing services as a volunteer fire fighter for a municipality, township or benefited fire district at the request of the chief or other person in command and who has met the minimum training standards established by the fire service training bureau pursuant to Iowa Code chapter 100B. For tax years beginning on or after January 1, 2014, a volunteer fire fighter also includes an individual who is a paid employee of a fire department and who is also a volunteer fire fighter in a city, county, or area governed by an agreement pursuant to Iowa Code chapter 28E.

42.49(2) Calculation of the credit.

a. ~~The credit is equal to \$50 for the tax year beginning January 1, 2013, if the volunteer fire fighter or volunteer EMS personnel was a volunteer for the entire year. The credit is equal to \$100 for tax years beginning on or after January 1, 2014, if the volunteer fire fighter, volunteer EMS personnel or reserve peace officer was a volunteer for the entire year. \$250 for tax years beginning on or after January 1, 2021, if the volunteer fire fighter, volunteer EMS personnel member, or reserve peace officer was a volunteer for the entire year. The credit is equal to \$50 for tax year 2013 and \$100 for tax years 2014 through 2020.~~

b. ~~If the individual was not a volunteer fire fighter or volunteer EMS personnel for the entire 2013 calendar year, the \$50 credit is prorated based on the number of months the individual was a volunteer. Beginning in the 2014 calendar year, if the individual was not a volunteer fire fighter, volunteer EMS personnel or reserve peace officer for the entire year, the \$100 credit is prorated based on the number of months the individual was a volunteer. fire fighter, volunteer EMS personnel member, or reserve peace officer for the entire calendar year, the credit is prorated based on the number of months the individual was a volunteer. If the individual was a volunteer during any part of a month, the individual will be considered a volunteer for the entire month. The amount of credit will be rounded to the nearest dollar.~~

EXAMPLE: An individual became a volunteer fire fighter on April 15, 2013 2021, and remained a volunteer for the rest of calendar year 2013 2021. The individual is considered a volunteer for nine months of 2013 2021. The tax credit for 2013 2021 is equal to \$38 \$188 (~~\$50~~ \$250 multiplied by 9/12 equals \$37.50 \$187.50; rounding to the nearest dollar results in a \$38 \$188 credit).

REVENUE DEPARTMENT[701](cont'd)

c. If an individual ~~is both~~ holds more than one volunteer position as a volunteer fire fighter, ~~and~~ a volunteer EMS personnel member, or a reserve peace officer during the same month, a credit can be claimed for only one volunteer position for that month. ~~Therefore~~ For example, if an individual was both a volunteer fire fighter and volunteer EMS personnel member for all of ~~2013~~ calendar year 2021, the tax credit will equal ~~\$50~~ \$250. ~~In addition, beginning in calendar year 2014, if a reserve peace officer is also either a volunteer fire fighter or a volunteer EMS personnel, a credit can be claimed for only one volunteer position for that month.~~

42.49(3) Verification of eligibility for the tax credit. An individual is required to have a written statement from the fire chief or other appropriate supervisor verifying that the individual was a volunteer fire fighter or volunteer EMS personnel member for the months for which the tax credit is being claimed. ~~Beginning with the 2014 tax year, an~~ An individual who is a reserve peace officer must have a written statement from the chief of police, sheriff, commissioner of public safety, or other appropriate supervisor verifying that the individual was a reserve peace officer for the months for which the tax credit is being claimed. The written statement does not have to be attached to a tax return claiming the credit. However, the individual department may be requested to request that the individual provide the written statement upon request by the department.

This rule is intended to implement Iowa Code section 422.12 as amended by 2014 Iowa Acts, House File 2459, and 2021 Iowa Acts, Senate File 619.

ARC 5986C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to Hoover presidential library tax credit and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” and Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 588.

Purpose and Summary

This proposed rule making implements 2021 Iowa Acts, House File 588, which creates a Hoover Presidential Library Tax Credit for donations made to the Hoover Presidential Foundation for the Hoover Presidential Library and Museum Renovation Project Fund. The credit is available against a number of different tax types for donations made on or after July 1, 2021, and during tax years beginning on or after January 1, 2021, but before January 1, 2024.

The Economic Development Authority authorizes and controls the distribution of tax credits. The aggregate amount of tax credits that the Economic Development Authority may authorize is \$5 million.

These proposed rules describe requirements for claiming the tax credit, including tax credit certificate issuances, carryforward, and other claim restrictions and requirements. Cross-references in the proposed rules to 261—Chapter 43 and subrule 43.5(3) refer to that chapter and subrule as proposed in **ARC 5908C**, IAB 9/22/21.

REVENUE DEPARTMENT[701](cont'd)

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Michael Mertens
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.587.0458
Email: michael.mertens@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following new rule 701—42.57(15E,422):

701—42.57(15E,422) Hoover presidential library tax credit.**42.57(1) In general.**

a. A taxpayer who makes an unconditional charitable donation to the Hoover presidential foundation for the Hoover presidential library and museum renovation project fund may qualify for a Hoover presidential library tax credit, subject to the availability of the credit and approval by the economic development authority.

b. The credit is equal to 25 percent of a donor’s unconditional charitable donation that meets both of the following requirements:

(1) The donation is made on or after July 1, 2021.

REVENUE DEPARTMENT[701](cont'd)

(2) The donation is made during a donor's tax year beginning on or after January 1, 2021, but before January 1, 2024.

c. The amount of the donation for which the tax credit is claimed is not deductible in determining taxable income for Iowa tax purposes.

d. The administrative rules for the economic development authority's administration of this program are found in 261—Chapter 43 and describe the tax credit program cap limitations including reserved amounts, donor cap limitations, the application process and waitlist, and other requirements.

42.57(2) Claiming the credit.

a. *Issuance of tax credit certificates.* The economic development authority shall issue a tax credit certificate to each taxpayer who makes a qualifying donation and whose tax credit application has been approved. The tax credit certificate, designed by the department, will contain the name, address, and tax identification number of the taxpayer; the amount and date the contribution was made; the amount of the credit; the tax year to which the credit may be applied; the tax credit certificate number; and any other information required by the department. The tax credit certificate must be included with the tax return for the tax year during which the tax credit is claimed.

b. *Year of claim.* The tax credit shall be claimed for the tax year during which the donation is made. However, for a donor who has an application placed on the waitlist described in 261—subrule 43.5(3) and later has the waitlisted application approved for a reserved tax credit amount, the waitlisted donor shall claim the tax credit for the tax year during which the tax credit certificate is issued.

c. *Allocation of credit to owners of a business entity or to beneficiaries of an estate or trust.* If the taxpayer claiming the Hoover presidential library tax credit is a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual, an individual may claim the credit. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

d. *Carryforward.* Any tax credit in excess of the donor's tax liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever occurs first. A tax credit shall not be carried back to a tax year prior to the tax year for which the donor claims the tax credit.

e. *Transferability.* The credit may not be transferred to any other person.

This rule is intended to implement Iowa Code sections 15E.364 and 422.11T as enacted by 2021 Iowa Acts, House File 588, sections 1 and 2.

ITEM 2. Adopt the following **new** rule 701—52.50(15E,422):

701—52.50(15E,422) Hoover presidential library tax credit. A Hoover presidential library tax credit is available according to the same requirements, conditions, and limitations as described in rule 701—42.57(15E,422) and 261—Chapter 43.

This rule is intended to implement Iowa Code sections 15E.364 and 422.33 as enacted by 2021 Iowa Acts, House File 588, sections 1 and 3.

ITEM 3. Adopt the following **new** rule 701—58.25(15E,422):

701—58.25(15E,422) Hoover presidential library tax credit. A Hoover presidential library tax credit is available according to the same requirements, conditions, and limitations as described in rule 701—42.57(15E,422) and 261—Chapter 43.

This rule is intended to implement Iowa Code sections 15E.364 and 422.60 as enacted by 2021 Iowa Acts, House File 588, sections 1 and 4.

ARC 5985C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to classification of multiresidential property and dual property and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 71, “Assessment Practices and Equalization,” and Chapter 80, “Property Tax Credits and Exemptions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14, 421.17(2)“c,” and 427A.1(10).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 441.21 as amended by 2021 Iowa Acts, House File 418.

Purpose and Summary

This proposed rule making is intended to implement 2021 Iowa Acts, House File 418, which eliminates the multiresidential property classification for property tax assessment purposes for assessment years beginning on or after January 1, 2022. The types of property previously classified as multiresidential will be classified as residential property beginning with valuations established on or after January 1, 2022. Additionally, this rule making addresses dual property classification and additional modifications to the rules related to the implementation of House File 418. Finally, this rule making corrects cross-references to the statute providing for the Department’s state appraisal manual to be used by assessors in assessing and valuing all classes of property in the state.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

REVENUE DEPARTMENT[701](cont'd)

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 71.1(1) as follows:

71.1(1) Responsibility of assessors. All real estate subject to assessment by city and county assessors shall be classified as provided in this rule. It shall be the responsibility of city and county assessors to determine the proper classification of real estate. There can be only one classification per property under this rule, except as provided for in paragraph 71.1(5)“b.” 71.1(4)“d.” An assessor shall not assign one classification to the land and a different classification to the building or separate classifications to the land or separate classifications to the building. A building or structure on leased land is considered a separate property and may be classified differently than the land upon which it is located. The determination shall be based upon the best judgment of the assessor following the guidelines set forth in this rule and the status of the real estate as of January 1 of the year in which the assessment is made. The assessor shall classify property according to its present use and not according to its highest and best use. See subrule 71.1(9) for an exception to the general rule that property is to be classified according to its use. The classification shall be utilized on the abstract of assessment submitted to the department of revenue pursuant to Iowa Code section 441.45. See rule 701—71.8(428,441).

ITEM 2. Amend subrule 71.1(4) as follows:

71.1(4) Residential real estate.

a. Classification of residential real estate—in general. Residential real estate shall include all lands and buildings which are primarily used or intended for human habitation containing fewer than three dwelling units, as that term is defined in subparagraph 71.1(5)“a”(5), including those buildings located on agricultural land. Buildings used primarily or intended for human habitation shall include the dwelling as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling. This includes but is not limited to garages, whether attached or detached, tennis courts, swimming pools, guest cottages, and storage sheds for household goods. “Used in conjunction with” means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling and when marketed for sale would be sold as a unit. Residential real estate located on agricultural land shall include only buildings as defined in this subrule. Buildings for human habitation that are used as commercial ventures, including but not limited to hotels, motels, rest homes, and structures containing three or more separate living quarters, shall not be considered residential real estate. However, regardless of the number

REVENUE DEPARTMENT[701](cont'd)

of separate living quarters, multiple housing cooperatives organized under Iowa Code chapter 499A and land and buildings owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be considered residential real estate.

b. Horizontal property regimes. An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use for human habitation shall be classified as residential real estate regardless of who occupies the apartment. Existing structures shall not be converted to a horizontal property regime unless building code requirements have been met.

c. Classification of residential real estate on or after January 1, 2022. Beginning with valuations established on or after January 1, 2022, residential real estate shall also include:

(1) Property primarily used or intended for human habitation containing two or fewer dwelling units.

(2) Mobile home parks.

(3) Manufactured home communities.

(4) Land-leased communities.

(5) Assisted living facilities.

(6) A parcel primarily used or intended for human habitation containing three or more separate dwelling units. If a portion of such a parcel is used or intended for a purpose that, if the primary use would be classified as commercial property or industrial property, each such portion, including a proportionate share of the land included in the parcel, if applicable, shall be assigned the appropriate classification pursuant to Iowa Code section 441.21(14) "b" and paragraph 71.1(4) "d" below.

(7) For a parcel that is primarily used or intended for use as commercial property or industrial property, that portion of the parcel that is used or intended for human habitation, regardless of the number of dwelling units contained on the parcel, including a proportionate share of the land included in the parcel, if applicable. The portion of such a parcel used or intended for use as commercial property or industrial property, including a proportionate share of the land included in the parcel, if applicable, shall be assigned the appropriate classification pursuant to Iowa Code section 441.21(14) "b" and paragraph 71.1(4) "d" below.

d. Dual classification.

(1) For assessment years beginning January 1, 2022, and after, valuations of parcels for which a portion of the parcel satisfies the requirements for classification as residential property under Iowa Code section 441.21(14) "a"(6) or 441.21(14) "a"(7) and subparagraph 71.1(4) "c"(6) or 71.1(4) "c"(7), the assessor shall assign to that portion of the parcel the classification of residential property and to such other portions of the parcel the property classification for which such other portions qualify.

(2) The only permitted combinations of dual classifications are commercial and residential or industrial and residential. The assessor shall assign the classification of residential to that portion of the parcel that satisfies the requirements for the classification of residential property and to such other portions of the parcel the property classification for which such other portions qualify. The assessor shall maintain the valuation and assessment of property with a dual classification on one parcel record.

e. Section 42 housing. Property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code, and that has not been withdrawn from Section 42 assessment procedures under Iowa Code section 441.21(2) as amended by 2021 Iowa Acts, House File 418, section 2, shall not be classified as residential property.

f. Short-term leases. A hotel, motel, inn, or other building where rooms or dwelling units are usually rented for less than one month shall not be classified as residential property.

g. Definitions. For purposes of this subrule, the following definitions apply:

"Assisted living facility" means property for providing assisted living as defined in Iowa Code section 231C.2. "Assisted living facility" also includes a health care facility as defined in Iowa Code section 135C.1, an elder group home as defined in Iowa Code section 231B.1, a child foster care facility under Iowa Code chapter 237, or property used for a hospice program as defined in Iowa Code section 135J.1.

REVENUE DEPARTMENT[701](cont'd)

“Dwelling unit” means an apartment, group of rooms, or single room which is occupied as separate living quarters or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building.

“Land-leased community” means the same as defined in Iowa Code sections 335.30A and 414.28A.

“Manufactured home community” means the same as a land-leased community.

“Mobile home park” means the same as defined in Iowa Code section 435.1.

ITEM 3. Rescind and reserve subrule **71.1(5)**.

ITEM 4. Amend rule 701—71.3(421,428,441), introductory paragraph, as follows:

701—71.3(421,428,441) Valuation of agricultural real estate. Agricultural real estate shall be assessed at its actual value as defined in Iowa Code section 441.21 by giving exclusive consideration to its productivity and net earning capacity. In determining the actual value of agricultural real estate, city and county assessors shall use the Iowa Real Property Appraisal Manual and any other guidelines issued by the department of revenue pursuant to Iowa Code section ~~421.17(18)~~ 421.17(17).

ITEM 5. Amend rule 701—71.4(421,428,441) as follows:

701—71.4(421,428,441) Valuation of residential real estate. Residential real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of residential real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section ~~421.17(18)~~ 421.17(17) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

ITEM 6. Amend rule 701—71.5(421,428,441), introductory paragraph, as follows:

701—71.5(421,428,441) Valuation of commercial real estate. Commercial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21. In determining the actual value of commercial real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section ~~421.17(18)~~ 421.17(17) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available. In cases involving the valuation of owner-occupied commercial property, the data relating to the financial performance of the owner or the owner’s business, including but not limited to its sales, revenue, expenses, or profits, shall not be considered relevant in determining the property’s actual value.

ITEM 7. Amend rule 701—71.6(421,428,441) as follows:

701—71.6(421,428,441) Valuation of industrial land and buildings. Industrial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of industrial land and buildings, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code ~~subsection 421.17(18)~~ section 421.17(17), and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

ITEM 8. Rescind and reserve subrule **71.12(3)**.

ITEM 9. Rescind and reserve rule **701—71.23(421,428,441)**.

ITEM 10. Amend rule 701—71.24(421,428,441) as follows:

701—71.24(421,428,441) Valuation of dual classification property. Real estate with a dual classification of ~~commercial/multiresidential or industrial/multiresidential~~ commercial/residential or industrial/residential shall be assessed at its actual value as defined in Iowa Code section 441.21.

REVENUE DEPARTMENT[701](cont'd)

71.24(1) *Allocation of dual classification values.* The assessor shall value as a whole properties that have portions classified as ~~multiresidential~~ residential and portions classified as commercial or industrial using the methodology found in rule 701—71.23(421,428,441). After the assessor has assigned a value to the property, the value shall be allocated between the two classes of property based on the appropriate appraisal methodology. The assessor shall allocate land value proportionately by class.

71.24(2) *Notice of valuation.* The valuation notice issued pursuant to Iowa Code section 441.23 shall include a breakdown of the valuation by class for the current year and the prior year.

71.24(3) *Protest of assessment.* The valuation and assessment of property with a dual classification shall be considered one assessment, and any protest of assessment brought under Iowa Code section 441.37 or subsequent appeal must be made on the entire assessment. Protests of assessments on the valuation of only one class of property are not permitted. The board of review shall review the valuation in total as both classifications are subject to the board's adjustment in any review proceeding. Likewise, any tribunal or court reviewing the board's decision shall base its review on the entire assessment.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21 as amended by 2013 Iowa Acts, Senate File 295.

ITEM 11. Amend subrule 80.30(8) as follows:

80.30(8) *Property ineligible for credit.* The following are not eligible to receive a business property tax credit or to be part of a property unit that receives the business property tax credit:

a. Property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code, as amended, and that is subject to assessment procedures relating to Section 42 property under Iowa Code section 441.21, ~~subsection 2,~~ 441.21(2) for the applicable assessment year.

b. Property ~~classified as multiresidential under 701—subrule 71.1(5).~~ that is a mobile home park, manufactured home community, land-leased community, or assisted living facility, as those terms are defined in Iowa Code section 441.21(13) as amended by 2021 Iowa Acts, House File 418, section 10, or that is property primarily used or intended for human habitation containing three or more separate dwelling units.

ARC 5996C

SECRETARY OF STATE[721]

Notice of Intended Action

Proposing rule making related to model business corporation Act, document filing, and mechanics' notice and lien registry filing and providing an opportunity for public comment

The Secretary of State hereby proposes to amend Chapter 1, "Description of Organization," Chapter 30, "Uniform Commercial Code," Chapter 40, "Corporations," and Chapter 45, "Mechanics' Notice and Lien Registry," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 489; 2021 Iowa Acts, House File 844; 2021 Iowa Acts, Senate File 342; and 2021 Iowa Acts, House File 561.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.1 and 17A.3.

Purpose and Summary

The proposed rule making does the following:

- Facilitates the January 1, 2022, enactment date of the new Model Business Corporation Act pursuant to 2021 Iowa Acts, House File 844, division I.

SECRETARY OF STATE[721](cont'd)

- Implements extra filing services authorized as part of 2021 Iowa Acts, House File 844, division III.
- Defines “information sufficient to establish the person’s identity” for purposes of the definition of “trusted filer” in Iowa Code section 554.9513A(1) as enacted by 2021 Iowa Acts, Senate File 342, section 10.
- Ensures the ability of filers to file liens in multiple counties in the Mechanics’ Notice and Lien Registry pursuant to 2021 Iowa Acts, House File 561.
- Refines the Office of the Secretary of State’s internal computer search logic to accommodate Series LLCs pursuant to Iowa Code chapter 489.

Fiscal Impact

At this time, it is still uncertain whether this rule making will have a fiscal impact. The Legislative Services Agency’s fiscal note for 2021 Iowa Acts, House File 844, estimated an annual revenue increase of between approximately \$25,000 and \$75,000 as a result of the added preclearance and expedited filing services. However, based on the average across the first quarter of FY 2022 for the new services, fee revenue to the General Fund is currently estimated to increase by approximately \$100,000 annually. This estimate is based on the average for the first three months of the filing services being available and may change dependent on the volume of usage throughout the remainder of the year and in subsequent years. As more complicated filings are brought into Fast Track Filing, the usage of preclearance and expedited filing services may also decrease as a result of Fast Track’s quicker processing times.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Secretary of State for a waiver of the discretionary provisions, if any, pursuant to 721—Chapter 10.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Secretary of State no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Molly Widen
Office of the Secretary of State
Lucas State Office Building, First Floor
321 East 12th Street
Des Moines, Iowa 50319
Email: molly.widen@sos.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

SECRETARY OF STATE[721](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 1.2(1) as follows:

1.2(1) All matters involving corporations, profit and nonprofit organized in Iowa or authorized to do business in Iowa, are handled by the corporation division under the supervision of a director. The office issues all certificates of incorporation for new domestic corporations and issues certificates for authority and certificates of registration to do business in Iowa for foreign corporations. Also, certificates of good standing, amendments, mergers, certified copies of articles and other corporate papers are issued by the office.

ITEM 2. Adopt the following **new** definitions of "Defraud" and "Harass" in subrule **30.1(2)**:

"*Defraud*" means illegally obtain money or other benefit from a person by deception.

"*Harass*" means engage in any activity purposefully, without legitimate purpose, and in a manner likely to cause another person annoyance or harm with the intent to intimidate, annoy, or alarm that other person.

ITEM 3. Adopt the following **new** rule 721—30.7(554):

721—30.7(554) UCC affidavit of wrongful filing. For purposes of the definition of "trusted filer" in Iowa Code section 554.9513A(1), "information sufficient to establish the person's identity" as required in Iowa Code section 554.9513A(1) "a" includes all of the following:

1. First name.
2. Last name.
3. Organization legal name, if any.
4. Street address, city, state, zip code, and country.

ITEM 4. Adopt the following **new** subrule 40.1(8):

40.1(8) Same-day preclearance delivery. Documents submitted for same-day preclearance service must be delivered by 12 noon on the day for which same-day preclearance service is requested. Documents delivered after 12 noon and processed by 4:30 p.m. the following business day constitute same-day service.

ITEM 5. Adopt the following **new** subrule 40.1(9):

40.1(9) Order of expedited filing. The secretary of state shall process expedited filings in the order in which they are received. In the event that processing an expedited filing within the period of service requested (two-day or five-day) is infeasible as a result of the number of requests for expedited service, the secretary of state shall assign a filing date to the delayed expedited filing that is within the requested period of service.

ITEM 6. Amend subrule 40.3(2) as follows:

40.3(2) The following words and abbreviations, when positioned as the last word or abbreviation in the corporate name, are not considered in determining whether a name is distinguishable upon the records of the secretary of state:

1. Corporation
2. Company
3. Incorporated
4. Limited
5. Corp.
6. Co.
7. Inc.
8. Ltd.
9. Benefit Corporation

SECRETARY OF STATE[721](cont'd)

10. BC

ITEM 7. Adopt the following **new** subrule 40.3(7):

40.3(7) The presence or absence of the words “protected series” or the abbreviation “PS” in the name of a protected series, when such words or abbreviation is meant to comply with Iowa Code section 489.14202(2) “b,” is not considered in determining whether the name of a protected series is distinguishable upon the records of the secretary of state.

ITEM 8. Amend numbered paragraph **40.3(16)“4”** as follows:

4. Names of corporations (profit or nonprofit) whose certificates of authority or certificates of registration have been revoked.

ITEM 9. Amend subrule 40.4(1) as follows:

40.4(1) The office of secretary of state requires a payment of all fees in full at the time of filing of any corporate document or request for copies. The office of secretary of state requires a payment of all surcharges in full at the time of request for preclearance of any corporate document.

ITEM 10. Adopt the following **new** subrule 40.4(6):

40.4(6) Refund of expedited filing service surcharge.

a. The secretary of state may refund payment of an expedited filing service surcharge required pursuant to the provisions of Iowa Code section 9.15(2) “a” and “b” if, within five business days from the time the document is received and date stamped, the document has not been filed in the records of the secretary of state.

b. To receive a refund under this subrule, the requester must make a written request with the business services division of the secretary of state’s office. The written request must specify the reason(s) for the refund and provide evidence of entitlement to the refund.

c. The surcharge shall not be refunded if the document fails to satisfy all of the filing requirements of the applicable Iowa Code chapter.

d. The decision of the secretary of state not to issue a refund for an expedited filing service surcharge is final and not subject to review pursuant to the provisions of the Iowa administrative procedure Act.

ITEM 11. Amend paragraph **45.4(2)“g”** as follows:

g. The county or counties in which the building, land, or improvement to be charged with the lien is situated.

ITEM 12. Amend paragraph **45.5(2)“j”** as follows:

j. The county or counties in which the building, land, or improvement to be charged with the lien is situated.

ITEM 13. Amend subrule 45.6(4) as follows:

45.6(4) *Identification of lien county or counties.* A lien posted to the MNLR under this rule shall be limited to the county or counties in which the building, land, or improvement to be charged with the lien is situated. The county or counties identified on the MNLR ~~Web-site~~ website at the time of posting the required notices in rules 721—45.4(572) and 721—45.5(572) shall be the only county or counties in which the building, land, or improvement may be charged with a mechanic’s lien.

ITEM 14. Amend paragraph **45.6(6)“c”** as follows:

c. The county or counties in which the building, land, or improvement to be charged with the lien is situated.

ITEM 15. Amend subrule 45.15(2) as follows:

45.15(2) *Correction statement.* A correction statement for a commencement of work or a preliminary notice is an electronic posting by a registered MNLR user. A correction statement does not allow for a change in the county or counties where the building, land or improvement to be charged with the lien is situated; in the date of the commencement of work; or in the date that material was first furnished or labor was first performed by the subcontractor.

ARC 6003C

STATUS OF AFRICAN-AMERICANS, DIVISION ON THE[434]

Notice of Intended Action

**Proposing rule making related to transfer of rules
and providing an opportunity for public comment**

The Department of Human Rights (Department) hereby proposes to rescind Chapter 1, “Organization,” Chapter 2, “Public Records and Fair Information Practices,” Chapter 3, “Petitions for Rule Making,” Chapter 4, “Agency Procedure for Rule Making,” Chapter 5, “Declaratory Orders,” Chapter 6, “Contested Cases,” and Chapter 7, “Waiver Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 17A and 216A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A and 216A.

Purpose and Summary

The Department underwent statutory reorganization in 2010 (2010 Iowa Acts, Senate File 2088). The Division on the Status of African-Americans[434] is now the Office on the Status of African-Americans under the Community Advocacy and Services Division in the Department. The Division on the Status of African-Americans[434] no longer has rule-making authority; rule-making authority is vested in the Department. The Department is proposing to rescind rules under the previous divisions and will be consolidating and adopting new comprehensive rules under the Department of Human Rights[421] (ARC 6004C, IAB 10/20/21). The text of the chapters to be rescinded can be located here: www.legis.iowa.gov/law/administrativeRules/chapters?agency=434&pubDate=09-22-2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

STATUS OF AFRICAN-AMERICANS, DIVISION ON THE[434](cont'd)

Sonya Streit
Iowa Department of Human Rights
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.5640
Fax: 515.242.6119
Email: sonya.streit@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

- ITEM 1. Rescind **434—Chapter 1.**
- ITEM 2. Rescind **434—Chapter 2.**
- ITEM 3. Rescind **434—Chapter 3.**
- ITEM 4. Rescind **434—Chapter 4.**
- ITEM 5. Rescind **434—Chapter 5.**
- ITEM 6. Rescind **434—Chapter 6.**
- ITEM 7. Rescind **434—Chapter 7.**

ARC 6001C**STATUS OF WOMEN DIVISION[435]****Notice of Intended Action****Proposing rule making related to transfer of rules
and providing an opportunity for public comment**

The Department of Human Rights (Department) hereby proposes to rescind Chapter 1, “Description,” Chapter 2, “Duties,” Chapter 3, “Iowa Women’s Hall of Fame,” Chapter 4, “Public Records and Fair Information Practices,” Chapter 7, “Declaratory Orders,” Chapter 8, “Petitions for Rule Making,” Chapter 9, “Agency Procedure for Rule Making,” and Chapter 10, “Waiver Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 17A and 216A.

STATUS OF WOMEN DIVISION[435](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 17A and 216A.

Purpose and Summary

The Department underwent statutory reorganization in 2010 (2010 Iowa Acts, Senate File 2088). The Status of Women Division[435] is now the Office on the Status of Women under the Community Advocacy and Services Division in the Department. The Status of Women Division[435] no longer has rule-making authority; rule-making authority is vested in the Department. The Department is proposing to rescind rules under the previous divisions and will be consolidating and adopting new comprehensive rules under the Department of Human Rights[421] (ARC 6004C, IAB 10/20/21). The text of the chapters to be rescinded can be located here: www.legis.iowa.gov/law/administrativeRules/chapters?agency=435&pubDate=09-22-2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Sonya Streit
Iowa Department of Human Rights
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.242.5640
Fax: 515.242.6119
Email: sonya.streit@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's

STATUS OF WOMEN DIVISION[435](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

- ITEM 1. Rescind **435—Chapter 1.**
- ITEM 2. Rescind **435—Chapter 2.**
- ITEM 3. Rescind **435—Chapter 3.**
- ITEM 4. Rescind **435—Chapter 4.**
- ITEM 5. Rescind **435—Chapter 7.**
- ITEM 6. Rescind **435—Chapter 8.**
- ITEM 7. Rescind **435—Chapter 9.**
- ITEM 8. Rescind **435—Chapter 10.**

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for October is 3.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective October 9, 2021, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .05%
More than 397 days	Minimum .05%

TREASURER OF STATE(cont'd)

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

November 1, 2020 — November 30, 2020	2.75%
December 1, 2020 — December 31, 2020	2.75%
January 1, 2021 — January 31, 2021	2.75%
February 1, 2021 — February 28, 2021	3.00%
March 1, 2021 — March 31, 2021	3.00%
April 1, 2021 — April 30, 2021	3.25%
May 1, 2021 — May 31, 2021	3.50%
June 1, 2021 — June 30, 2021	3.75%
July 1, 2021 — July 31, 2021	3.50%
August 1, 2021 — August 31, 2021	3.50%
September 1, 2021 — September 30, 2021	3.25%
October 1, 2021 — October 31, 2021	3.25%
November 1, 2021 — November 30, 2021	3.25%

ARC 6005C**VOTER REGISTRATION COMMISSION[821]****Notice of Intended Action****Proposing rule making related to voter notification
and providing an opportunity for public comment**

The Voter Registration Commission hereby proposes to amend Chapter 8, “Transmission of Registration Forms by Agencies,” Chapter 10, “Notice to Voters Without Activity in Four Years in Counties Using NCOA Records; To All Voters in Other Counties,” and Chapter 12, “Voter Notifications,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 47.8.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 413, and 2021 Iowa Acts, Senate File 568.

Purpose and Summary

This proposed rule making makes amendments necessary to conform the Iowa Administrative Code with 2021 Iowa Acts, Senate File 413, and 2021 Iowa Acts, Senate File 568. The amendments include

VOTER REGISTRATION COMMISSION[821](cont'd)

adjustments to the voter registration deadline, the mailing of no-activity notices, and notification of voters regarding a change in polling place.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on November 9, 2021. Comments should be directed to:

Molly Widen
State Registrar of Voters
Lucas State Office Building, First Floor
321 East 12th Street
Des Moines, Iowa 50319
Email: molly.widen@sos.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 821—8.5(48A) as follows:

821—8.5(48A) Transmission of paper voter registration forms. Voter registration applications or changes accepted on paper documents by agencies shall be sent to the appropriate county commissioner by courier, U.S. mail, or other reliable carrier not later than the Friday of the week in which the document is received by the agency. ~~If an agency receives completed voter registration forms on the Saturday which is a close of registration date for an election, the agency shall forward those registration forms immediately following the end of that business day.~~ Nothing in these rules shall be construed to require an agency to be open for business on the last day of registration for an election.

VOTER REGISTRATION COMMISSION[821](cont'd)

ITEM 2. Amend rule 821—10.1(48A) as follows:

821—10.1(48A) NCOA county commissioner determines nonactivity; sends notices.

~~10.1(1) During the first quarter of each calendar year, every commissioner who elects to participate in the NCOA process that year shall examine voter registration records to identify those without activity during the period between and following the previous two general elections and for which no information has been reported in NCOA data. For the purpose of this subrule, “activity” means any registration application, including an application which duplicates existing information, a notice of change of name, address, mailing address, party affiliation, a vote in any election, or the mailing of a notice pursuant to subrule 10.1(2). During the first quarter of the calendar year following a general election, the state registrar shall examine voter registration records to identify those voters without activity during the period following the previous general election and for whom no information has been reported in NCOA data. For the purpose of this subrule, “activity” means voter-initiated activity such as any registration application, including an application which duplicates existing information; a notice of change of name, address, mailing address, or party affiliation; a vote in any election; or the mailing of a notice pursuant to subrule 10.1(2). A registered voter shall not be sent a notice and return card under this subrule if the registered voter was not 18 years of age on the date of the most recent general election.~~

~~10.1(2) The commissioner shall send a notice of the type described in Iowa Code section 48A.28 to each voter whose record is identified pursuant to subrule 10.1(1). The state registrar shall coordinate the printing and mailing of the required no-activity notifications. The state registrar shall notify the commissioners when the notifications have been mailed. Any postage-paid preaddressed return cards returned by voters will be sent back to the counties, not to the state registrar. The state registrar shall send one notification to each voter identified based on the criteria in subrule 10.1(1). The notice shall be mailed to the voter’s mailing address.~~

ITEM 3. Rescind rule 821—10.2(48A) and adopt the following **new** rule in lieu thereof:

821—10.2(48A) Fees. The state registrar shall charge the counties for the costs of the no-activity process, including matching the records and the printing of and postage for the mailing. The fees charged to the counties shall reflect actual costs to the state registrar.

ITEM 4. Amend rule 821—10.3(48A) as follows:

~~**821—10.3(48A) Voter record not made inactive.** The act of mailing the notice required by this chapter does not, in and of itself, make a registration record inactive. A registered voter receiving a mailing pursuant to rule 821—10.1(48A) shall be made “inactive.”~~

ITEM 5. Rescind rule **821—10.4(48A)**.

ITEM 6. Amend rule 821—12.1(48A) as follows:

821—12.1(48A) Primary and general election polling place change—voter notification required. When a change is made from the usual polling place for the precinct or when the precinct polling place used for the primary or general election is permanently changed by the county commissioner pursuant to Iowa Code section 49.10 different from that used for the precinct at the last preceding primary or general election, the county commissioner shall mail every registered voter ~~with a status of “active”~~ who is affected by the change a notification informing the voter of the change. The county commissioner may either send a notice of the change to each household at which a an impacted voter with a status of “active” is registered or send notice of the change to each registered voter ~~with a status of “active.”~~ The notification shall be sent ~~at the time the polling place change is made~~ not more than 20 nor less than 7 days before the day on which the election is to be held.

ITEM 7. Amend **821—Chapter 12**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~48A.26~~ 49.23.

ARC 5994C**ECONOMIC DEVELOPMENT AUTHORITY[261]****Adopted and Filed Emergency After Notice****Rule making related to revolving loan programs**

The Iowa Energy Center Board hereby amends Chapter 403, “Iowa Energy Center,” and Chapter 405, “Alternate Energy Revolving Loan Program,” and adopts a new Chapter 406, “Energy Infrastructure Revolving Loan Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15.120.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 619.

Purpose and Summary

Pursuant to 2021 Iowa Acts, Senate File 619, division XII, the Iowa Energy Center shall not initiate any new loans under the Alternate Energy Revolving Loan Program (AERLP) after June 30, 2021. The legislation further directs the Iowa Energy Center to establish and administer an Energy Infrastructure Revolving Loan Program (EIRLP). The purpose of the new program is to provide financial assistance to projects used for, or useful for, electricity or gas generation, transmission, storage, or distribution; electric grid modernization; energy-sector workforce development; emergency preparedness for rural and underserved areas; the expansion of biomass, biogas, and renewable natural gas; innovative technologies; and the development of infrastructure for alternative fuel vehicles. This rule making amends existing rules relating to the Iowa Energy Center Board and the AERLP and adopts new rules for implementing the new program.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 25, 2021, as **ARC 5878C**. No public comments were received.

After consultation with Board members and potential applicants for the program, the following two changes from the Notice have been made in Item 6:

1. Remove foreign-owned businesses from the list of ineligible borrowers in subrule 406.4(2).
2. Include borrower labor related to site preparation, construction, or installation as an eligible cost and clarify that other/unrelated employee salaries are not eligible costs in rule 261—406.6(15,476).

The changes allow for a greater variety of projects to access the program.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Board finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on September 30, 2021, because this rule making creates a new financial assistance program for the benefit of energy infrastructure projects.

Adoption of Rule Making

This rule making was adopted by the Board on September 30, 2021.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Fiscal Impact

These rules may increase interest income compared to the AERLP, which did not assess interest on awarded loans. These rules also allow loan forgiveness, which was not allowable under the AERLP.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on September 30, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule **261—403.2(15)**, definition of “Internet site,” as follows:

“Internet site” means the information and related content maintained by the authority and found at www.iowaeconomicdevelopment.com www.iowaeda.com. “Internet site” may include content at affiliated sites whose content is integrated with that site, ~~including the Iowa energy center website.~~

ITEM 2. Amend paragraph **403.3(5)“a”** as follows:

a. Meetings of the board are held at the call of the chairperson or when two members of the board request a meeting. The board generally meets quarterly at the authority's offices ~~located at 200 East Grand Avenue in Des Moines, Iowa.~~ By notice of the regularly published meeting agendas, the board and its committees may hold regular or special meetings at other locations within the state. Meeting agendas are available on the authority's ~~website~~ Internet site.

ITEM 3. Amend subrule 403.3(6) as follows:

403.3(6) Committees. The board may, from time to time, establish advisory committees for purposes of overseeing the center, its programs, and its operations. Such committees include but are not limited to the following:

a. A grant committee, the purpose of which shall be to assist the board in making and administering awards of grants under the center's programs.

(1) to (4) No change.

(5) Meetings of the grant committee are held at the call of the chairperson.

b. A loan committee, the purpose of which shall be to assist the board in making and administering loan awards under the center's programs, including the alternate energy revolving loan program and energy infrastructure revolving loan program.

(1) to (4) No change.

(5) Meetings of the loan committee are held at the call of the chairperson.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 4. Rescind and reserve rule **261—405.6(15)**.

ITEM 5. Adopt the following **new** rule 261—405.8(15):

261—405.8(15) Applicability after June 30, 2021.

405.8(1) Pursuant to 2021 Iowa Acts, Senate File 619, the authority shall not initiate any new loans under the alternate energy revolving loan program after June 30, 2021.

405.8(2) To the extent allowed by other provisions of law, the rules adopted in this chapter shall continue to apply to agreements entered into on or before June 30, 2021.

ITEM 6. Adopt the following **new** 261—Chapter 406:

CHAPTER 406

ENERGY INFRASTRUCTURE REVOLVING LOAN PROGRAM

261—406.1(15,476) Definitions.

“Affiliates” means any entity which directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another entity or person. “Control” as used in this definition means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an enterprise through ownership, by contract or otherwise. A voting interest of 10 percent or more creates a rebuttable presumption of control.

“Authority” means the economic development authority created in Iowa Code section 15.105.

“Board” means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2).

“Borrower” means an applicant for the program that is approved for a loan or forgivable loan.

“Energy infrastructure” means the same as defined in Iowa Code section 476.46A(3) “a” as enacted by 2021 Iowa Acts, Senate File 619, section 33.

“Iowa energy center” or *“IEC”* means the Iowa energy center created within the economic development authority pursuant to Iowa Code section 15.120.

“Loan” means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the conditions of the award.

“Loan committee” means the committee of the board established to review loan applications pursuant to 261—paragraph 403.3(6) “b.”

“Program” means the energy infrastructure revolving loan program administered pursuant to Iowa Code section 476.46A as enacted by 2021 Iowa Acts, Senate File 619, section 33, and this chapter.

“Project” means an activity or set of activities directly related to energy infrastructure, and proposed in an application by a borrower, that will result in the accomplishment of the goals of the program.

261—406.2(15,476) Policies and procedures handbook. The authority will prepare a policies and procedures handbook for the program for approval by the board. The board will review the policies and procedures handbook at least once annually and will establish its priorities for program funds. The policies and procedures shall include the amount of program funds to be allocated for each application cycle, scoring criteria to be used if the demand for loans exceeds the amount allocated for any application cycle, and the applicable interest rate or rates for approved loans. The policies and procedures handbook may include additional limitations and expectations for specific eligible project types.

261—406.3(15,476) Loan amounts and terms.

406.3(1) The minimum loan amount is \$50,000 per project.

406.3(2) The board shall not lend more than 75 percent of total project costs for any project type. For purposes of determining the amount the board may lend pursuant to this subrule, total project costs include eligible costs pursuant to subrule 406.6(1) as well as feasibility studies, engineering and final design, permitting and regulatory costs, or other costs determined by the board to be necessary to the development of energy infrastructure. The board may determine a higher percentage of funds that must

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

be matched by the borrower that is applicable to specific project types as outlined in the policies and procedures approved pursuant to rule 261—406.2(15,476).

406.3(3) The board shall not issue a loan that exceeds the value of the collateral provided.

406.3(4) The board will accept security for a loan. The following forms of collateral will be accepted:

- a. Real property.
- b. Dedicated certificate of deposit.
- c. Irrevocable letter of credit.
- d. Corporate guarantee.
- e. Utility revenue or reserve funds, if applicable.
- f. Other forms of collateral if approved by the board, and only if the forms of collateral listed in paragraphs 406.3(4) “a” to “e” are inadequate.

406.3(5) The board may consider the borrower’s credit rating in determining what form of collateral is acceptable.

406.3(6) The duration of the loan shall not be more than 15 years. If applicable, the board may consider the projected payback date of the project in determining the duration of the loan.

406.3(7) The interest rate shall not exceed the Wall Street Journal prime rate as of the date of approval.

261—406.4(15,476) Eligible and ineligible borrowers.

406.4(1) *Eligible borrowers.* Eligible borrowers include:

- a. Businesses incorporated or organized in Iowa or authorized to do business in Iowa, including businesses operated as sole proprietorships with a registered trade name;
- b. Rural electric cooperatives; and
- c. Municipal utilities.

406.4(2) *Ineligible borrowers.* Ineligible borrowers include:

- a. A business that is not located in or operating in Iowa. A business that will be located and operating in Iowa upon completion of an eligible project may be eligible.
- b. An individual or an organization with a history of defaulted loans or compliance violations with other state programs or rules.
- c. Regents institutions.
- d. Community colleges.
- e. State agencies.
- f. Cities, except municipal utilities that are eligible borrowers pursuant to paragraph 406.4(1) “c.”
- g. Counties.
- h. School districts.
- i. Nonprofit organizations.

261—406.5(15,476) Eligible and ineligible projects.

406.5(1) A proposed project must meet the following criteria to be eligible for a loan under this program:

a. The project shall be located in Iowa or be for the primary use or benefit of Iowans. If any portion of the project is located outside of Iowa, the applicant bears the burden of demonstrating that the project as a whole will be for the primary use or benefit of Iowans.

b. The project shall develop energy infrastructure as defined in Iowa Code section 476.46A(3) “a” as enacted by 2021 Iowa Acts, Senate File 619, section 33.

c. The borrower shall be the owner, contract purchaser, lessee, or other interest holder of the real property where the project is located.

406.5(2) A project that generates energy for use only at a borrower’s personal residence is not an eligible project.

261—406.6(15,476) Eligible and ineligible costs.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

406.6(1) *Eligible costs.* Examples of project costs that are eligible for financial assistance include, but are not limited to:

- a. Real and personal property comprising a project.
- b. Materials and equipment required for necessary site preparation, construction and installation of a project.
- c. Labor for site preparation, construction and installation of a project.
- d. Costs associated with maintenance, operation or repair of a project during the term of the loan.

406.6(2) *Ineligible costs.* Examples of project costs that are not eligible for financial assistance include, but are not limited to:

- a. Administrative costs or employee salaries of the borrower or any affiliates that are not associated with site preparation, construction and installation of a project.
- b. Costs incurred prior to the committee's recommendation to approve a loan. Costs incurred prior to the committee's recommendation may be eligible for assistance if the borrower demonstrates the necessity to begin incurring costs sooner.
- c. Feasibility studies.
- d. Engineering and final design.
- e. Permitting or regulatory costs.
- f. Other costs that the board determines to be ineligible.

261—406.7(15,476) Application process.

406.7(1) Application forms shall be available at iowagrants.gov.

406.7(2) Applications will be accepted only during the established application periods identified by the authority on its Internet site at www.iowaeda.com.

406.7(3) Authority staff will review applications for completeness, eligibility, and whether the proposed project meets the financial and technical requirements of the Iowa energy center. The authority or board may engage outside reviewers to complete technical, financial, or other reviews of applications beyond the expertise of the board and authority staff.

406.7(4) Authority staff will recommend applications to the loan committee established by the board. The Iowa energy center may request additional information from applicants to process each loan application. The loan committee will review the applications and staff recommendations and then make recommendations to the board. The board will approve, defer, or deny applications for loans. Authority staff may negotiate the amount, terms, and other conditions of each loan before an award is approved.

406.7(5) The board will accept loan applications on a rolling basis. The board will make funding decisions at least once each quarter.

261—406.8(15,476) Administration.

406.8(1) *Notice of approval or denial.* The authority will notify applicants in writing of the board's approval or denial of an application. If the application is approved, the notice will include any conditions and terms of the loan.

406.8(2) *Contract.* After notifying the borrower of an award, the authority will offer a contract to the borrower. The contract shall be between the Iowa energy center and the borrower. An award shall not constitute a binding contract.

406.8(3) *Transmittal.* The borrower must execute and return the contract to the authority within 90 days of the transmittal of the final contract from the authority. Failure to do so may be cause for the board to terminate the award.

406.8(4) *Disbursement of funds.* Borrowers shall submit requests for disbursement of funds on the forms provided by the authority.

406.8(5) *Amendment.* Any substantive change to the scope of work for a project or request to renegotiate loan terms shall require an amendment to the contract. The board may consider requests for loan forgiveness if the borrower demonstrates forgiveness is necessary to avoid a negative material impact on the project or potential default. The borrower shall request amendments in writing. No

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

amendment shall be valid until approved by the board. The authority may execute nonsubstantive or ministerial changes to the contract without board approval.

406.8(6) *Closeout.* Upon contract expiration or project completion, the authority shall initiate project closeout procedures.

406.8(7) *Record keeping and retention.* Borrowers shall retain all financial records, supporting documents and all other records pertinent to the loan for three years after the contract is closed or the loan is put in default and is not cured.

406.8(8) *Reporting and compliance.* The borrower shall complete all reports required by the contract executed pursuant to subrule 406.8(2). The authority reserves the right to conduct site visits of all awarded projects to ensure the projects were built as proposed and to provide verification of ongoing operation. The authority will monitor all loans to ensure that loan proceeds have been spent as identified in the contract and that all other sources of financing have been committed to the project.

406.8(9) *Default.*

a. At any time during the project or the repayment of the loan, the authority may find that a borrower is in default under the terms of the loan contract. The authority will take prompt, appropriate, and aggressive debt collection action to recover any funds misspent by borrowers.

b. If the authority determines that a borrower is in default, the authority may seek recovery of the loan plus interest or other penalties, negotiate alternative payment schedules, suspend or discontinue collection efforts and take other action as the authority deems necessary.

c. The authority shall attempt to collect the amount owed. Any negotiated settlement, write-off, or discontinuance of collection efforts is subject to final review by and approval of the board.

d. If the authority refers a defaulted contract to outside counsel for debt collection, then the terms of the contract between the authority and the outside counsel regarding the scope of counsel's authorization to accept settlements shall apply.

These rules are intended to implement Iowa Code section 15.120 and section 476.46A as enacted by 2021 Iowa Acts, Senate File 619.

[Filed Emergency After Notice 9/30/21, effective 9/30/21]

[Published 10/20/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/20/21.

ARC 5993C**ADMINISTRATIVE SERVICES DEPARTMENT[11]****Adopted and Filed****Rule making related to capitol complex operations**

The Administrative Services Department hereby amends Chapter 100, “Capitol Complex Operations,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 8A.104, 17A.3 and 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 756.

Purpose and Summary

This amendment is adopted as a result of changes made to Iowa Code section 8A.322 by 2021 Iowa Acts, House File 756, division II. The change means a valid permit to carry weapons is no longer necessary as it pertains to pistols and revolvers in the Capitol Building and on the grounds surrounding the Capitol Building, including state parking lots and parking garages. The amendment to subrule 100.2(2), striking the reference to a valid permit, is intended to comport with 2021 Iowa Acts, House File 756.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 16, 2021, as **ARC 5718C**. A public hearing was held on July 6, 2021, at 10 a.m. in the Procurement Conference Room, A Level, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on September 20, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

The Department will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department’s rules concerning waivers.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Effective Date

This rule making will become effective on November 24, 2021.

The following rule-making action is adopted:

Amend rule 11—100.2(8A) as follows:

11—100.2(8A) Security.

100.2(1) No change.

100.2(2) Pistols and revolvers. No person, other than a peace officer, may openly carry a pistol or revolver in the capitol building and on the grounds surrounding the capitol building including state parking lots and parking garages. This provision does not preclude the lawful carrying, transportation, or possession of a pistol or revolver in the capitol building and on the grounds surrounding the capitol building including the state parking lots and parking garages ~~by a person who displays to capitol security personnel a valid permit to carry weapons upon request.~~

Violation of this subrule is a simple misdemeanor, pursuant to Iowa Code section 8A.322, and may result in the denial of access to a state building, filing of criminal charges or expulsion from the grounds of the capitol complex, or any combination thereof, of any individual who knowingly violates the subrule. In addition, any weapon found in possession of a member of the public in violation of this subrule may be confiscated. Charges may be filed under any other criminal statute if appropriate. Officers employed by or under the supervision of the department of public safety shall have the authority to enforce this subrule. Peace officers employed by other agencies shall have the authority to enforce this subrule at the request of the commissioner of public safety or in response to a request for assistance from an officer employed by the department of public safety.

100.2(3) to 100.2(5) No change.

[Filed 9/30/21, effective 11/24/21]

[Published 10/20/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/20/21.

ARC 5976C

ENVIRONMENTAL PROTECTION COMMISSION[567]**Adopted and Filed****Rule making related to certified operators of wastewater treatment plants, water treatment plants, and water distribution systems**

The Environmental Protection Commission (Commission) hereby amends Chapter 81, "Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 272C.10 and 455B.222.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 272C.1(6)“x,” 272C.10(5) and 455B.213.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Purpose and Summary

This rule making aligns Chapter 81 with Iowa Code chapter 272C as amended by 2020 Iowa Acts, House File 2627, division I (effective January 1, 2021). Iowa Code chapter 272C regulates certain licensed or certified professions, including water treatment operators in Iowa Code section 272C.1(6)“x.” Previously, Iowa Code section 272C.10(5) held that a felony conviction was grounds for the revocation or suspension of a certification so long as the felony was directly related to the profession. Chapter 81 was consistent with this standard.

House File 2627 expanded the law. Now, a directly related lesser criminal conviction which is from a different state, territory, or country which if committed in Iowa would be a felony is also grounds for revocation or suspension. The Commission is amending Chapter 81 to reflect this change.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 28, 2021, as **ARC 5814C**. Written comments were accepted until August 17, 2021. The Commission received one comment from the Iowa Association of Municipal Utilities in support of the rule making. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on September 21, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department of Natural Resources (Department) upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

This rule making adopts statutory provisions. Pursuant to Iowa Code section 17A.9, no waiver of these rules is allowed.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 24, 2021.

The following rule-making action is adopted:

Amend paragraph **81.17(1)“h”** as follows:

h. Conviction of a ~~felony related to the profession or occupation of the licensee. A copy of the record of conviction or plea of guilty shall be conclusive evidence.~~ criminal offenses directly related

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

to the profession or occupation of the operator, consistent with Iowa Code sections 272C.1(8) and 272C.10(5).

[Filed 9/24/21, effective 11/24/21]

[Published 10/20/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/20/21.

ARC 5992C

INSURANCE DIVISION[191]

Adopted and Filed

Rule making related to viatical and life settlement reporting requirements

The Insurance Division hereby amends Chapter 48, "Viatical and Life Settlements," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 508E.19.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 508E.6.

Purpose and Summary

This rule making clarifies the requirements of the annual report for viatical settlement providers and adds a late fee of \$100. There are 13 licensed viatical settlement providers, and the Division has received seven late reports in the past two years. The goal of this rule making is to make the annual reports more uniform and to discourage late filing.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 25, 2021, as **ARC 5875C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by Douglas Ommen, Iowa Insurance Commissioner, on September 29, 2021.

Fiscal Impact

The fiscal impact cannot be calculated at this time. The goal of imposing a late fee is to encourage compliance with the filing deadline. If the addition of the late fee has its intended effect, the fiscal impact will be zero.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

INSURANCE DIVISION[191](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 24, 2021.

The following rule-making action is adopted:

Amend rule 191—48.7(508E) as follows:

191—48.7(508E) Reporting requirements. Pursuant to Iowa Code section 508E.6, on or before March 1 of each year, the secretary and either the president or the vice president of each viatical settlement provider licensed in this state shall submit, under oath, an annual statement report for the immediately preceding calendar year.

~~48.7(1) Transaction information. On March 1 of each calendar year, the secretary and either the president or the vice president of each viatical settlement provider licensed in this state shall submit, under oath, the following: the annual statement required by Iowa Code section 508E.6; a report of all viatical settlement transactions in which the viator is a resident of this state; and a report for all states in the aggregate. The annual statement report shall contain the following transaction information for the previous calendar year all viatical settlement transactions in which the viator is a resident of this state:~~

~~a. The following information pursuant to Iowa Code section 508E.6:~~

- ~~(1) Total number of transactions;~~
~~(2) Aggregate face amount of all policies; and~~
~~(3) Total proceeds of policies settled;~~

~~a. b. For viatical settlements contracted during the reporting period:~~

~~(1) to (12) No change.~~

~~b. c. For viatical settlements in which death of the insured has occurred during the reporting period:~~

~~(1) to (10) No change.~~

~~e. d. Name and address of each viatical settlement broker through whom the reporting company purchased a policy from a viator who resided in this state at the time of contract;~~

~~e. Name of the insurance companies whose policies have been settled;~~

~~a. f. Number of policies reviewed and rejected; and~~

~~e. g. Number of policies purchased from persons other than a viator (on the secondary market) as a percentage of total policies purchased.~~

~~48.7(2) Additional required information. On or before March 1 of each year, the secretary and either the president or the vice president of each viatical settlement provider licensed in this state shall make a report under oath of the following or shall provide the following documentation The annual statement report shall also contain the following documentation and statements:~~

~~a. to c. No change.~~

~~d. Transaction information as identified in subrule 48.7(1) for all states.~~

48.7(3) Form. The annual statement report shall be submitted in a format prescribed by the commissioner.

INSURANCE DIVISION[191](cont'd)

48.7(4) Late fee. A viatical settlement provider that fails to timely file the annual statement report pursuant to this rule shall pay a late fee of \$100.

[Filed 9/29/21, effective 11/24/21]

[Published 10/20/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/20/21.

ARC 5977C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rule making related to boilers and pressure vessels

The Boiler and Pressure Vessel Board hereby amends Chapter 80, "Boiler and Pressure Vessel Board Administrative and Regulatory Authority," Chapter 81, "Waivers or Variances from Administrative Rules by the Boiler and Pressure Vessel Board," Chapter 82, "Boiler and Pressure Vessel Board Petitions for Rule Making," Chapter 83, "Declaratory Orders by the Boiler and Pressure Vessel Board," Chapter 84, "Contested Cases Before the Boiler and Pressure Vessel Board," Chapter 85, "Public Records and Fair Information Practices of the Boiler and Pressure Vessel Board," Chapter 90, "Administration of the Boiler and Pressure Vessel Program," Chapter 91, "General Requirements for All Objects," and Chapter 94, "Steam Heating Boilers, Hot Water Heating Boilers and Hot Water Supply Boilers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 89.14(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 89 and 2020 Iowa Acts, House File 2389.

Purpose and Summary

The Board is required by Iowa Code section 89.14(7) to review all boiler and pressure vessel rules every three years. Many of the adopted amendments are the result of that systematic review. Additional amendments were prompted by the passage of 2020 Iowa Acts, House File 2389, which amended the Administrative Procedure Act.

These amendments update the office address and code references; set forth the requirement to submit petitions for rule making and their disposition to the Administrative Rules Review Committee; set forth the requirement to enter information about waiver petitions and their disposition in the Legislative Services Agency's website; strike references to "variance" and "reinstallation"; align fall protection language with current occupational safety and health standards; facilitate email communications between the Board and a petitioner for rule making; strike redundant language; eliminate inconsistencies in the use of the phrase "hot water supply boiler"; reduce the time for filing an inspection report from 30 days to 14 days; make extensive changes to the definitions; elaborate on procedures in the event of an imminent danger, on the types of conditions to be included on inspection reports, and on requirements for discharge piping; require that control and safety device reports, which must already be prepared and kept available for inspectors, also be sent to the Division of Labor Services; require a hydrostatic test and an internal inspection to be performed before a temporary object is put into operation; and adopt new rules concerning repairs, plugging leaky tubes, and the condition and maintenance of equipment rooms. Carbon monoxide detectors are already required in boiler rooms, and Item 34 sets forth specific requirements for carbon monoxide detectors. In order to make the requirements more accessible to

LABOR SERVICES DIVISION[875](cont'd)

users, some of the amendments place directly into rules requirements that are currently adopted by reference.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 28, 2021, as **ARC 5806C**. No public comments were received. Since publication of the Notice, one change has been made. In Item 32, the word “services” has been inserted after “division of labor” in paragraph 91.8(1)“d.” No other changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on September 23, 2021.

Fiscal Impact

A limited amount of maintenance in state buildings may be required.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 81.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 24, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 875—80.5(89) as follows:

875—80.5(89) Official communications. All official communications, including submissions and requests, shall be addressed to the Boiler and Pressure Vessel Board, Department of Workforce Development, Division of Labor Services, ~~4000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309.

ITEM 2. Amend **875—Chapter 81**, title, as follows:

~~WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES~~
BY THE BOILER AND PRESSURE VESSEL BOARD

ITEM 3. Amend rule 875—81.3(17A,89), introductory paragraph, as follows:

875—81.3(17A,89) Criteria for waiver ~~or variance~~. In response to a petition completed pursuant to this chapter, the board may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule as applied to an identified person on the basis of the particular circumstances of that person if the board finds, based on clear and convincing evidence, all of the following:

LABOR SERVICES DIVISION[875](cont'd)

ITEM 4. Amend subrule 81.4(3) as follows:

81.4(3) Filing petition. A petition is deemed filed when it is received in the board's office. A petition and related materials for consideration should be sent to the Boiler and Pressure Vessel Board, Department of Workforce Development, Division of Labor Services, ~~4000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa 50319 50309.

ITEM 5. Amend rule 875—81.5(17A,89), introductory paragraph, as follows:

875—81.5(17A,89) Content of petition. The required form for a petition for waiver ~~or variance~~ is available on the board's website at iwaboilers.gov. A petition for waiver shall include the following information where applicable and known to the petitioner:

ITEM 6. Rescind rule 875—81.12(17A,89) and adopt the following **new** rule in lieu thereof:

875—81.12(17A,89) Submission of waiver information. Information about all orders granting or denying a waiver petition shall be submitted by the board staff to the legislative services agency through the designated Internet site within 60 days of granting or denying the petition. The information submitted is available to the public via the website.

ITEM 7. Amend subrules 82.1(6) and 82.1(7) as follows:

82.1(6) The petition must be dated and signed by the petitioner or the petitioner's representative. The petition must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed. If desired, the petition should also provide an email address and a statement that email is an acceptable method for communication.

82.1(7) The board may deny a petition because it does not provide the required information. ~~The petitioner may file a new petition on the same subject that seeks to eliminate the grounds for the board's rejection.~~

ITEM 8. Amend rule 875—82.3(17A,89) as follows:

875—82.3(17A,89) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the Boiler and Pressure Vessel Board, Department of Workforce Development, Division of Labor Services, ~~4000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa 50319 50309.

ITEM 9. Amend subrule 82.4(3) as follows:

82.4(3) Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board shall deny the petition in writing and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that the board will institute rule-making proceedings on the subject of the petition. Notice shall be sent by the board office to the petitioner by regular mail or email if appropriate. Petitioner shall be deemed notified of the denial or granting of the petition on the date the board office mails the required notification to the petitioner. Copies of the petition and the document granting or denying the petition shall be sent to the administrative rules review committee.

ITEM 10. Amend rule 875—83.5(17A,89) as follows:

875—83.5(17A,89) Inquiries. Inquiries concerning the status of a declaratory order may be made ~~at the board office~~ to the Boiler and Pressure Vessel Board, Division of Labor Services, 150 Des Moines Street, Des Moines, Iowa 50309.

ITEM 11. Amend paragraph **84.10(5)“d”** as follows:

d. A certification in substantially the following form:

LABOR SERVICES DIVISION[875](cont'd)

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Boiler and Pressure Vessel Board, Department of Workforce Development, Division of Labor Services, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309, and to the names and addresses of the parties listed below by depositing the same in a United States post office mailbox with correct postage properly affixed.

(Date)

(Signature)

ITEM 12. Amend subrule 85.3(1) as follows:

85.3(1) Address. The board's ~~mailing~~ address is Boiler and Pressure Vessel Board, Department of Workforce Development, Division of Labor Services, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309. ~~The board's staff is located at 150 Des Moines Street, Des Moines, Iowa.~~

ITEM 13. Amend subrule 85.3(3) as follows:

85.3(3) Request for access. Requests for access to open records may be made in writing, in person, by facsimile, ~~E-mail~~ email, or other electronic means, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail, electronic, or telephone requests shall include the name, address, and telephone number of the person requesting the information to facilitate the board's response. A person shall not be required to give a reason for requesting an open record. ~~While agencies are not required by Iowa Code chapter 22 to respond to requests for public records that are not made in person, the board will respond to such requests as reasonable under the circumstances.~~

ITEM 14. Amend paragraph **85.3(7)“b”** as follows:

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the board shall be ~~prominently posted~~ available in board offices. Copies of records may be made by or for members of the public on board photocopy machines or from electronic storage systems at cost as determined and posted in board offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

ITEM 15. Amend rule 875—85.6(22,89) as follows:

875—85.6(22,89) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any board proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the ~~board at the~~ Boiler and Pressure Vessel Board, Department of Workforce Development, Division of Labor Services, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed by requester, and shall include the current address and telephone number of the requester or the requester's representative.

ITEM 16. Amend paragraph **85.12(2)“b”** as follows:

b. Minutes and tapes of closed meetings of the board. (Iowa Code section ~~21.5(4)~~ 21.5(5))

ITEM 17. Amend subrule 85.15(2) as follows:

85.15(2) Board records. Agendas, minutes, and materials presented to the board members in preparation for board meetings are available from the board office, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section ~~21.5(4)~~ 21.5(5). Board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is stored on paper and electronically.

LABOR SERVICES DIVISION[875](cont'd)

ITEM 18. Rescind the definitions of “Alteration,” “Hot water supply boiler” and “Reinstallation” in rule **875—90.2(89,252J,272D)**.

ITEM 19. Amend rule **875—90.2(89,252J,272D)**, definitions of “Electric boilers,” “External inspection,” “Internal inspection,” “National Board,” “National Board Inspection Code” and “Unfired steam pressure vessel,” as follows:

“*Electric boilers boiler*” means a power boiler, heating boiler, high or low temperature water boiler in which the source of heat is electricity.

“*External inspection*” means ~~as a complete an examination as can be reasonably~~ made of the external surfaces and safety devices while the boiler or pressure vessel object is in operation, unless the object is required to be shut down pursuant to 875—subrule 89.3(4).

“*Internal inspection*” means as complete an examination as can be reasonably made of the internal ~~and external~~ surfaces of a boiler or pressure vessel an object while it is shut down and while access for examination is attained through the removal of any manhole plates, handhole plates ~~or other inspection opening closures are removed as required by the inspector,~~ blind flanges, piping spools or fittings attached to the object. A determination that an examination cannot be reasonably made shall not be based on a failure of the owner or user to provide clearance pursuant to rule 875—91.10(89) or on failure of the owner or user to provide for the inspector’s safety and health as described in 875—Chapters 90 and 91.

“*National Board*” means the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the chief inspectors of jurisdictions who are charged with the enforcement of the provisions of boiler codes. The National Board’s website is nationalboard.org.

“*National Board Inspection Code*” or “*NBIC*” means the Manual for Boiler and Pressure Vessel Inspectors (ANSI/NB 23) published by the National Board. Copies of the code may be obtained from the National Board.

“*Unfired steam pressure vessel*” means a vessel or container used for the containment of steam pressure either internal or external in which the pressure is obtained from an external source. “Unfired steam pressure vessel” may include items such as expansion tanks, flash tanks, and condensate return tanks.

ITEM 20. Adopt the following **new** definitions in rule **875—90.2(89,252J,272D)**:

“*Alteration*” means a change in the object described on the original manufacturer’s data report that affects the pressure-retaining capability of the pressure-retaining object. A nonphysical change such as an increase in the maximum allowable working pressure (internal or external), an increase in design temperature, or a reduction in minimum temperature of a pressure-retaining item shall be considered an alteration.

“*CSD-1 report*” means Manufacturer’s/Installing Contractor’s Report for ASME CSD-1.

“*Exit*” means a doorway, hallway, or similar passage that will allow free, normally upright unencumbered egress from an area.

“*Hot water supply boiler*” means a boiler that:

1. Operates at a pressure not exceeding 160 psig;
2. Furnishes hot water to be used externally to itself; and, either:
 - Bears a National Board “H” stamp and has a temperature less than or equal to 250°F at or near the boiler outlet, or,
 - Bears a National Board “HLW” stamp and has a temperature less than or equal to 210°F at or near the boiler outlet.

“*Installation*” means the process by which an object is connected to a system for operation. This applies to all objects whether they are new, used, or being brought back to service after being removed.

“*Miniature boiler*” means a boiler that does not exceed a 16-inch inside shell diameter, 20 square feet of heating surface (not applicable to electric boilers), 5 cubic feet of gross volume (exclusive of casing and insulation), and 100 psig maximum allowable working pressure.

“*OEM*” means original equipment manufacturer.

LABOR SERVICES DIVISION[875](cont'd)

“*Owner or user*” means any person, firm, or corporation legally responsible for the installation, operation, and maintenance of any object within the jurisdiction.

“*Safe point of discharge*” means the same as in the National Board Inspection Code: a location that will not cause property damage, cause equipment damage, or create a health or safety threat to personnel in the event of discharge.

“*Temporary object*” means a boiler, unfired steam pressure vessel, or combination thereof that is not a permanent fixture or part of normal operation of the facility.

ITEM 21. Amend paragraph **90.6(2)“c”** as follows:

c. Special inspections may be conducted ~~at any time mutually agreed to~~ when deemed necessary by the division and the object’s owner or user.

ITEM 22. Amend subrule 90.6(3) as follows:

90.6(3) *Inspections conducted by special inspectors.* Special inspectors shall provide copies of the completed report to the insured and to the division ~~within 30~~ 14 days of completing the inspection. The reports shall list all ~~adverse~~ noteworthy conditions that are within the scope of Iowa Code chapter 89, all recommendations, and all requirements, if any. If the special inspector has not ~~notified the division of provided the inspection results of the inspection~~ within 30 days of the expiration of an operating certificate the time frame identified, the division may conduct the inspection.

ITEM 23. Amend subrule 90.6(7) as follows:

90.6(7) *Imminent danger.*

a. If the labor commissioner determines that continued operation of an object constitutes an imminent danger that could seriously injure or cause death to any person, notice to immediately cease operation of that object shall be ~~posted by the labor commissioner~~ made to the owner or user through contact information available in the division’s records or by posting a notice at the location of the object.

b. Upon such notice, the owner or user shall immediately ~~begin~~ take the necessary steps to cease operation of the object. All forms of energy to and from the object must be isolated and physically locked in the closed position.

c. A division inspector will verify that the object is no longer in operation and all forms of energy to and from the object have been isolated and are locked in the closed position.

d. The object shall not be used until ~~the~~ all necessary repairs have been completed, ~~and~~ the object has passed inspection, all repair documentation is complete, and the division reviews and approves the documentation.

e. Operation of an object in violation of this subrule may result in further legal action pursuant to Iowa Code sections 89.11 and 89.13.

ITEM 24. Amend subrule 90.11(1), introductory paragraph, as follows:

90.11(1) *Control and safety device reports.* Documentation required by this subrule shall be kept on site and shall be available for inspection by the division or special inspectors. The owner or user shall mail a copy of the documentation required by this subrule to the division.

ITEM 25. Amend paragraph **90.11(1)“b”** as follows:

b. The installer shall complete a ~~Manufacturer’s/Installing Contractor’s Report for ASME CSD-1 (CSD-1 report)~~ CSD-1 report for each ~~newly installed or reinstalled~~ object.

ITEM 26. Amend rule 875—90.12(89) as follows:

875—90.12(89) Publications available for review. Pursuant to Iowa Code section ~~89.5, subsection 3~~ 89.5(3), the standards, codes, and publications adopted by reference in these rules are available for review in the office of the Division of Labor Services, ~~4000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa.

ITEM 27. Rescind rule 875—90.14(89) and adopt the following new rule in lieu thereof:

875—90.14(89) Temporary objects.

LABOR SERVICES DIVISION[875](cont'd)

90.14(1) Certificate to operate. A certificate to operate a temporary object shall expire one year from the date of issuance or when the temporary object is disconnected.

90.14(2) Inspections.

a. An internal inspection and hydrostatic test pursuant to the National Board Inspection Code shall be performed on site at a new location before a temporary object is started up. Once a temporary object has been placed into normal operation, an external operating inspection shall be performed.

b. An inspection on a temporary object that remains at the same location and is in continuous service longer than one year shall be performed according to the inspection schedule of Iowa Code section 89.3.

ITEM 28. Adopt the following **new** rule 875—90.16(89):

875—90.16(89) Definitions regarding objects. The following definitions shall govern classification and status of objects in Iowa. To the extent they do not conflict with the definitions contained in Iowa Code chapter 89, the definitions in this rule shall be applicable to the rules contained in 875—Chapters 90 to 96.

“*Active status*” means an object is physically attached to the system and any forms of potential energy. The object may or may not be in operation.

“*Exempt status*” means an object that is not required to be inspected pursuant to Iowa Code chapter 89.

“*Inactive status*” means the object is no longer in operation and all forms of potential energy have been disconnected in a manner that creates an air gap.

“*Modular boiler*” means a steam or hot water heating assembly consisting of a group of individual boilers called modules intended to be installed as a unit with no intervening stop valves. Modules may be under one jacket or individually jacketed. The individual modules shall be limited to a maximum input of 400,000 Btu/hour (117kW) (gas), 3 gph (11.4 L/h) (oil), or 115kW (electric).

“*Scrapped status*” means the object has been permanently destroyed and is no longer physically at the location.

ITEM 29. Amend subrules 91.1(3) to 91.1(11) as follows:

91.1(3) Inspection code adopted by reference. The National Board Inspection Code (2019) is adopted by reference, and ~~reinstallations~~, installations, alterations, and repairs after April 15, 2020, shall comply with it.

91.1(4) Electric code adopted by reference. The National Electrical Code (2020) is adopted by reference, and ~~reinstallations~~ and installations after April 15, 2020, shall comply with it.

91.1(5) Piping codes adopted by reference. The Power Piping Code, ASME B31.1 (2018), and the Building Services Piping Code, ASME B31.9 (2017), are adopted by reference, and ~~reinstallations~~ and installations after April 15, 2020, shall comply with them up to and including the first valve.

91.1(6) Control and safety device code adopted by reference. Controls and Safety Devices for Automatically Fired Boilers (CSD-1) (2018) is adopted by reference, and ~~reinstallations~~ and installations after April 15, 2020, shall comply with it. Reporting requirements concerning CSD-1 are set forth at rule 875—90.11(89).

91.1(7) Mechanical code adopted by reference. Excluding Section 701.1, Chapters 2 and 7 of the International Mechanical Code (IMC) (2018) are adopted by reference, and installations and ~~reinstallations~~ after September 1, 2018, shall comply with them.

91.1(8) Oil burning equipment code adopted by reference. National Fire Protection Association Standard for the Installation of Oil Burning Equipment, NFPA 31 (2016), is adopted by reference, and installations and ~~reinstallations~~ after September 1, 2018, shall comply with it.

91.1(9) Fuel gas code adopted by reference. National Fire Protection Association National Fuel Gas Code, NFPA 54 (2018), is adopted by reference, and installations and ~~reinstallations~~ after September 1, 2018, shall comply with it.

LABOR SERVICES DIVISION[875](cont'd)

91.1(10) *Liquefied petroleum gas code adopted by reference.* National Fire Protection Association Liquefied Petroleum Gas Code, NFPA 58 (2020), is adopted by reference, and installations ~~and~~ ~~reinstallations~~ after April 15, 2020, shall comply with it.

91.1(11) *Boiler and combustion systems hazards code adopted by reference.* National Fire Protection Association Boiler and Combustion Systems Hazards Code, NFPA 85 (2019), is adopted by reference, and installations ~~and~~ ~~reinstallations~~ after April 15, 2020, shall comply with it.

ITEM 30. Amend rule 875—91.2(89) as follows:

875—91.2(89) Safety appliance.

91.2(1) No person shall remove, disable or tamper with a required safety appliance except for the purpose of repair or inspection.

91.2(2) An object shall not be operated unless all ~~applicable~~ required and installed safety appliances are properly functional and operational.

ITEM 31. Amend rule 875—91.5(89) as follows:

875—91.5(89) Location of discharge piping outlets. The discharge from safety valves, safety relief valves, blowoff pipes and other outlets shall ~~be so arranged that there will be no danger of scalding personnel.~~ comply with the following:

91.5(1) The discharge piping shall terminate at a safe point of discharge.

91.5(2) When the safety valve or temperature and pressure relief valve discharge is piped away from the object to ~~the~~ a safe point of discharge, provision shall be made for properly draining the piping.

91.5(3) The size of the discharge piping shall not be reduced from the size of the relief valve.

91.5(4) All discharge piping shall be comprised of appropriate metallic material identified in ASME Section II.

ITEM 32. Adopt the following new rules 875—91.7(89) and 875—91.8(89):

875—91.7(89) Repairs and alterations to unfired steam pressure vessels. No single repair of an unfired steam pressure vessel shall involve replacement of more than 50 percent of the OEM's pressure-retaining boundary.

875—91.8(89) Plugging boiler tubes. This rule does not apply to tubes in headers of economizers, evaporators, superheaters, or reheaters.

91.8(1) *General requirements.*

a. Leaky tubes shall be replaced or plugged.

b. Tube plugs shall be made of a material which is compatible with the material of the boiler tube being plugged and shall be welded into place or manufactured to be expanded into the tube sheet or drum.

c. All plugged boiler tubes shall be replaced prior to the next required certificate inspection.

d. The maximum number of tubes that shall be plugged is the lesser of the number specified by the OEM or the number specified by an engineer experienced in boiler design. Documentation of the maximum number of tubes that may be plugged as determined by the OEM or engineer shall be kept on site, and a copy shall be mailed to the division of labor services.

91.8(2) *Fire tube boilers.* In a fire tube boiler, a tube that is adjacent to a plugged tube shall not be plugged.

91.8(3) *Water tube boilers, unfired boilers, or process steam generators.* To determine the maximum number of tubes that may be plugged in a water tube boiler, unfired boiler, or process steam generator, an engineer experienced in boiler design shall consider the operational effect on the water side pressure boundary or membrane and the effect on the combustion process throughout the boiler. Water wall tubes may not be plugged if the tubes form a separation wall between products of combustion and the outside atmosphere or a separation of the gas passes in a multiple gas pass boiler.

LABOR SERVICES DIVISION[875](cont'd)

ITEM 33. Rescind rule 875—91.10(89) and adopt the following **new** rule in lieu thereof:

875—91.10(89) Equipment room. This rule applies to existing and new installations except as noted in subrule 91.10(1).

91.10(1) Clearances.

a. All objects installed after December 1, 2021, shall be installed with the clearances identified in NBIC Part 1.

b. This paragraph applies to objects installed after September 20, 2006, and before December 1, 2021. Minimum clearance on all sides of objects shall be 24 inches, or the manufacturer's recommended service clearances if they allow sufficient room for inspection. Where a manufacturer identifies in the installation manual or other document that the unit requires more than 24 inches of service clearance, those dimensions shall be followed. Manholes shall have five feet of clearance between the manhole opening and any wall, ceiling or piping that would hinder entrance or egress from the object.

c. All objects installed prior to September 20, 2006, shall be so located that adequate space is provided for the proper operation, inspection, and necessary maintenance and repair of the object and its appurtenances.

91.10(2) Condition of the equipment room.

a. The roof, walls and floor of the equipment room shall be free from leaks and structurally sound.

b. The equipment room shall have drainage adequate to remove standing water from the floor.

c. The equipment room shall be free from materials that obstruct access to the objects, their setting, or operation.

d. Storage of flammable material or gasoline-powered equipment in the equipment room is prohibited.

91.10(3) Exit from equipment room. This subrule shall apply to an equipment room exceeding 500 square feet of floor area, containing at least one object, and containing fuel-burning equipment with at least a combined capacity of 1,000,000 Btu per hour or the equivalent electrical heat input. Two means of exit located remotely from one another shall be provided on each elevation for covered equipment rooms. A platform at the top of a single object or other equipment is not considered an elevation.

91.10(4) Carbon monoxide detector or alarm. The owner or user shall install a carbon monoxide detector or alarm in an equipment room where one or more fuel-fired objects are located.

a. The carbon monoxide detector or alarm shall have a visible display showing the parts per million value of the carbon monoxide that is detected.

b. The carbon monoxide detector or alarm shall be hardwired to the building power and shall have a battery backup with visible and audible alarms that identify when the battery backup power supply is low.

c. The carbon monoxide detector or alarm shall be tested daily and shall be calibrated in accordance with the manufacturer's recommendations, or every 18 months after installation of the detector. The testing and calibration shall be recorded in a log book that is readily accessible to the inspectors and owner's staff.

d. The carbon monoxide detector or alarm shall have visible and audible alarms capable of being heard and seen both inside and outside of the equipment room.

ITEM 34. Rescind rule 875—91.11(89) and adopt the following **new** rule in lieu thereof:

875—91.11(89) Fall protection. The owner or user shall provide safe access to object parts over four feet high consistent with 29 CFR Subpart D, Walking-Working Surfaces, and 29 CFR 1910.140, Personal Fall Protection Systems.

ITEM 35. Rescind and reserve rule **875—91.12(89)**.

ITEM 36. Amend paragraph **91.13(3)“a”** as follows:

a. *Installations and re-installations.* Installations ~~and re-installations~~ shall comply with the edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC currently adopted at rule 875—91.1(89) or with the

LABOR SERVICES DIVISION[875](cont'd)

Iowa combustion air standard in subrule 91.13(4). However, compliance with one of the listed NFPA codes constitutes compliance with this rule only if the object burns the fuel covered by the NFPA.

ITEM 37. Rescind subrule 94.1(3) and adopt the following **new** subrule in lieu thereof:

94.1(3) Hot water supply boilers.

[Filed 9/23/21, effective 11/24/21]

[Published 10/20/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/20/21.

ARC 5991C

LOTTERY AUTHORITY, IOWA[531]

Adopted and Filed

Rule making related to waivers and “easy pick” tickets

The Board of Directors of the Iowa Lottery Authority hereby amends Chapter 4, “Waiver and Variance Rules,” and Chapter 20, “Computerized Games—General Rules,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 99G.9(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.9A and 99G.21.

Purpose and Summary

This rule making strikes the word “variance” in the provisions that allow for waiver and variance of rules. This rule making also updates how the Authority submits summary reports of waivers. The amendment to Chapter 20 updates the Authority’s methods of play for computerized games. This amendment clarifies there is more than one way to purchase an “easy pick” ticket for computerized games.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 28, 2021, as **ARC 5816C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board of Directors of the Iowa Lottery Authority on September 28, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

LOTTERY AUTHORITY, IOWA[531](cont'd)

Waivers

The Authority is updating how people can purchase an “easy pick” ticket. A waiver is not applicable in this situation.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 24, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend **531—Chapter 4**, title, as follows:

WAIVER AND VARIANCE RULES

ITEM 2. Amend rule 531—4.1(99G) as follows:

531—4.1(99G) Waiver or variance of rules. These rules outline a uniform process for the granting of waivers or variances from rules adopted by the Iowa lottery authority.

ITEM 3. Amend rule 531—4.2(99G) as follows:

531—4.2(99G) Definition. For purposes of this chapter, “a waiver or variance” means action by the lottery authority board that suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. ~~For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”~~

ITEM 4. Amend rule 531—4.5(99G), catchwords, as follows:

531—4.5(99G) Criteria for waiver or variance.

ITEM 5. Amend rule 531—4.13(99G) as follows:

531—4.13(99G) Summary reports Submission of waiver information. ~~Semiannually, Within 60 days of granting or denying a waiver, the board shall prepare a summary report make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by the rules, and a general summary of the reasons justifying the board’s actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.~~

ITEM 6. Amend rule 531—20.3(99G) as follows:

531—20.3(99G) Method of play. If required by the specific game rules, a player must select an appropriate number of the available game variables. A player may select each game variable by marking a play slip and submitting the play slip to a retailer, by asking a retailer to manually enter the game variables, or by ~~verbally requesting~~ purchasing an “easy pick” ticket from a retailer. Players may also purchase game plays from player-activated terminals by use of a touch screen if player-activated

LOTTERY AUTHORITY, IOWA[531](cont'd)

terminals are available. A drawing is held in which an appropriate number of the game variables are drawn on a random basis.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

[Filed 9/29/21, effective 11/24/21]

[Published 10/20/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/20/21.

ARC 5975C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rule making related to waivers

The Public Safety Department hereby amends Chapter 10, "Practice and Procedure Before the Department of Public Safety," and Chapter 401, "Peace Officers' Retirement, Accident, and Disability System—Administrative Procedures," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 17A.9A.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2389.

Purpose and Summary

These amendments to Chapters 10 and 401 reflect the changes made to Iowa Code section 17A.9A by 2020 Iowa Acts, House File 2389. Those changes include striking references to variances as well as the requirement that agencies submit semiannual reports on waivers of rules to the Administrative Rules Coordinator and the Administrative Rules Review Committee. These amendments also reflect a new requirement for agencies to submit information regarding a waiver on an Internet site devised by the Administrative Rules Coordinator within 60 days of granting or denying the waiver.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 2, 2021, as **ARC 5654C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on September 23, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the

PUBLIC SAFETY DEPARTMENT[661](cont'd)

discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 24, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 661—10.222(17A) as follows:

661—10.222(17A) Waivers of rules. This rule outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the department of public safety in situations where no other more specific procedure provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this rule with respect to any waiver from that rule. Generally, more specific procedures exist for considering waivers from rules of the state fire marshal and from provisions of the state of Iowa building code.

10.222(1) No change.

10.222(2) Criteria for waiver or variance. In response to a petition completed pursuant to this rule, the department may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule if the department finds, based on clear and convincing evidence, all of the following:

a. to d. No change.

10.222(3) to 10.222(9) No change.

10.222(10) Summary reports Submission of waiver information. ~~Semiannually, the department shall prepare a summary report identifying~~ When the department grants a waiver, the department shall submit information required by Iowa Code section 17A.9A and in the manner prescribed by Iowa Code section 17A.9 within 60 days. The Internet site shall identify the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the department’s actions on waiver requests. If practicable, the report department shall detail include information detailing the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

10.222(11) to 10.222(14) No change.

10.222(15) Sample petition for waiver. A petition for waiver filed in accordance with this chapter must meet the requirements specified herein and must substantially conform to the following form:

BEFORE THE IOWA DEPARTMENT OF PUBLIC SAFETY

Petition by (name of petitioner) for the waiver/~~variance~~ of (insert rule citation) relating to (insert the subject matter).



PETITION FOR WAIVER/~~VARIANCE~~

1. Provide the name, address, and telephone number of the petitioner (person asking for a waiver or ~~variance~~). Also provide the name, address, and telephone number of the petitioner’s legal representative,

PUBLIC SAFETY DEPARTMENT[661](cont'd)

of waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself.

401.113(12) to 401.113(15) No change.

401.113(16) *Sample petition for waiver.* A petition for waiver filed in accordance with this rule must meet the requirements specified herein and must substantially conform to the following form:

PUBLIC SAFETY PEACE OFFICERS’
RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM

Petition by (name of petitioner) for the waiver/ variance of (insert rule citation) relating to (insert the subject matter).	}	PETITION FOR WAIVER/ VARIANCE
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1. Provide the name, address, and telephone number of the petitioner (person asking for a waiver or ~~variance~~). Also provide the name, address, and telephone number of the petitioner’s legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.

2. to 4. No change.

5. Provide a history of any prior contacts between the board, other departments or agencies of the state of Iowa, or political subdivisions and petitioner relating to the benefits or rights affected by the requested waiver. Include a description of each contested case hearing held, or any investigations related to the benefits or rights.

6. and 7. No change.

8. Provide the name, address, and telephone number of any person or entity that would be adversely affected by the granting of the waiver or ~~variance~~.

9. and 10. No change.

I hereby attest to the accuracy and truthfulness of the above information.

(Date)

(Petitioner’s Signature)

[Filed 9/23/21, effective 11/24/21]

[Published 10/20/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/20/21.

ARC 5973C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rule making related to human trafficking prevention training and reporting

The Public Safety Department hereby adopts new Chapter 29, “Human Trafficking Prevention Training—Lodging Providers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 80.45A(7).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 80.45A.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Purpose and Summary

This rule making implements the human trafficking prevention training and reporting for employees of Iowa lodging providers, as required in order to accept public funds for lodging, conferences, meetings, etc. The Act codified in Iowa Code section 80.45A was enacted by the Legislature in the 2020 Legislative Session to assist in the accurate and prompt identification, reporting, and response by lodging providers to suspected human trafficking.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 14, 2021, as **ARC 5780C**. No public comments were received. Minor changes from the Notice have been made for clarity.

Adoption of Rule Making

This rule making was adopted by the Department on September 21, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 24, 2021.

The following rule-making action is adopted:

Adopt the following **new** 661—Chapter 29:

CHAPTER 29

HUMAN TRAFFICKING PREVENTION TRAINING—LODGING PROVIDERS

661—29.1(80) Definitions. The definitions in Iowa Code section 80.45A(1) are adopted and incorporated herein.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

661—29.2(80) Establishment of training program. The department of public safety's human trafficking prevention training program certifies a lodging provider's voluntary completion of human trafficking prevention training. The program is established pursuant to Iowa Code section 80.45A. No lodging provider may accept public funds from a public employer or public employee without first receiving certification by the commissioner.

661—29.3(80) Human trafficking prevention training program content. In order to receive approval by the commissioner, human trafficking prevention training shall include, at a minimum, all of the following:

29.3(1) A general overview of human trafficking.

29.3(2) A general overview of state law on human trafficking.

29.3(3) The definition of human trafficking and the commercial exploitation of children.

29.3(4) Guidance on the difference between labor trafficking and sex trafficking.

29.3(5) Guidance on how to recognize potential human trafficking victims.

29.3(6) Guidance on how to recognize potential human traffickers.

29.3(7) Guidance on how to identify activities commonly associated with human trafficking.

29.3(8) Safe and effective responses to human trafficking situations, including but not limited to how to report suspected human trafficking to proper law enforcement officials.

661—29.4(80) Training providers.

29.4(1) Training. Human trafficking prevention training that meets the criteria of rule 661—29.3(80) may be offered by the office to combat human trafficking, a governmental agency, or a nongovernmental agency or community organization that has expertise in the area of human trafficking and approval by the commissioner. A list of certified training providers is maintained on the office to combat human trafficking website.

29.4(2) Approval process for organizations. Organizations shall not issue human trafficking prevention training certifications to lodging providers for purposes of this rule prior to receiving approval by the commissioner. To receive approval to conduct a training program, a training provider must apply through the office to combat human trafficking website and provide sufficient information to establish the training program meets the requirements of rule 661—29.3(80).

661—29.5(80) Certification for lodging providers and their employees. Beginning January 1, 2022, lodging providers, in order to accept public funds for any of the purposes stated in Iowa Code section 80.45A(5) "c," must complete and certify to the commissioner that each of the lodging provider's employees has completed human trafficking prevention training. All current, certified lodging providers are listed on the office to combat human trafficking website.

29.5(1) Application. Any lodging provider seeking certification of completed human trafficking prevention training shall submit a completed application form to the office to combat human trafficking website. The online application form shall not be considered complete unless all required information is submitted, including verification of employee training certificates, and shall not be processed until it is complete.

NOTE: The website for human trafficking prevention training and certification for employees, lodging providers, and training providers is www.stopthiowa.org.

29.5(2) Fee. There is no fee for lodging providers to request or renew a trafficking prevention training certification. Approved organizational training providers, under subrule 29.4(2), may charge fees for training programs; however, lodging providers are under no obligation to utilize such training providers.

29.5(3) Maintenance of records. Lodging providers shall maintain up-to-date human trafficking prevention training certification records on all current employees, at all times, in order to maintain a valid certification. A lodging provider shall produce human trafficking prevention training records for each employee and complete employee lists upon request by the office to combat human trafficking at any time.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

29.5(4) Revocation. The commissioner has authorized the office to combat human trafficking to revoke a lodging provider's certification at any time. If all employees of a certified lodging provider fail to renew their trainings every three years, the office to combat human trafficking shall remove the lodging provider from the approved list of providers and revoke the lodging provider's certification. Failure to maintain records of individual employee certifications may result in the revocation of a lodging provider's certification.

29.5(5) Certification expiration. All human trafficking prevention training certificates issued by the office to combat human trafficking shall bear an expiration date. All employees of a certified lodging provider must complete approved human trafficking prevention training every three years for the lodging provider to maintain a valid certification and to receive public funds.

29.5(6) Grace periods. Lodging providers are responsible for ensuring lodging certifications are current and valid, and that new employees successfully complete human trafficking prevention training. Employees shall have a grace period of 30 days from when their previous training certificate expires to complete a new, approved training. Certificates expire three years from the date on which they were issued.

a. Lodging providers. The application shall be filed no later than 30 days after beginning operation in this state or the date on which an existing training certification expires.

b. Employees of lodging providers. The application shall be filed no later than 30 days after the date of hire or the date on which an existing training certification expires.

These rules are intended to implement Iowa Code section 80.45A.

[Filed 9/21/21, effective 11/24/21]

[Published 10/20/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/20/21.

ARC 5974C

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Rule making related to firearm training organizations

The Public Safety Department hereby amends Chapter 91, "Weapons and Iowa Professional Permits to Carry Weapons," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in 2021 Iowa Acts, House File 756, section 20.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 756, sections 19 and 20.

Purpose and Summary

These amendments to Chapter 91 align the Department's rules for firearm training organizations with 2021 Iowa Acts, House File 756. Under this new law, the Department, not just the National Rifle Association (NRA), may approve firearm training organizations that certify individuals as handgun safety training instructors. These amendments establish the requirements that firearm training organizations must meet in order to receive approval from the Department. These amendments also set forth the procedure for submitting an application for approval as a firearm training organization and the conditions in which a certification of approval may be denied, suspended, or revoked.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 30, 2021, as **ARC 5735C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on September 23, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 24, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of “Approved training organization” in rule **661—91.1(724)**:

“*Approved training organization*” means any firearm training organization that has satisfied the requirements to certify handgun safety training instructors eligible to offer handgun safety training in Iowa for the purpose of obtaining an Iowa permit to carry weapons and has been approved by the commissioner.

ITEM 2. Amend rule **661—91.1(724)**, definitions of “Firearm training documentation” and “Firearm training program,” as follows:

“*Firearm training documentation*” means a photocopy of a certificate of completion or any similar document indicating completion of any firearm training program course; an affidavit from the instructor, school, organization or group that conducted or taught a firearm training program; a copy of or the display of an honorable discharge or general discharge under honorable conditions or Form DD-214 for personnel released or retired from active duty with the armed forces of the United States; or possession of a certificate of completion of basic training with a service record of successful completion of small arms training and qualification for active duty personnel in the armed forces of the United States. ~~For a renewal application, firearm training documentation also includes documentation of qualifying on a firing range under the supervision of an instructor certified by the National Rifle Association or the Iowa~~

PUBLIC SAFETY DEPARTMENT[661](cont'd)

~~law enforcement academy or another state's department of public safety, state police department, or similar certifying body.~~

"Firearm training program" means any National Rifle Association handgun safety training course; any handgun safety training course available to the general public utilizing instructors certified by the National Rifle Association, an organization approved by the Iowa department of public safety pursuant to Iowa Code section 724.9A as enacted by 2021 Iowa Acts, House File 756, section 20, or the Iowa law enforcement academy or another state's department of public safety, state police department, or similar certifying body; any handgun safety training course offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement or security enforcement agency approved by the Iowa department of public safety; or completion of small arms training while serving with the armed forces of the United States. Any person or entity seeking approval by the Iowa department of public safety for a handgun safety training course offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement or security enforcement agency, other than those certified by the National Rifle Association, the Iowa department of public safety, or the Iowa law enforcement academy or courses conducted by instructors certified by the National Rifle Association or the Iowa law enforcement academy, shall submit a detailed description of the course content to the commissioner for review. Any handgun safety training course submitted for review shall be reviewed by the commissioner ~~to determine if the course is substantially equivalent to the Iowa law enforcement academy marksmanship qualification course.~~

ITEM 3. Adopt the following new rule 661—91.10(724):

661—91.10(724) Application for approved training organization.

91.10(1) Firearm training organizations seeking approval by the Iowa department of public safety to certify individuals as handgun safety training instructors eligible to offer handgun safety training shall meet the criteria outlined in this rule, such as the years of training experience of the organization's primary point of contact or owner, and shall maintain student records, an active website URL, and the ability of the organization's instructors and primary point of contact or owner to legally possess and carry firearms. A firearm training organization seeking approval shall submit the following:

a. A certificate of existence from the Iowa secretary of state issued within 60 days of application or, if a non-Iowa corporation, a certificate of authority to do business in Iowa.

b. The course syllabi or lesson plans and the goals or objectives for instructor certification courses, which shall show that instructor candidates who successfully complete the courses possess knowledge, competence, and demonstrated proficiency in the area of handgun safety instruction and operation.

c. The course syllabi or lesson plans and the goals or objectives for general student courses, which shall demonstrate that students will receive the basic requirements for a permit to carry a weapon as established by the Iowa department of public safety. The courses shall include:

(1) Instruction in current Iowa laws related to use of deadly force, reasonable force, defense of home, and defense of property;

(2) Instruction in basic handgun safety, safe handling, safe storage, and safe cleaning; and

(3) Instruction in handgun nomenclature and the operation of pistols and revolvers.

d. A copy of the certificate to be issued by the organization to instructors who complete the program.

e. A copy of the résumé and firearm-related training credentials of the individual serving as the organization's primary point of contact or owner, which shall demonstrate a minimum of five years of cumulative experience as a firearm instructor. This experience shall include firearm instructor duties related to military service or firearm instructor certification by the National Rifle Association or by an organization approved by the Iowa department of public safety pursuant to Iowa Code section 724.9A as enacted by 2021 Iowa Acts, House File 756, section 20, or by the Iowa law enforcement academy or another state's department of public safety, state police department, or similar certifying body.

f. A written description of how the organization will maintain instructor records.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

g. A written description of how the organization will maintain proficiency of instruction, including staying abreast of statutory changes that may affect what is being taught, and will ensure the instructional practices and integrity of instructors.

h. The URL of a website containing a list of certified instructors or an electronic application that allows users to search and validate instructor credentials.

i. An application processing fee of \$500 (the certification of approval is valid for five years).

91.10(2) A firearm training organization seeking to renew its certification of approval must submit:

a. Current lesson plans or course syllabi and course goals or objectives.

b. A certificate of existence from the Iowa secretary of state issued within 60 days of application or, if a non-Iowa corporation, a certificate of authority to do business in Iowa.

c. A copy of the updated credentials of the organization's primary point of contact or owner (submit all documentation demonstrating qualification to provide oversight of firearm training instructors). These credentials must include a minimum of five years of verifiable firearm instructor experience.

d. An application processing fee of \$500 (the certification of approval is valid for five years).

91.10(3) The Iowa department of public safety may deny, suspend, or revoke the certification of approval of a firearm training organization if the department has reason to believe that the organization or its primary point of contact or owner has:

a. Become ineligible to possess a firearm under Iowa Code chapter 724 or federal law;

b. Knowingly and willfully provided false information to the department;

c. Provided instruction contrary to the established and approved curriculum; or

d. Failed to meet any portion of the instructor certification guidelines as originally approved.

91.10(4) An applicant for certification as a firearm training organization or a certified firearm permit-to-carry instructor has the same appeal rights as set forth in rule 661—91.7(724).

ITEM 4. Amend **661—Chapter 91**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 724 as amended by ~~2010 Iowa Acts, Senate File 2357 and Senate File 2379~~ 2021 Iowa Acts, House File 756.

[Filed 9/23/21, effective 11/24/21]

[Published 10/20/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/20/21.

ARC 5978C

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to tax credit rate and total school tuition organization tax credits

The Revenue Department hereby amends Chapter 42, "Adjustments to Computed Tax and Tax Credits," and Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House File 2641; 2018 Iowa Acts, Senate File 2417; 2019 Iowa Acts, House File 779; and 2021 Iowa Acts, House File 847.

REVENUE DEPARTMENT[701](cont'd)

Purpose and Summary

This rule making primarily implements statutory changes to the tax credit rate and the total school tuition organization tax credits that may be authorized each calendar year. 2021 Iowa Acts, House File 847, increases the tax credit rate to 75 percent from 65 percent for tax years beginning on or after January 1, 2021, and increases the amount of the credit available to taxpayers in 2022 and subsequent years. This rule making also implements the provision in 2020 Iowa Acts, House File 2641, which eliminated the cap on the percentage of total tax credits that could be approved each year for a corporation. Previously, not more than 25 percent of the total annual tax credits could be allocated to corporate taxpayers.

This rule making also updates the rules to reflect recent legislative changes to the 2020 and 2021 tax credit caps and certain administrative terms, including the definition of “eligible student.” Finally, this rule making clarifies that a taxpayer must take the credit in the tax year in which the contribution is made.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as **ARC 5822C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on September 24, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond the legislation it is intended to implement. The final fiscal note for 2021 Iowa Acts, House File 847, division VIII, estimated that the school tuition tax credit changes enacted in that legislation will decrease General Fund revenues for fiscal years 2022 through 2025 by \$3.4 million, \$3.4 million, \$2.2 million, and \$0.6 million, respectively.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 24, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 701—42.32(422) as follows:

701—42.32(422) School tuition organization tax credit. ~~Effective for the tax year beginning on or after January 1, 2006, but beginning before January 1, 2007, a school tuition organization tax credit~~

REVENUE DEPARTMENT[701](cont'd)

~~is available which is equal to 65 percent of the amount of the voluntary cash contributions made by a taxpayer to a school tuition organization. For tax years beginning on or after January 1, 2007, the For tax years beginning prior to January 1, 2021, a school tuition organization tax credit is available which is equal to 65 percent of the amount of voluntary cash or noncash contributions made by a taxpayer to a school tuition organization. For tax years beginning on or after January 1, 2021, the tax credit is equal to 75 percent of the amount of voluntary cash or noncash contributions made by a taxpayer to a school tuition organization.~~ There are numerous federal revenue regulations, rulings, court cases and other provisions relating to the determination of the value of a noncash contribution, and these are equally applicable to the determination of the amount of a school tuition organization tax credit ~~for tax years beginning on or after January 1, 2007.~~

42.32(1) Definitions. The following definitions are applicable to this rule:

“Certified enrollment” means the enrollment at schools served by school tuition organizations as of October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, of the appropriate year.

“Contribution” means a voluntary cash or noncash contribution to a school tuition organization that is not used for the direct benefit of any dependent of the taxpayer or any other student designated by the taxpayer.

“Eligible student” means a student residing in Iowa who is a member of a household whose total annual income during the calendar year prior to the school year in which the student receives a tuition grant from a school tuition organization does not exceed an amount equal to ~~three~~ four times the most recently published federal poverty guidelines in the Federal Register by the United States Department of Health and Human Services.

“Qualified school” means a nonpublic elementary or secondary school in Iowa which is accredited under Iowa Code section 256.11, including a prekindergarten program for students who are five years of age by September 15 of the appropriate year, and adheres to the provisions of the federal Civil Rights Act of 1964 and Iowa Code chapter 216, and which is represented by only one school tuition organization.

“School tuition organization” means a charitable organization in Iowa that is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code and that does all of the following:

1. to 5. No change.

“Tuition grant” means a grant to a student to cover all or part of the student’s tuition at a qualified school.

42.32(2) No change.

42.32(3) Participation forms. Each qualified school that is served by a school tuition organization must annually submit a participation form to the department by November 1. The following information must be provided with this participation form:

a. The certified enrollment of the qualified school as of October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday.

b. The name of the school tuition organization that represents the qualified school.

~~For the tax year beginning in the 2006 calendar year only, each qualified school served by a school tuition organization must submit to the department a participation form postmarked on or before August 1, 2006, which provides the certified enrollment as of the third Friday of September 2005, along with the name of the school tuition organization that represents the qualified school.~~

42.32(4) Authorization to issue tax credit certificates.

a. By December 1 of each year, the department will authorize school tuition organizations to issue tax credit certificates for the following tax calendar year. ~~For the tax year beginning in the 2006 calendar year only, the department, by September 1, 2006, will authorize school tuition organizations to issue tax credit certificates for the 2006 calendar year only.~~ The total amount of tax credit certificates that may be authorized is:

- (1) \$2.5 million for the 2006 calendar year,
- (2) \$5 million for the 2007 calendar year,
- (3) \$7.5 million for the 2008 through 2011 calendar years,
- (4) \$8.75 million for the 2012 and 2013 calendar years, ~~and~~

REVENUE DEPARTMENT[701](cont'd)

- (5) ~~\$12 million for the 2014 and subsequent calendar years.~~ through 2018 calendar years,
- (6) \$13 million for the 2019 calendar year,
- (7) \$15 million for the 2020 and 2021 calendar years, and
- (8) \$20 million for the 2022 calendar year and subsequent calendar years.

b. The amount of authorized tax credit certificates for each school tuition organization is determined by dividing the total amount of tax credit available by the total certified enrollment of all qualified participating schools. This result, which is the per-student tax credit, is then multiplied by the certified enrollment of each school tuition organization to determine the tax credit authorized to each school tuition organization.

EXAMPLE: For determining the authorized tax credits for the ~~2008~~ 2022 calendar year, if the certified enrollment of ~~each all~~ qualified school schools in Iowa, as provided to the department by November 1, ~~2007~~ 2021, was ~~37,500~~ 40,000, the per-student tax credit would be ~~\$200~~ \$500 (~~\$7.5~~ \$20 million ~~divided by 37,500~~ ÷ 40,000). If a school tuition organization located in Scott County represents four qualified schools with a certified enrollment of 1,400 students, the school tuition organization would be authorized to issue ~~\$280,000~~ \$700,000 (~~\$200 times~~ \$500 × 1,400) of tax credit certificates for the ~~2008~~ 2022 calendar year. The department would notify this school tuition organization by December 1, ~~2007~~ 2021, of the authorization to issue ~~\$280,000~~ \$700,000 of tax credit certificates for the ~~2008~~ 2022 calendar year. This authorization would allow the school tuition organization to solicit contributions totaling ~~\$430,769~~ \$933,333 (~~\$280,000 divided by 65%~~ \$700,000 ÷ 75%) during the ~~2008~~ 2022 calendar year which would be eligible for the tax credit.

42.32(5) Issuance of tax credit certificates.

a. The school tuition organization shall issue tax credit certificates to each taxpayer who made a cash or noncash contribution to the school tuition organization. The tax credit certificate, ~~which will be~~ designed by the department, ~~will~~ shall contain the name, address and tax identification number of the taxpayer; the amount and date that the contribution was made; the amount of the credit; the tax year that the credit may be applied; the school tuition organization to which the contribution was made; and the tax credit certificate number.

b. ~~For tax years beginning on or after July 1, 2009, a tax credit certificate may be issued to corporation income taxpayers. For tax years beginning on or after January 1, 2013, a~~ A tax credit certificate may be issued to a partnership, limited liability company, S corporation, estate or trust. The amount of credit claimed by an individual shall be based on the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust.

42.32(6) Claiming the tax credit. The taxpayer must include the tax credit certificate with the tax return for which the credit is claimed. The tax credit shall be claimed in the tax year during which the contribution is made. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

a. The taxpayer ~~may~~ shall not claim an itemized deduction for charitable contributions for Iowa income tax purposes for the amount of the contribution made to the school tuition organization.

b. Married taxpayers who file separate returns or file separately on a combined return must allocate the school tuition organization tax credit to each spouse in the proportion that each spouse's respective net income bears to the total combined net income. Nonresidents or part-year residents of Iowa, including those who are claiming a tax credit of a partnership, limited liability company, S corporation, estate, or trust of which they are a member, must determine the school tuition organization tax credit in the ratio of their Iowa source net income to their total source net income. In addition, if nonresidents or part-year residents of Iowa are married and elect to file separate returns or to file separately on a combined return, the school tuition organization tax credit must be allocated between the spouses in the ratio of each spouse's Iowa source net income to the combined Iowa source net income.

42.32(7) Reporting requirements. Each school tuition organization that issues tax credit certificates must report to the department, postmarked by January 12 of each ~~tax~~ calendar year, the following information:

- a. No change.

REVENUE DEPARTMENT[701](cont'd)

b. The total number and dollar value of contributions received by the school tuition organization for the previous ~~tax~~ calendar year.

c. The total number and dollar value of tax credit certificates issued by the school tuition organization for the previous ~~tax~~ calendar year.

d. A list of each taxpayer who received a tax credit certificate for the previous ~~tax~~ calendar year, including the amount of the contribution and the amount of tax credit issued to each taxpayer for the previous ~~tax~~ calendar year. This list should also include the tax identification number of the taxpayer and the tax credit certificate number for each certificate.

e. to g. No change.

This rule is intended to implement Iowa Code section 422.11 S as amended by 2013 Iowa Acts, House File 625.

ITEM 2. Amend rule 701—52.38(422) as follows:

701—52.38(422) School tuition organization tax credit. ~~Effective for tax years beginning on or after July 1, 2009, a~~ For tax years beginning prior to January 1, 2021, a school tuition organization tax credit is available which is equal to 65 percent of the amount of the voluntary cash or noncash contribution made by a corporation taxpayer to a school tuition organization. For tax years beginning on or after January 1, 2021, the tax credit is equal to 75 percent of the amount of the voluntary cash or noncash contribution made by a corporation taxpayer to a school tuition organization. ~~For tax years beginning on or after January 1, 2013, the credit is available for S corporations, partnerships, limited liability companies, estates and trusts where the income is taxed directly to the individual shareholders, partners, members or beneficiaries, an individual may claim the credit.~~ The amount of credit claimed by an individual shall be based on the pro rata share of the individual's earnings of the S corporation, partnership, limited liability company, estate or trust. For information on the initial registration, participation forms and reporting requirements for school tuition organizations, see rule 701—42.32(422).

52.38(1) Amount of tax credit authorized—additional limitation for corporations.

a. Of the \$7.5 million of school tuition organization tax credits authorized for the 2009 through 2011 calendar years, no more than 25 percent, or \$1,875,000, can be authorized for corporation income tax taxpayers.

b. Of the \$8.75 million of school tuition organization tax credits authorized for 2012 and 2013, no more than 25 percent, or \$2,187,500, can be authorized for corporation income tax taxpayers.

c. Of the \$12 million of school tuition organization tax credits authorized for 2014 ~~and subsequent calendar years through 2018~~, no more than 25 percent, or \$3 million, can be authorized for corporation income tax taxpayers.

d. Of the \$13 million of school tuition organization tax credits authorized for 2019, no more than 25 percent, or \$3,250,000, can be authorized for corporation income tax taxpayers.

e. Effective July 1, 2020, the prohibition against authorizing more than 25 percent of the total authorized tax credits for corporation income tax purposes was repealed. On or after July 1, 2020, of the total school tuition organization tax credits authorized for a year, any amount can be authorized for corporation income taxpayers.

52.38(2) Issuance of tax credit certificates. The school tuition organization shall issue tax credit certificates to each taxpayer who made a cash or noncash contribution to the school tuition organization. The tax credit certificate ~~will~~ shall contain the name, address and tax identification number of the taxpayer; the amount and date that the contribution was made; the amount of the credit; the tax year that the credit may be applied; the school tuition organization to which the contribution was made; and the tax credit certificate number.

52.38(3) Claiming the tax credit. The taxpayer must include the tax credit certificate with the tax return for which the credit is claimed. The tax credit shall be claimed in the tax year during which the contribution is made. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The taxpayer ~~may~~ shall not

REVENUE DEPARTMENT[701](cont'd)

claim a deduction for charitable contributions for Iowa corporation income tax purposes for the amount of the contribution made to the school tuition organization.

This rule is intended to implement Iowa Code section 422.33.

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