



# IOWA ADMINISTRATIVE BULLETIN

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DES MOINES, IA

## PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other “materials deemed fitting and proper by the Administrative Rules Review Committee” include summaries of Public Hearings, Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers’ Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)“a”]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

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## Schedule for Rule Making 2001

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. 22 '00	Jan. 10 '01	Jan. 30 '01	Feb. 14 '01	Feb. 16 '01	Mar. 7 '01	Apr. 11 '01	July 9 '01
Jan. 5	Jan. 24	Feb. 13	Feb. 28	Mar. 2	Mar. 21	Apr. 25	July 23
Jan. 19	Feb. 7	Feb. 27	Mar. 14	Mar. 16	Apr. 4	May 9	Aug. 6
Feb. 2	Feb. 21	Mar. 13	Mar. 28	Mar. 30	Apr. 18	May 23	Aug. 20
Feb. 16	Mar. 7	Mar. 27	Apr. 11	Apr. 13	May 2	June 6	Sept. 3
Mar. 2	Mar. 21	Apr. 10	Apr. 25	Apr. 27	May 16	June 20	Sept. 17
Mar. 16	Apr. 4	Apr. 24	May 9	May 11	May 30	July 4	Oct. 1
Mar. 30	Apr. 18	May 8	May 23	May 25	June 13	July 18	Oct. 15
Apr. 13	May 2	May 22	June 6	June 8	June 27	Aug. 1	Oct. 29
Apr. 27	May 16	June 5	June 20	June 22	July 11	Aug. 15	Nov. 12
May 11	May 30	June 19	July 4	July 6	July 25	Aug. 29	Nov. 26
May 25	June 13	July 3	July 18	July 20	Aug. 8	Sept. 12	Dec. 10
June 8	June 27	July 17	Aug. 1	Aug. 3	Aug. 22	Sept. 26	Dec. 24
June 22	July 11	July 31	Aug. 15	Aug. 17	Sept. 5	Oct. 10	Jan. 7 '02
July 6	July 25	Aug. 14	Aug. 29	Aug. 31	Sept. 19	Oct. 24	Jan. 21 '02
July 20	Aug. 8	Aug. 28	Sept. 12	Sept. 14	Oct. 3	Nov. 7	Feb. 4 '02
Aug. 3	Aug. 22	Sept. 11	Sept. 26	Sept. 28	Oct. 17	Nov. 21	Feb. 18 '02
Aug. 17	Sept. 5	Sept. 25	Oct. 10	Oct. 12	Oct. 31	Dec. 5	Mar. 4 '02
Aug. 31	Sept. 19	Oct. 9	Oct. 24	Oct. 26	Nov. 14	Dec. 19	Mar. 18 '02
Sept. 14	Oct. 3	Oct. 23	Nov. 7	Nov. 9	Nov. 28	Jan. 2 '02	Apr. 1 '02
Sept. 28	Oct. 17	Nov. 6	Nov. 21	Nov. 23	Dec. 12	Jan. 16 '02	Apr. 15 '02
Oct. 12	Oct. 31	Nov. 20	Dec. 5	Dec. 7	Dec. 26	Jan. 30 '02	Apr. 29 '02
Oct. 26	Nov. 14	Dec. 4	Dec. 19	Dec. 21	Jan. 9 '02	Feb. 13 '02	May 13 '02
Nov. 9	Nov. 28	Dec. 18	Jan. 2 '02	Jan. 4 '02	Jan. 23 '02	Feb. 27 '02	May 27 '02
Nov. 23	Dec. 12	Jan. 1 '02	Jan. 16 '02	Jan. 18 '02	Feb. 6 '02	Mar. 13 '02	June 10 '02
Dec. 7	Dec. 26	Jan. 15 '02	Jan. 30 '02	Feb. 1 '02	Feb. 20 '02	Mar. 27 '02	June 24 '02
Dec. 21	Jan. 9 '02	Jan. 29 '02	Feb. 13 '02	Feb. 15 '02	Mar. 6 '02	Apr. 10 '02	July 8 '02
Jan. 4 '02	Jan. 23 '02	Feb. 12 '02	Feb. 27 '02	Mar. 1 '02	Mar. 20 '02	Apr. 24 '02	July 22 '02

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
4	Friday, August 3, 2001	August 22, 2001
5	Friday, August 17, 2001	September 5, 2001
6	Friday, August 31, 2001	September 19, 2001

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

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

## PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies  
FROM: Kathleen K. Bates, Iowa Administrative Code Editor  
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses Interleaf 6 to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

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*Guide to Rule Making, June 1995 Edition*, available upon request to the Iowa Administrative Code Division, Grimes State Office Building, First Floor South, Des Moines, Iowa 50319.

The Administrative Rules Review Committee will hold its regular statutory meeting on Tuesday, August 14, 2001, at 10 a.m. and Wednesday, August 15, 2001, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

### CIVIL RIGHTS COMMISSION[161]

Waiver of requirements imposed by commission rule, 15.3, Filed ARC 0822B ..... 7/11/01

### CREDIT UNION DIVISION[189]

COMMERCE DEPARTMENT[181]"umbrella"

Uniform waiver and variance rules, ch 23, Filed ARC 0820B ..... 7/11/01

### ELDER AFFAIRS DEPARTMENT[321]

Senior living coordinating unit, ch 16, Notice ARC 0800B ..... 7/11/01

Elder group homes, 26.1, 26.2, 26.3(6), 26.6(1), 26.7, 26.8(3), 26.10 to 26.17, Notice ARC 0826B ..... 7/11/01

Assisted living programs, 27.1, 27.8, 27.9, Filed Emergency After Notice ARC 0828B ..... 7/25/01

### ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Air pollution monitoring, 22.108(3)"b" to "d," Filed ARC 0816B ..... 7/11/01

Certification and related fees for manure applicators; manure storage structures, 65.1, 65.2(3)"b," 65.15(13)"d," 65.15(13)"e"(1) and (2), 65.15(20), 65.19(2) to 65.19(6), 65.19(6)"c" and "d," 65.19(7), 65.19(7)"b"(1), 65.19(8) to 65.19(11), ch 65 appendices A and B, Filed Emergency After Notice ARC 0815B ..... 7/11/01

Concentrated animal feeding operation registration program—incorporation by reference, 65.6(12), Notice ARC 0818B ..... 7/11/01

Financial assurance requirements for municipal solid waste landfills, ch 111, Filed ARC 0812B ..... 7/11/01

### HUMAN SERVICES DEPARTMENT[441]

Family investment program (FIP), 40.22(5)"a" and "b," 40.23, 40.26, 41.24(4)"b" and "c," 41.24(9)"b," 41.25(7), 41.27(9)"a"(4), 41.30, 46.21, 93.103, 93.104(3), 93.104(6), 93.105(2), 93.106, 93.109(2), 93.110, 93.111(1)"a"(4), 93.129(2), Filed ARC 0768B ..... 7/11/01

Transitional child care assistance program, rescind ch 49, Notice ARC 0807B ..... 7/11/01

State supplementary assistance (SSA) residential care facility (RCF) and in-home health related care (IHHRC)—reimbursement rate increase, 52.1(3), 177.4(3), 177.4(7), 177.4(8)"b," Filed ARC 0769B ..... 7/11/01

Food stamp program—suspension of benefits, 65.1, Notice ARC 0808B ..... 7/11/01

Food stamp program—employment and training, participation allowances, workfare program, 65.3, 65.28(8), 65.28(11) to 65.28(13), 65.28(18), 65.28(19), 65.46(4), 65.49, 65.50, Notice ARC 0827B ..... 7/25/01

Emergency food assistance program—increase in income eligibility guidelines, 73.4(3)"d"(2), Filed Emergency After Notice ARC 0770B ..... 7/11/01

Medicaid coverage for women without creditable health insurance coverage who are receiving treatment for cervical or breast cancer, 75.1(40), Notice ARC 0771B, also Filed Emergency ARC 0772B ..... 7/11/01

Medicaid—sanctions for persons who do not cooperate, 75.14(2), 75.14(10)"c"(2), 75.52(5)"c," 75.56(2)"b," 75.57(2)"c," 75.57(7)"u," 75.57(8)"a," 75.57(9)"e," 75.57(10), 75.58(2)"b"(5), 75.59, 75.59(2), 75.59(3), 76.1(5)"a" to "c," Filed ARC 0773B ..... 7/11/01

Statewide average costs and charges for nursing care, 75.23(3), 75.24(3)"b," Notice ARC 0774B, also Filed Emergency ARC 0775B ..... 7/11/01

Medicaid reimbursement—ambulatory surgical centers, 77.24, 78.26, 79.1(3), Filed ARC 0776B ..... 7/11/01

Medicaid—child welfare targeted case management services, 77.29, 78.33, 78.33(1) to 78.33(3), 80.2(2)"ad," adopt ch 186, Notice ARC 0777B, also Filed Emergency ARC 0778B ..... 7/11/01

Home- and community-based services mental retardation (HCBS MR) waiver—residential-based supported community living service, 77.37, 77.37(23), 78.41(10), 79.1(2), 79.1(15), 83.60, 83.61(1)"a" and "k," 83.62(3)"g," 83.70(3), Filed Emergency After Notice ARC 0779B ..... 7/11/01

Medicaid reimbursement—modified price-based case-mix system for non-state-owned nursing facilities, 78.1(2)"b," 78.3(13), 78.3(14), 78.3(16), 78.6(1)"a" and "b," 78.9(10)"a"(1) and (2), 78.10(4)"b," 78.11, 78.19(1)"a"(1), 78.24, 78.28(9)"a"(1) and (2), 79.1, 79.1(2), 79.1(9), 80.2(2)"u" and "am," 81.1, 81.3(2), 81.6, 81.6(3) to 81.6(5), 81.6(9)"a," 81.6(11)"h"(4), 81.6(12)"e," 81.6(14) to 81.6(19), 81.10(1), 81.10(2), 81.10(4)"f" and "h," 81.10(7)"a" to "c," 81.20(1), 81.31, Filed Emergency ARC 0780B ..... 7/11/01

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- Record check evaluations for health care programs, adopt ch 119, 176.10(3)“e”(10), Filed **ARC 0787B** ..... 7/11/01
- Child care services—fees, income eligibility guidelines, 130.3(1)“d”(2), 130.4(3),  
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- Reimbursement rate freeze for adoption, independent living, and family planning service providers,  
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- Payment rate increase for foster family homes and adoptive homes, 156.6(1),  
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- Wrap-around funding program, rescind ch 179, Notice **ARC 0796B**, also Filed Emergency **ARC 0797B** ..... 7/11/01
- Rehabilitative treatment and supportive services—rate freeze, continued suspension  
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**INSURANCE DIVISION[191]**

- COMMERCE DEPARTMENT[181]“umbrella”
- Registration requirements for investment advisers and federal covered advisers, 50.94, 50.96 to 50.99,  
50.103(2), 50.104(1)“q,” 50.109(1), 50.109(2), Notice **ARC 0834B** ..... 7/25/01
- Multiple employer welfare arrangements, 77.2(1)“i,” 77.3(1)“a,” 77.4(3), 77.5(1), 77.11“8,” Notice **ARC 0823B** ..... 7/11/01

**LIBRARIES AND INFORMATION SERVICES DIVISION[286]**

- EDUCATION DEPARTMENT[281]“umbrella”
- Meeting room policy, ch 4, Notice **ARC 0835B** ..... 7/25/01
- Appointment process for library service areas board of trustees, adopt ch 9,  
Notice **ARC 0819B**, also Filed Emergency **ARC 0804B** ..... 7/11/01

**MEDICAL EXAMINERS BOARD[653]**

- PUBLIC HEALTH DEPARTMENT[641]“umbrella”
- Standards of practice—automated dispensing systems, 13.6, Notice **ARC 0833B** ..... 7/25/01

**NATURAL RESOURCE COMMISSION[571]**

- NATURAL RESOURCES DEPARTMENT[561]“umbrella”
- Electronic license sales—administration fee, 15.1(1), 15.1(7), Filed **ARC 0813B** ..... 7/11/01
- Game management areas, 51.3(1)“j”(4) to (10), 51.5(3), 51.9, 51.10, Filed **ARC 0814B** ..... 7/11/01
- Unprotected nongame—garter snake and timber rattlesnake, 76.1(2), Filed **ARC 0817B** ..... 7/11/01

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- Layoffs, reorganization, and recall of employees, 10.2, 11.3, 11.3(1) to 11.3(6), 11.3(8),  
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**PHARMACY EXAMINERS BOARD[657]**

- PUBLIC HEALTH DEPARTMENT[641]“umbrella”
- Automated medication distribution systems, adopt ch 9, Notice **ARC 0801B** ..... 7/11/01
- Registration and reregistration fee, 10.3, 10.3(2), Notice **ARC 0298B**, Terminated **ARC 0802B** ..... 7/11/01

**PROFESSIONAL LICENSURE DIVISION[645]**

- PUBLIC HEALTH DEPARTMENT[641]“umbrella”
- Psychology examiners, chs 239, 240; 241.2(1), 241.5“3,” 241.9(1)“b”; chs 242, 243, Filed **ARC 0806B** ..... 7/11/01

**RACING AND GAMING COMMISSION[491]**

- INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”
- Organization, meetings, and procedure, 1.2, Notice **ARC 0821B** ..... 7/11/01

**REVENUE AND FINANCE DEPARTMENT[701]**

- Audit of multilevel marketers, 4.1(4)“b”(1), Filed **ARC 0829B** ..... 7/25/01
- Tax returns for foreign corporations storing goods in an Iowa warehouse, 52.1(9), Notice **ARC 0831B** ..... 7/25/01
- Taxable income from sale of obligations issued by the state or its subdivisions, 53.6, 59.6, Notice **ARC 0825B** ..... 7/11/01
- Tobacco master settlement agreement, ch 85, Filed **ARC 0830B** ..... 7/25/01

**SUBSTANCE ABUSE COMMISSION[643]**

- PUBLIC HEALTH DEPARTMENT[641]“umbrella”
- Waivers or variances from administrative rules, rescind 3.17, adopt ch 10, Filed **ARC 0824B** ..... 7/11/01

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Restoration of agricultural land during and after pipeline construction, 9.1(3)"f," Notice **ARC 0832B** ..... 7/25/01

**WORKERS' COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Payroll tax tables, 8.8, Filed Emergency **ARC 0803B** ..... 7/11/01

**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.

**EDITOR'S NOTE: Terms ending April 30, 2003.**

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**CITATION of Administrative Rules**

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

- 441 IAC 79 (Chapter)
- 441 IAC 79.1(249A) (Rule)
- 441 IAC 79.1(1) (Subrule)
- 441 IAC 79.1(1)"a" (Paragraph)
- 441 IAC 79.1(1)"a"(1) (Subparagraph)

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

To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>ELDER AFFAIRS DEPARTMENT[321]</b>		
Senior living coordinating unit, 16.1 to 16.5 IAB 7/11/01 <b>ARC 0800B</b>	Room 316, Hotel Fort Des Moines Tenth and Walnut Des Moines, Iowa	July 31, 2001 10 a.m.
Elder group homes, 26.1, 26.2, 26.3(6), 26.6(1), 26.7, 26.8(3), 26.10 to 26.17 IAB 7/11/01 <b>ARC 0826B</b>	Room 316, Hotel Fort Des Moines Tenth and Walnut Des Moines, Iowa	July 31, 2001 10 a.m.
<b>ENVIRONMENTAL PROTECTION COMMISSION[567]</b>		
Concentrated animal feeding operation registration program, 65.6(12) IAB 7/11/01 <b>ARC 0818B</b>	Fifth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 31, 2001 10 a.m.
<b>INSURANCE DIVISION[191]</b>		
Multiple employer welfare arrangements, 77.2(1), 77.3(1), 77.4(3), 77.5(1), 77.11 IAB 7/11/01 <b>ARC 0823B</b>	330 Maple St. Des Moines, Iowa	August 1, 2001 10 a.m.
<b>IOWA FINANCE AUTHORITY[265]</b>		
Low-income housing tax credits, 12.1, 12.2 IAB 6/27/01 <b>ARC 0764B</b> (ICN Network)	Department of Economic Development 200 East Grand Ave. Des Moines, Iowa	August 22, 2001 10 a.m.
	Room 208, Metro High School 1212 Seventh St. SE Cedar Rapids, Iowa	August 22, 2001 10 a.m.
	Media Center, Lewis Central H.S. 3601 Hwy. 275 Council Bluffs, Iowa	August 22, 2001 10 a.m.
	Room 107, Technical Center 1501 W. Townline Rd. Creston, Iowa	August 22, 2001 10 a.m.
	Annex Bldg., Central High School 1120 Main St. Davenport, Iowa	August 22, 2001 10 a.m.
	Carnegie-Stout Public Library 360 W. 11th St. Dubuque, Iowa	August 22, 2001 10 a.m.
	Room 12, Fort Dodge High School 819 N. 25th St. Fort Dodge, Iowa	August 22, 2001 10 a.m.



**IOWA FINANCE AUTHORITY[265] (Cont'd)**  
**(ICN Network)**

Room 128, Careers Bldg. 500 College Dr. Mason City, Iowa	August 22, 2001 10 a.m.
Room 107, Advanced Technology Ctr. 525 Grandview Ave. Ottumwa, Iowa	August 22, 2001 10 a.m.
Room 127B, Bldg. B 4647 Stone Ave. Sioux City, Iowa	August 22, 2001 10 a.m.
Room 110, Tama Hall 1501 E. Orange Rd. Waterloo, Iowa	August 22, 2001 10 a.m.

**LIBRARIES AND INFORMATION SERVICES DIVISION[286]**

Appointment process for library service area boards of trustees, ch 9 IAB 7/11/01 <b>ARC 0819B</b> (See also <b>ARC 0804B</b> )	First Floor Conference Room State Library of Iowa East 12th and Grand Des Moines, Iowa	August 1, 2001 10 a.m.
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**MEDICAL EXAMINERS BOARD[653]**

Standards of practice—automated dispensing systems, 13.6 IAB 7/25/01 <b>ARC 0833B</b>	Suite C 400 SW Eighth St. Des Moines, Iowa	August 14, 2001 11 a.m.
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**NURSING BOARD[655]**

Nursing education programs, ch 2 IAB 6/27/01 <b>ARC 0758B</b>	Ballroom Kirkwood Civic Center Hotel Fourth and Walnut Des Moines, Iowa	September 19, 2001 5 p.m.
Nursing practice for LPNs, 6.6(5) IAB 6/27/01 <b>ARC 0763B</b>	Ballroom Kirkwood Civic Center Hotel Fourth and Walnut Des Moines, Iowa	September 19, 2001 5 p.m.
Prescriptive authority of ARNPs, 7.1 IAB 6/27/01 <b>ARC 0762B</b>	Ballroom Kirkwood Civic Center Hotel Fourth and Walnut Des Moines, Iowa	September 19, 2001 5 p.m.
National certifying organizations; utilization and cost control review process, 12.2, 12.3, 12.5, 12.7 IAB 6/27/01 <b>ARC 0761B</b>	Ballroom Kirkwood Civic Center Hotel Fourth and Walnut Des Moines, Iowa	September 19, 2001 5 p.m.

**RACING AND GAMING COMMISSION[491]**

Organization, meetings, and procedure, 1.2 IAB 7/11/01 <b>ARC 0821B</b>	Suite B 717 E. Court Des Moines, Iowa	July 31, 2001 9 a.m.
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“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 which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Agricultural Development Authority[25]

Soil Conservation Division[27]

ATTORNEY GENERAL[61]

AUDITOR OF STATE[81]

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

CITIZENS' AIDE[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 Division[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]

Savings and Loan Division[197]

Utilities Division[199]

CORRECTIONS DEPARTMENT[201]

Parole Board[205]

CULTURAL AFFAIRS DEPARTMENT[221]

Arts Division[222]

Historical Division[223]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[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[301]

ELDER AFFAIRS DEPARTMENT[321]

EMPOWERMENT BOARD, IOWA[349]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

EXECUTIVE COUNCIL[361]

FAIR BOARD[371]

GENERAL SERVICES DEPARTMENT[401]

HUMAN INVESTMENT COUNCIL[417]

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]

HUMAN SERVICES DEPARTMENT[441]

INFORMATION TECHNOLOGY DEPARTMENT[471]

INSPECTIONS AND APPEALS DEPARTMENT[481]  
  Employment Appeal Board[486]  
  Foster Care Review Board[489]  
  Racing and Gaming Commission[491]  
  State Public Defender[493]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
MANAGEMENT DEPARTMENT[541]  
  Appeal Board, State[543]  
  City Finance Committee[545]  
  County Finance Committee[547]  
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]  
NATIONAL AND COMMUNITY SERVICE, IOWA COMMISSION ON[555]  
NATURAL RESOURCES DEPARTMENT[561]  
  Energy and Geological Resources Division[565]  
  Environmental Protection Commission[567]  
  Natural Resource Commission[571]  
  Preserves, State Advisory Board[575]  
PERSONNEL DEPARTMENT[581]  
PETROLEUM UNDERGROUND STORAGE TANK FUND  
  BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PUBLIC DEFENSE DEPARTMENT[601]  
  Emergency Management Division[605]  
  Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
  Substance Abuse Commission[643]  
  Professional Licensure Division[645]  
  Dental Examiners Board[650]  
  Medical Examiners Board[653]  
  Nursing Board[655]  
  Pharmacy Examiners Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
  Archaeologist[685]  
REVENUE AND FINANCE DEPARTMENT[701]  
  Lottery Division[705]  
SECRETARY OF STATE[721]  
SEED CAPITAL CORPORATION, IOWA[727]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
  Railway Finance Authority[765]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS COMMISSION[801]  
VETERINARY MEDICINE BOARD[811]  
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 0827B

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6(4), the Department of Human Services proposes to amend Chapter 65, "Administration," appearing in the Iowa Administrative Code.

These amendments make changes to food stamp policy to:

- Change the name of the Job Training Partnership Act (JTPA) to the Workforce Investment Act of 1998 (WIA).
- Update the rules on food stamp employment and training (FSET) and delete the names of counties in which the program will be offered. The Department shall offer food stamp employment and training components in counties having a monthly average of 500 or more mandatory work registrants. The Department shall offer components in additional counties subject to the availability of sufficient state and federal funding to cover program costs. At the present time the program is offered only in five counties.
- Revise participation allowances to a maximum of \$50 and a minimum of \$25. The amount needs to be flexible to avoid a deficit in the FSET program. This confers a benefit on the clients as current rules allow only a \$25 allowance.
- Establish a permanent workfare program for able-bodied adults without dependents (ABAWDs) as required under federal regulations as of October 1, 2001. Without this change, 200 ABAWDs would not receive food stamps. Current rules would have ended the pilot program September 30, 2001.
- Rescind rule 441—65.49(234) because of the establishment of the permanent workfare program.

These amendments do not provide for waivers because federal law does not allow waivers.

Consideration will be given to all written data, views, and arguments thereto received by the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut, Des Moines, Iowa 50319-0114, on or before August 15, 2001.

These amendments are intended to implement Iowa Code section 234.12.

The following amendments are proposed.

ITEM 1. Amend rule 441—65.3(234) as follows:

**441—65.3(234) Administration of program.** The food stamp program shall be administered in accordance with the Food Stamp Act of 1977 and in accordance with federal regulation, Title 7, Parts 270 through 282 as amended to ~~November 21, 2000~~ *June 1, 2001*.

A copy of the federal law and regulations may be obtained at no more than the actual cost of reproduction by contacting the Division of Economic Assistance, Department of Human Services, 1305 East Walnut, Hoover State Office Building, Des Moines, Iowa 50319-0114, (515)281-3133.

This rule is intended to implement Iowa Code section 234.12.

ITEM 2. Amend rule 441—65.28(234) as follows:

Rescind subrule 65.28(8) and adopt the following **new** subrule in lieu thereof:

**65.28(8)** Employment and training components. Employment and training components include individual job search, job club, educational services (GED/ABE/ESL) and Workforce Investment Act of 1998 (WIA) activities. The department shall offer food stamp employment and training components in counties having a monthly average of 500 or more mandatory work registrants. The department shall offer components in additional counties subject to the availability of sufficient state and federal funding to cover program costs. Availability of components may vary among the areas where employment and training is offered.

a. Job club. The food stamp employment and training job club shall be modeled after the family investment program's PROMISE JOBS job club. Employment and training service provider staff may require a participant who, for any reason, is absent during the classroom portion of job club to repeat the entire period of classroom training. Additional allowances as provided for by subrule 65.28(11) shall not be paid to these individuals.

Each job club participant shall be required to read and sign Form 62-2053, Your Rights and Responsibilities, acknowledging that a complete explanation of the program and what constitutes noncompliance and the sanctions for noncompliance have been provided.

b. Educational services (GED/ABE/ESL). Persons referred to the job club component may elect to be referred to the educational services program. Educational services offered include General Educational Development (GED), Adult Basic Education (ABE), or English as a Second Language (ESL). The food stamp employment and training service provider shall individually assess persons requesting referral to this program. If it is determined that obtaining educational services would directly enhance the person's likelihood of obtaining employment, the food stamp employment and training service provider shall refer the person to this program subject to available funds. Participation in the educational services program for eight consecutive weeks is equivalent to participation in two four-week employment and training components. The food stamp employment and training service provider shall assign to the job club component persons who fail to begin or to continue the educational program during the two four-week components.

c. Workforce Investment Act of 1998 (WIA). Persons electing to participate in and selected for participation in WIA are participating in an employment and training component.

d. Individual job search (IJS). Participants in IJS shall receive information about the program. At a minimum, the orientation shall include an explanation of services provided, of participation requirements, and of each participant's rights and responsibilities. Employment services staff shall require each participant to read and sign Form 62-2053, Your Rights and Responsibilities, at the conclusion of the presentation, acknowledging that a complete explanation of the program and what constitutes noncompliance and the sanctions for noncompliance have been provided.

Employment services staff shall give each participant a job search assignment. Employment services staff shall require the participant to contact up to 24 employers, face-to-face, for the purpose of submitting employment applications and arranging for employment interviews. To qualify as a job contact, the participants must present themselves to prospective employers as available for work.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

The prospective employer must ordinarily employ persons in areas of work for which the applicant is reasonably qualified based on the participant's skills, prior work experience and level of education. The participant may not contact the same employer more than once during the component unless the initial contact indicated that vacancies in suitable positions might soon exist. Employment services staff shall require each participant to submit written documentation of employer contacts made using Form 60-0259, Job Service Work Search Record. The participant shall provide documentation in person to employment services staff at a scheduled meeting at the conclusion of the four-week participation period. At the beginning of the period, employment services staff shall give each participant written notice of the time, date, and location of this meeting.

Amend subrule 65.28(11) as follows:

**65.28(11)** Participation allowance and dependent care reimbursements.

a. ~~Participants~~ *The department shall provide participants in employment and training programs shall be provided* an allowance for costs of transportation or other costs (other than dependent care costs) reasonably necessary and directly related to participation in the components of a *minimum of \$25 to a maximum of \$50* for each four-week component in which the participant is placed. *The amount of the allowance is dependent on sufficient state and federal funding to cover the costs.*

EXCEPTION: Participation in JTPA WIA (65.28(8), paragraph "d" "c") does not entitle the person to a participation allowance. *The department shall authorize the employment and training service provider to provide the allowance shall be authorized* on the first day of each component in which the person participates. *The department shall authorize the employment and training service provider to provide the allowance shall be authorized* only once per component in each federal fiscal year. Participation in educational services (65.28(8), paragraph "e" "b") is considered participation in two consecutive four-week components.

b. ~~A reimbursement~~ *The department shall authorize the employment and training service provider to reimburse the provider of care directly* for the actual costs of dependent care expenses that the ~~department's designee~~ *employment and training service provider* determines to be necessary for the participation of a person in the components. *Reimbursement shall not to exceed \$200 for each child under two years of age and \$175 for each other dependent per four-week component will be paid directly to the provider of the care.* *The employment and training service provider shall only reimburse reimbursement will only be made to a person not included in the food stamp household. The amount of the reimbursement cannot exceed the going rate in the community as determined for PROMISE JOBS. For* *The employment and training service provider shall only reimburse* participants in the DES/JS component, during the regular school term, ~~reimbursement will be made only~~ to the extent that the contacts required in this component cannot be made while dependent children who attend school are in school. ~~Individuals shall be deferred~~ *The employment and training service provider shall defer a person from participation in a component if the dependent care expenses exceed the dependent care reimbursement. Deferment shall continue until a suitable component is available or circumstances change and monthly dependent care expenses no longer exceed the reimbursement amount. Reimbursement is dependent on sufficient state and federal funding to cover the costs.*

EXCEPTION: The caretaker relative of a dependent in a family receiving FIP ~~shall is not be eligible~~ for the dependent care reimbursement. Participation in JTPA WIA (65.28(8), paragraph "d" "c") does not entitle the person to a dependent care reimbursement. *The department shall authorize the employment and training service provider to provide the reimbursement shall be authorized* after the last day of each component in which the person participates upon presentation of proof of the expense incurred and hours of care for each dependent. *The department shall authorize the employment and training service provider to provide reimbursement shall be authorized* only once per component in each federal fiscal year. Participation in educational services (65.28(8), paragraph "e" "b") is considered participation in two consecutive four-week components.

Amend subrule 65.28(12), introductory paragraph, as follows:

**65.28(12)** Failure to comply. This subrule does not apply to persons electing to participate in the employment and training components of educational services and JTPA WIA (see paragraphs 65.28(8) "e" "b" and "d" "c").

Amend subrule 65.28(13) as follows:

**65.28(13)** Noncompliance with comparable requirements. ~~Failure~~ *The department shall treat failure to comply with a JTB an unemployment compensation requirement that is comparable to a food stamp work registration or employment and training requirement shall be treated* as a failure to comply with the corresponding food stamp requirement. Disqualification procedures in subrule 65.28(12) shall be followed.

Rescind subrule 65.28(18) and adopt the following **new** subrule in lieu thereof:

**65.28(18)** Measuring the three-year period for able-bodied nonexempt adults without dependents. The three-year period is a 36-month consecutive period of time. The 36-month period as provided for in federal regulations at 7 CFR 273.24(b) as amended to June 1, 2001, starts with the first month counted toward the 3-month limit. Periods during the 36 months in which the person may receive benefits because of being exempt from the requirement do not reset the 36-month period. December 1, 1996, is the first month for which a person's 36-month period can begin. When the person's first 36-month period expires, a new 36-month period begins starting with the first month counted toward the 3-month limit.

Amend subrule 65.28(19) as follows:

**65.28(19)** ~~Pilot workfare~~ *Workfare* program for able-bodied adults without dependents (ABAWDs). The ~~pilot~~ workfare program is designed to allow ABAWDs who are required to work as an eligibility requirement for receipt of food stamp benefits by ~~subrule 65.28(18)~~ *as provided for in federal regulations at 7 CFR 273.24 as amended to June 1, 2001*, the opportunity to perform public service work in private or public nonprofit organizations in exchange for the value of their monthly food stamp benefits. The ~~pilot~~ workfare program is a component of the food stamp employment and training program set forth in subrule 65.28(7). Participation in the ~~pilot~~ workfare program is voluntary.

a. ~~ABAWDs~~ *Able-bodied adults without dependents (ABAWDs)* who participate in the ~~pilot~~ workfare program ~~may meet the work requirements of subrule 65.28(18) necessary to be eligible for food stamp benefits~~ by working in a job slot for a required number of hours per month. The required number of hours of work shall be the value of the workfare participant's food stamp allotment divided by the federal minimum wage. If the workfare participant is a member of a

## HUMAN SERVICES DEPARTMENT[441](cont'd)

household of two or more members, the *employment and training service provider shall prorate* the household's monthly food stamp benefit allotment ~~shall be prorated among the household members, and. The employment and training service provider shall divide~~ the workfare participant's pro-rata share of the household's allotment ~~shall be divided~~ by the federal minimum wage to determine the number of hours the individual must work.

b. and c. No change.

d. ~~Workfare~~ *The department shall be offered offer workfare* in selected counties. ~~Selection~~ *The department shall be based on prioritizing* ~~prioritize~~ counties according to:

(1) to (3) No change.

(4) The availability of *state and federal funding.*

e. Counties in which workfare is not offered are ~~designated to be~~ "exempt" counties.

f. ~~This pilot shall be in effect until September 30, 2001.~~

ITEM 3. Rescind and reserve subrule **65.46(4)**.

ITEM 4. Rescind and reserve rule **441—65.49(234)**.

ITEM 5. Amend rule 441—65.50(234) as follows:

**441—65.50(234) No increase in food stamp benefits.** When a household's means-tested federal, state, or local public assistance cash benefits are reduced because of a failure to perform an action required by the public assistance program, *the department shall reduce the household's food stamp benefit allotment shall be reduced* by 10 percent *as provided for in federal regulations at 7 CFR 273.11(j), (k), and (l) as amended to June 1, 2001,* for the duration of the other program's penalty.

**ARC 0834B****INSURANCE DIVISION[191]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 502.607, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 50, "Regulation of Securities Offerings and Those Who Engage in the Securities Business," Iowa Administrative Code.

The proposed amendments remove registration procedures no longer applicable to investment advisers and federal covered advisers within the state of Iowa and substitute certain electronic registration requirements for these advisers. These amendments also make technical corrections to investment adviser and investment adviser representative examination rules and disclosure statement and privacy rules.

The purposes of these amendments are to implement recent statutory amendments, further legislative goals, and improve administrative efficiency and effectiveness.

Any interested person may make written suggestions or comments on these proposed amendments prior to Friday, August 17, 2001. These written materials may be mailed to Craig A. Goettsch, Securities Bureau, 340 Maple Street, Des

Moines, Iowa 50319-0066, or may be transmitted via facsimile to (515)281-3059.

These amendments are subject to waiver pursuant to the waiver provisions contained in rules 191—4.21(17A) through 191—4.36(17A).

It is the Division's intent to adopt these amendments following the public comment period and make them effective on November 1, 2001.

These amendments are intended to implement Iowa Code section 502.302 as amended by 2001 Iowa Acts, Senate File 473, and Iowa Code section 502.305.

The following amendments are proposed.

ITEM 1. Rescind rule 191—50.94(502) and adopt **new** rule 191—50.94(502) in lieu thereof:

**191—50.94(502) Electronic filing with designated entity.**

**50.94(1) Designation.** Pursuant to the uniform securities Act, Iowa Code section 502.302(1) as amended by 2001 Iowa Acts, Senate File 473, the administrator designates the Web-based Investment Adviser Registration Depository (IARD) operated by the National Association of Securities Dealers to receive and store filings and collect related fees from investment advisers on behalf of the administrator.

**50.94(2) Use of IARD.** Unless otherwise provided, all investment adviser applications, amendments, reports, notices, related filings and fees required to be filed with the administrator pursuant to the rules promulgated under the Act shall be filed electronically with and transmitted to IARD. The following additional conditions relate to such electronic filings:

a. Electronic signature. When a signature or signatures are required by the particular instructions of any filing to be made through IARD, a duly authorized signatory of the applicant, as required, shall affix the duly authorized signatory's electronic signature to the filing by typing the duly authorized signatory's name in the appropriate fields and submitting the filing to IARD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing.

b. When filed. Solely for purposes of a filing made through IARD, a document is considered filed with the administrator when all fees are received and the filing is accepted by IARD on behalf of the state.

**50.94(3) Electronic filing.** Notwithstanding subrule 50.94(2), the electronic filing of any particular document and the collection of related processing fees shall not be required until such time as IARD provides for receipt of such filings and fees and 30 days' notice is provided by the administrator. Any documents or fees required to be filed with the administrator that are not permitted to be filed with or cannot be accepted by IARD shall be filed directly with the administrator.

**50.94(4) Hardship exemptions.** This section provides two hardship exemptions from the requirements to make electronic filings as required by the rules.

a. Temporary hardship exemption.

(1) Investment advisers registered or required to be registered under the Act who experience unanticipated technical difficulties that prevent submission of an electronic filing to IARD may request a temporary hardship exemption from the requirements to file electronically.

(2) To request a temporary hardship exemption, the investment adviser must:

1. File Form ADV-H [17 CFR 279.3] in paper format with the administrator where the investment adviser's principal place of business is located, no later than one business

## INSURANCE DIVISION[191](cont'd)

day after the filing that is the subject of the Form ADV-H was due; and

2. Submit the filing that is the subject of the Form ADV-H in electronic format to IARD no later than seven business days after the filing was due.

(3) Effective date—upon filing. The temporary hardship exemption will be deemed effective upon receipt by the administrator of the complete Form ADV-H. Multiple temporary hardship exemption requests within the same calendar year may be disallowed by the administrator.

b. Continuing hardship exemption.

(1) Criteria for exemption. A continuing hardship exemption will be granted only if the investment adviser is able to demonstrate that the electronic filing requirements of this rule are prohibitively burdensome.

(2) To apply for a continuing hardship exemption, the investment adviser must:

1. File Form ADV-H [17 CFR 279.3] in paper format with the administrator at least 20 business days before a filing is due; and

2. If a filing is due to more than one administrator, the Form ADV-H must be filed with the administrator where the investment adviser's principal place of business is located. The administrator who received the application will grant or deny the application within ten business days after the filing of Form ADV-H.

(3) Effective date—upon approval. The exemption is effective upon approval by the administrator. The time period of the exemption may be no longer than one year after the date on which the Form ADV-H is filed. If the administrator approves the application, the investment adviser must, no later than five business days after the exemption approval date, submit filings to IARD in paper format (along with the appropriate processing fees) for the period of time for which the exemption is granted.

c. Recognition of exemption. The decision to grant or deny a request for hardship exemption will be made by the administrator where the investment adviser's principal place of business is located and shall be followed by the administrator in the other state(s) where the investment adviser is registered.

This rule is intended to implement Iowa Code section 502.302 as amended by 2001 Iowa Acts, Senate File 473.

ITEM 2. Rescind rule 191—50.96(502) and adopt **new** rule 191—50.96(502) in lieu thereof:

**191—50.96(502) Investment adviser applications and renewals.**

**50.96(1)** Investment adviser applications—required filings. The application for initial registration as an investment adviser pursuant to the uniform securities Act, Iowa Code section 502.302(1) as amended by 2001 Iowa Acts, Senate File 473, shall be made by:

a. Completing Form ADV Part I (Uniform Application for Investment Adviser Registration) [17 CFR 279.1] in accordance with the form instructions and by filing Part I with IARD;

b. Submitting the \$100 filing fee to IARD as required by the Act, Iowa Code section 502.302(3) as amended by 2001 Iowa Acts, Senate File 473;

c. Completing Form ADV Part II and by filing Part II with the administrator.

**50.96(2)** Investment adviser applications—discretionary filings. The application for initial registration may also include the following:

a. Such financial statements as set forth in rule 50.106(502), including a copy of the balance sheet for the

last fiscal year, and if such balance sheet is as of a date more than 45 days from the date of filing of the application, an unaudited balance sheet prepared as set forth in rule 50.106(502);

b. A copy of the surety bond required by rule 50.107(502), if applicable, shall be made available upon request of the administrator; and

c. Any other information the administrator may reasonably require.

**50.96(3)** Investment adviser renewals—required filings. Annual renewals by investment advisers shall be made by:

a. Filing with IARD an annual renewal registration as an investment adviser;

b. Submitting the \$100 filing fee to IARD as required by the uniform securities Act, Iowa Code section 502.302(3) as amended by 2001 Iowa Acts, Senate File 473.

**50.96(4)** Investment adviser renewals—discretionary filings. The administrator may require the filing of a surety bond under rule 50.107(502).

**50.96(5)** Updates and amendments.

a. An investment adviser must file with IARD, in accordance with the instructions in the Form ADV, any amendments to the investment adviser's Form ADV;

b. An amendment will be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment; and

c. Within 90 days of the end of the investment adviser's fiscal year, an investment adviser must file with IARD an updated Form ADV.

**50.96(6)** Completion of filing. An application for initial or renewal registration is not considered filed for purposes of the uniform securities Act, Iowa Code section 502.302(1) as amended by 2001 Iowa Acts, Senate File 473, until the required fee and all required submissions have been received by the administrator.

This rule is intended to implement Iowa Code section 502.302 as amended by 2001 Iowa Acts, Senate File 473.

ITEM 3. Rescind rule 191—50.97(502) and adopt **new** rule 191—50.97(502) in lieu thereof:

**191—50.97(502) Notice filing requirements for federal covered advisers.**

**50.97(1)** Notice filing. The notice filing for a federal covered adviser pursuant to the uniform securities Act, Iowa Code section 502.302(2), shall be filed with IARD on an executed Form ADV (Uniform Application for Investment Adviser Registration) [17 CFR 279.1]. A notice filing of a federal covered adviser shall be deemed filed when the fee required by the Act, Iowa Code section 502.302(3) as amended by 2001 Iowa Acts, Senate File 473, and Form ADV are filed and accepted by IARD on behalf of the state.

**50.97(2)** Portions of Form ADV not yet accepted by IARD. Until IARD provides for the filing of Part II of Form ADV, the administrator will deem Part II of Form ADV filed if a federal covered adviser provides, within five days of a request, Part II of Form ADV to the administrator. A federal covered adviser is not required to submit Part II of Form ADV to the administrator unless requested.

**50.97(3)** Renewal. The annual renewal of the notice filing for a federal covered adviser pursuant to the uniform securities Act, Iowa Code section 502.302 as amended by 2001 Iowa Acts, Senate File 473, shall be filed with IARD. The renewal of the notice filing for a federal covered adviser shall be deemed filed when the fee required by the Act, Iowa Code section 502.302(3) as amended by 2001 Iowa Acts, Senate File 473, is filed with and accepted by IARD on behalf of the state.

## INSURANCE DIVISION[191](cont'd)

**50.97(4)** Updates and amendments. A federal covered adviser must file with IARD, in accordance with instructions in the Form ADV, any amendments to the federal covered adviser's Form ADV.

This rule is intended to implement Iowa Code section 502.302 as amended by 2001 Iowa Acts, Senate File 473.

ITEM 4. Amend 191—Chapter 50 by adopting the following **new** rule:

**191—50.98(502) Transition schedule for conversion to IARD.****50.98(1) Electronic filing of Form ADV.**

a. By November 1, 2001, each investment adviser registered or required to be registered under the Act must resubmit its Form ADV electronically with IARD if it has not previously done so, unless it has been granted a hardship exemption under subrule 50.94(4).

b. If the amendment to Form ADV is made after November 1, 2001, or at an earlier date if an investment adviser has filed its Form ADV [17 CFR 279.1] (or any amendments to Form ADV) electronically with IARD, the licensee must file amendments to Form ADV required by this section electronically with IARD, unless it has been granted a hardship exemption under subrule 50.94(4).

**50.98(2) Reserved.**

This rule is intended to implement Iowa Code section 502.302 as amended by 2001 Iowa Acts, Senate File 473.

ITEM 5. Amend 191—Chapter 50 by adopting the following **new** rule:

**191—50.99(502) Withdrawal of investment adviser registration.**

**50.99(1)** Investment adviser. The application for withdrawal of registration as an investment adviser pursuant to the uniform securities Act, Iowa Code section 502.304, shall be completed by following the instructions on Form ADV-W (Notice of Withdrawal from Registration as Investment Adviser) [17 CFR 279.2] and filed upon Form ADV-W with IARD.

**50.99(2) Reserved.**

This rule is intended to implement Iowa Code section 502.302 as amended by 2001 Iowa Acts, Senate File 473.

ITEM 6. Amend subrule 50.103(2), introductory paragraph, as follows:

**50.103(2)** The separate written disclosure statement required to be furnished by the solicitor to the client pursuant to 50.103(1)“c”(3)“3” “2” shall contain the following information:

ITEM 7. Amend paragraph **50.104(1)“q”** as follows:

q. Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information ~~contrary to the provisions of Section 204A of the Investment Advisers Act of 1940~~ as required by 16 CFR 313.

ITEM 8. Amend subrule 50.109(1) as follows:

**50.109(1)** A person applying to be registered as an ~~investment adviser or investment adviser representative~~ under the Act shall provide the administrator with proof that the person has obtained a passing score on one of the following ~~examinations~~ examination requirements:

a. The Uniform Investment Adviser Law Examination (Series 65 examination) as implemented January 1, 2000;

b. The General Securities Representative Examination (Series 7 examination) and the Uniform Combined State

Law Examination (Series 66 examination) as implemented January 1, 2000.

ITEM 9. Rescind subrule 50.109(2) and adopt the following **new** subrule in lieu thereof:

**50.109(2)** The following shall also apply:

a. Any individual who is registered as an investment adviser or investment adviser representative in any jurisdiction in the United States on or before January 19, 2000, shall not be required to satisfy the examination requirements for continued registration.

b. Any individual who is registered as an investment adviser or investment adviser representative in any jurisdiction in the United States after the effective date of these rules shall not be required to satisfy the examination requirements for continued registration, provided that the jurisdiction in which the investment adviser or investment adviser representative is registered required the passage of the examinations in subrule 50.109(1).

c. An individual who has not been registered as an investment adviser or investment adviser representative in any jurisdiction for a period of two years shall be required to comply with the examination requirements of this rule.

d. The administrator may require additional examinations for any individual found to have violated the uniform securities Act.

**ARC 0835B****LIBRARIES AND INFORMATION SERVICES DIVISION[286]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3 and 256.52, the Commission of Libraries hereby gives Notice of Intended Action to rescind Chapter 4, “ICN Classroom Policy,” and adopt new Chapter 4, “Meeting Room Policy,” Iowa Administrative Code.

The proposed chapter reflects changes in the number and type of available meeting room facilities.

Any interested person may make written suggestions or comments on the proposed amendment on or before August 14, 2001. Such written suggestions or comments should be directed to Carol Simmons, State Library of Iowa, East 12th Street and Grand Avenue, Des Moines, Iowa 50319. Persons who wish to convey their views orally should contact Carol Simmons at (515)281-4105.

This amendment is intended to implement Iowa Code section 256.52(3)“a” and “c.”

The following amendment is proposed.

Rescind 286—Chapter 4 and adopt the following **new** chapter in lieu thereof:

**CHAPTER 4  
MEETING ROOM POLICY**

**286—4.1(256) Definitions.** The definitions used in Iowa Code chapters 17A and 256 will apply for terms used



## LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

throughout this chapter. In addition, the following definitions will apply:

“Americans with Disabilities Act” means P.L. 101-336, a federal Act to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

“Good order” means that the room is left in good condition such that another group could follow without having to clean or set up the room.

“ICN” means the Iowa Communications Network, a fiberoptic audio/video two-way, full-motion communications system that can connect multiple sites statewide.

“ICN site scheduler” means the individual or individuals at the host facility designated to schedule use of ICN classrooms.

“Meeting rooms” means meeting room facilities in the Ola Babcock Miller Building scheduled by the state library, including the first floor conference room, with seating for 10 persons around one table and additional seating for 6 observers; the third floor computer training lab with 18 computer workstations and full ICN capabilities; the third floor enhanced conference room (available winter 2001) with seating for 25 around a table, additional seating for observers, and full ICN capabilities; and the third floor traditional ICN classroom (available winter 2001) with seating for 30 to 35 persons.

**286—4.2(256) Primary use.** The primary purpose of the meeting rooms is the facilitation of library-related activities and activities of other building occupants. When the rooms are not being used for these purposes, the rooms will be available to other users on a first-come, first-served basis. The ICN-equipped meeting rooms are available for work-related purposes to any state government or library-related organization, as well as to any authorized ICN user. (See Iowa Code section 8D.2, subsections 4 and 5, for the definitions of authorized ICN users.) The first floor conference room is available for work-related purposes to any state government or library-related organization. Availability of the rooms will be determined by state library staff. The state library reserves the right to cancel reservations when circumstances warrant; cancellations will not be made without prior notification.

**286—4.3(256) Library hours, access and information.** The meeting rooms will be available during library hours, Monday through Friday, 8 a.m. to 4:30 p.m. Special requests for meetings outside these hours will be considered on an individual basis. State library staff must be present in the building during any after-hours use of the meeting rooms.

**286—4.4(256) Room scheduling.**

**4.4(1)** Requests for the use of a meeting room must be submitted through the state library scheduler at least 72 hours (three working days) in advance of the meeting. If cancellations of ICN meetings are necessary, the request to cancel must be submitted within 48 hours (two working days) of the meeting. Requests for the ICN-equipped computer training lab may be made through the ICN VOSS scheduling system.

**4.4(2)** Meeting rooms may be reserved up to three months in advance. The meeting rooms are intended for one-time events or for brief series of meetings. Users may reserve rooms for a maximum of three separate events at any one time, and a maximum of five consecutive days in any one month. The meeting rooms are not intended for long-term training classes or semester-long classes.

**286—4.5(256) Training/assistance with equipment.** Users who need training or assistance in the use of the computer lab or the ICN equipment or both must schedule a training session or request assistance at least two working days in advance of the meeting. Special arrangements may be made for use (in the meeting rooms only) of the state library’s overhead projector, video projector, LCD panel, VCR/TV on cart, screen, portable podium with microphone, or flip-chart easel by contacting the state library scheduler.

**286—4.6(256) User responsibilities.**

**4.6(1)** The user is financially responsible for all ICN telecommunication charges incurred for the use of the ICN room.

**4.6(2)** The user is responsible for leaving the meeting room in good order and is financially responsible for any damage to or loss of library property.

**4.6(3)** The user is responsible for ensuring that the scheduled meeting or activity does not disturb state library customers or other building occupants, interfere with work-related activities of staff, or interfere with the continuing conduct of state agency business.

**4.6(4)** Food and nonalcoholic beverages are allowed in the meeting rooms. All refreshments (including coffee and condiments) are to be provided by the user. Users are responsible for discarding their own trash. Cleanup is the responsibility of the user.

**4.6(5)** Grounds to refuse the user are failure to leave the room in good order, misconduct or creating a disturbance, or loss of or damage to property and may result in the immediate termination of the meeting or event.

**286—4.7(256) Compliance with state and federal law.**

**4.7(1)** Smoking is not permitted. The building is smoke-free. Users must comply with posted fire regulations.

**4.7(2)** Users of the meeting rooms must comply with the Americans with Disabilities Act and are responsible for providing qualified interpreters or auxiliary aids if requested. The cost of reasonable accommodation is assumed by the user.

**4.7(3)** Use or transmission of copyrighted material, without prior approval of the copyright holder, is strictly prohibited. Appropriate use of copyrighted material is the responsibility of the user.

**4.7(4)** Visitor parking is available in designated areas around the capitol complex. Complaints or accident reports are to be filed with Iowa state patrol by telephone at 281-5608.

**286—4.8(256) State library responsibilities.**

**4.8(1)** The state library is not responsible for any unscheduled interruption of a meeting or an ICN session, or the cancellation of an ICN session by the ICN or a host site.

**4.8(2)** The state library is not responsible for accidents, injury or damage to, or theft of personal items occurring in connection with use of the meeting rooms.

**4.8(3)** Permission to use the meeting rooms does not imply endorsement of, or agreement with, the purpose(s) or the expression of any individual or organization by the Iowa commission of libraries, the state library, or its staff.

**286—4.9(256) Remedies.** Any user who fails to abide by these policies may be denied future use of the meeting rooms.

These rules are intended to implement Iowa Code section 256.52(3)“a” and “c.”

**ARC 0833B****MEDICAL EXAMINERS  
BOARD[653]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 13, "Standards of Practice and Professional Ethics," Iowa Administrative Code.

The proposed rule requires physicians who utilize an automated dispensing system or a dispensing system that employs technology for prescription drugs to establish an internal quality control assurance plan that meets the standards described in the new rule.

The proposed rule was approved at the June 28, 2001, regular meeting of the Board of Medical Examiners.

Any interested person may present written comments on the proposed rule not later than 4 p.m. on August 14, 2001. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686.

There will be a public hearing on August 14, 2001, at 11 a.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medical Examiners office is located at 400 S.W. 8th Street, Suite C, Des Moines, Iowa.

This rule is intended to implement Iowa Code section 147.107 and 2001 Iowa Acts, House File 726, section 5(10), paragraph "i."

The following new rule is proposed.

**653—13.6(147,79GA,HF726) Standards of practice—automated dispensing systems.** A physician who dispenses prescription drugs via an automated dispensing system or a dispensing system that employs technology may delegate nonjudgmental dispensing functions to staff assistants in the absence of a pharmacist or physician provided that the physician utilizes an internal quality control assurance plan that ensures that the medication dispensed is the medication that was prescribed. The physician shall be physically present to determine the accuracy and completeness of any medication that is reconstituted prior to dispensing.

**13.6(1)** An internal quality control assurance plan shall include the following elements:

- a. The physician responsible for the internal quality assurance plan and testing;
- b. Methods that the dispensing system employs, e.g., bar coding, to ensure accuracy of the patient's name and medication, dosage, directions and amount of medication prescribed;
- c. Standards that the physician expects to be met to ensure the accuracy of the dispensing system and the training and qualifications of staff members assigned to dispense via the dispensing system;
- d. Staff training and qualifications for dispensing via the dispensing system;
- e. A list of staff members who meet the qualifications and who are assigned to dispense via the dispensing system;

f. A plan for testing the dispensing system and each staff member assigned to dispense via the dispensing system;

g. The results of testing that show compliance with the standards prior to implementation of the dispensing system and prior to approval of each staff member to dispense via the dispensing system;

h. A plan for interval testing of the accuracy of dispensing, at least annually; and

i. A plan for addressing inaccuracies, including discontinuing dispensing until the accuracy level can be reattained.

**13.6(2)** Those dispensing systems already in place shall show evidence of a plan and testing within two months of the effective date of this rule.

**13.6(3)** The internal quality control assurance plan shall be submitted to the board of medical examiners upon request.

This rule is intended to implement Iowa Code section 147.107 and 2001 Iowa Acts, House File 726, section 5(10), paragraph "i."

**ARC 0831B****REVENUE AND FINANCE  
DEPARTMENT[701]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.17(19) and 422.68, the Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Iowa Administrative Code.

Item 1 provides that foreign corporations are not required to file Iowa corporation income tax returns if their only activities in Iowa are the storage of goods for a period of 60 consecutive days or less in a warehouse for hire located in Iowa, provided that the foreign corporation transports or causes a carrier to transport such goods to that warehouse and that none of these goods are delivered or shipped to a purchaser in Iowa. To clarify the statutory provision, examples are included.

Item 2 amends the implementation clause for rule 52.1(422).

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

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

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A [1998 Iowa Acts, chapter 1202, section 10]. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A [1998 Iowa Acts, chapter 1202, section 10] if a written request is filed by delivery or by mailing postmarked no later than August 27, 2001, to the Policy Section, Compliance Division, Department of Reve-

REVENUE AND FINANCE DEPARTMENT[701](cont'd)

nue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 14, 2001. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who wish to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue and Finance, at (515)281-4250 or at the Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by August 3, 2001.

These amendments are intended to implement Iowa Code chapter 422 as amended by 2001 Iowa Acts, House File 707.

The following amendments are proposed.

ITEM 1. Amend rule 701—52.1(422) by adding the following **new** subrule:

**52.1(9)** Income tax returns for corporations storing goods in an Iowa warehouse. For tax years beginning on or after January 1, 2001, foreign corporations are not required to file income tax returns if their only activities in Iowa are the storage of goods for a period of 60 consecutive days or less in a warehouse for hire located in Iowa, provided that the foreign corporation transports or causes a carrier to transport such goods to that warehouse and that none of these goods are delivered or shipped to a purchaser in Iowa.

The following nonexclusive examples illustrate how this subrule applies:

EXAMPLE 1: A, a foreign corporation, stores goods in a warehouse for hire in Iowa for a period of 45 consecutive days. The goods are then delivered to a purchaser outside Iowa. If this is A's only activity in Iowa, A is not required to file an Iowa income tax return.

EXAMPLE 2: B, a foreign corporation, stores goods in a warehouse for hire in Iowa for a period of 75 consecutive days. The goods are then delivered to a purchaser outside Iowa. B is required to file an Iowa income tax return because the goods were stored in Iowa for more than 60 consecutive days.

EXAMPLE 3: C, a foreign corporation, stores goods in a warehouse for hire in Iowa for a period of 30 consecutive days. One percent of these goods are shipped to a purchaser in Iowa, and the other 99 percent are shipped to a purchaser outside Iowa. C is required to file an income tax return because a portion of the goods were shipped to a purchaser in Iowa.

EXAMPLE 4: D, a foreign corporation, has retail stores in Iowa. D also stores goods in a warehouse for hire in Iowa for a period of 30 consecutive days. The goods are then delivered to a purchaser outside Iowa. D is required to file an income tax return because its Iowa activities are not limited to the storage of goods in a warehouse for hire in Iowa.

EXAMPLE 5: E, a foreign corporation, has goods delivered by a common carrier, F, into a warehouse for hire in Iowa. The goods are stored in the warehouse for a period of 40 consecutive days, and are then delivered to a purchaser outside

Iowa. If this is E's only activity in Iowa, E is not required to file an Iowa income tax return. However, F is required to file an Iowa income tax return because it derives income from transportation operations in Iowa.

ITEM 2. Amend rule 701—52.1(422), implementation clause, as follows:

This rule is intended to implement Iowa Code sections 422.21, 422.32, 422.33 as amended by 1999 Iowa Acts, chapter 151, 422.34, 422.34A and 422.36 as amended by 2001 Iowa Acts, House File 707.

### 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 James E. Forney, Superintendent of Banking Holmes Foster, and Auditor of State Richard D. Johnson have established today the following rates of interest for public obligations and special assessments. The usury rate for July is 7.50%.

#### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

- 74A.2 Unpaid Warrants . . . . . Maximum 6.0%
- 74A.4 Special Assessments . . . . . Maximum 9.0%

RECOMMENDED for 74A.3 and 74A.7: A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities.

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 July 10, 2001, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

#### TIME DEPOSITS

- 7-31 days . . . . . Minimum 3.20%
- 32-89 days . . . . . Minimum 3.20%
- 90-179 days . . . . . Minimum 3.40%
- 180-364 days . . . . . Minimum 3.50%
- One year to 397 days . . . . . Minimum 3.60%
- More than 397 days . . . . . Minimum 4.20%

These are minimum rates only. The one year and less 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.

## NOTICE—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:

July 1, 2000 — July 31, 2000	8.50%
August 1, 2000 — August 31, 2000	8.00%
September 1, 2000 — September 30, 2000	8.00%
October 1, 2000 — October 31, 2000	7.75%
November 1, 2000 — November 30, 2000	7.75%
December 1, 2000 — December 31, 2000	7.75%
January 1, 2001 — January 31, 2001	7.75%
February 1, 2001 — February 28, 2001	8.00%
March 1, 2001 — March 31, 2001	7.25%
April 1, 2001 — April 30, 2001	7.00%
May 1, 2001 — May 31, 2001	7.00%
June 1, 2001 — June 30, 2001	7.25%
July 1, 2001 — July 31, 2001	7.50%
August 1, 2001 — August 31, 2001	7.25%

### ARC 0832B

## UTILITIES DIVISION[199]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, 479.29, 479A.14 and 479B.20, the Utilities Board (Board) gives notice that on July 5, 2001, the Board issued an order in Docket No. RMU-01-6, In re: Amendment to 199 IAC 9.1(3)“f.” Land Restoration Rules. The Board is proposing to amend 199 IAC 9.1(3)“f” to correct a drafting error that occurred in the adoption of 199 IAC Chapter 9, effective March 14, 2001.

The Board adopted a new Chapter 9 that established rules regarding restoration of agricultural lands during and after pipeline construction effective March 14, 2001. The Adopted and Filed Chapter 9 was published in the Iowa Administrative Bulletin on February 7, 2001, as **ARC 0436B**. The error occurred when a revision to the proposed para-

graph 199 IAC 9.1(3)“f” was discussed and set out in the preamble, but the revision was not made in the adopted rule.

The proposed paragraph 199 IAC 9.1(3)“f” provided a definition of “pipeline construction” as “installation, replacement, operation, and maintenance involving substantial disturbance to the land, and removal of a pipeline, but shall not include emergency repairs.” The preamble in the Adopted and Filed rules, **ARC 0436B**, indicated that the definition of “pipeline construction” should be revised to read in pertinent part “a substantial disturbance to agricultural land associated with the installation, replacement, removal, operation or maintenance of a pipeline, but shall not include work performed during an emergency.” The Board moved the phrase “substantial disturbance to the land” forward in the sentence to clarify that it applied to the installation, replacement, removal, operation or maintenance of a pipeline. The paragraph as adopted did not contain the language “a substantial disturbance to agricultural land associated with.” This was a drafting oversight, and this rule making is necessary to properly reflect the Board’s decision concerning the definition of “pipeline construction.”

Pursuant to Iowa Code sections 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendment. The statement will be filed on or before August 14, 2001, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author’s name and address and should make specific reference to this docket. All communications should be directed to the Acting Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)“b,” an oral presentation may be requested or the Board on its own motion after reviewing the statements may determine that an oral presentation should be scheduled.

This amendment is intended to implement Iowa Code sections 17A.4, 476.1, 476.2, 479.29, and 479B.20.

The following amendment is proposed.

Amend paragraph **9.1(3)“f”** as follows:

f. “Pipeline construction” means a *substantial disturbance to agricultural land associated with* installation, replacement, removal, operation or maintenance of a pipeline, but shall not include work performed during an emergency. Emergency means a condition where there is clear and immediate danger to life or health, or essential services, or a potentially significant loss of property. When the emergency condition ends, pipeline construction will be in accordance with these rules.

## ARC 0828B

ELDER AFFAIRS  
DEPARTMENT[321]

## Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 231C.3 and chapter 17A, the Department of Elder Affairs hereby amends Chapter 27, "Assisted Living Programs," Iowa Administrative Code.

The amendments are intended to reorganize current structural requirements and add safety measures to be taken when items such as locks and kitchen appliances become hazardous to persons with cognitive impairment; add requirements for new construction where preexisting structural limitations do not exist to provide adequate space and a private bathroom to create a living unit that affords tenants privacy and dignity; and add language allowing modifications in the general assisted living structure requirements for assisted living programs serving persons with dementia to meet the therapeutic environmental needs of persons with dementia. The amendments to rule 321—27.9(231C) update cross references and add key life safety measures for assisted living programs serving persons with dementia, such as a procedure for responding to missing person reports and providing additional evacuation time by using slower-burning building materials.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 30, 2001, as **ARC 0706B**.

A public hearing was held on June 19, 2001. One written comment was received. One architect objected to requiring bathing facilities in individual units in a dementia-specific assisted living program as most dementia tenants are not able to use the bathing facility appropriately, which creates a safety issue for the tenant and an additional concern for staff. The Department and its Commission chose to leave this requirement in the rules with the understanding that a developer could request a waiver of the rule. The Commission determined that because a shower is not of sufficient additional cost to new construction of an assisted living unit and assisted living is intended to maximize independence, tenants who can appropriately use bathing facilities are entitled to have the privacy and dignity that private bathing facilities afford.

The amendments differ from the Notice of Intended Action as follows: Paragraph 27.8(3)"c" was deleted at the direction of the Commission for the Department of Elder Affairs. The Commission commented on and voted not to allow fire-retardant curtains in place of doors for bathrooms in dementia-specific dwelling units without a request to waive the rule in recognition of the differences in the abilities and needs of persons with dementia and the need for dignity and privacy for these persons.

Pursuant to Iowa Code section 17A.5(2)"b"(2) and (3), these amendments became effective on July 5, 2001. The Director finds that these amendments confer a benefit to consumers and that implementation of the amendments prior to issuance of the senior living trust request for proposals for fiscal year 2002 is a benefit to assisted living program developers by permitting them to know what structural rules will apply prior to application for conversion grants and expenditure of funds for blueprints.

These amendments are intended to implement Iowa Code section 231C.3.

These amendments became effective July 5, 2001.

The following amendments are adopted.

ITEM 1. Amend rule 321—27.1(231C) by adopting the following new definition in alphabetical order:

"Dementia-specific assisted living program" means an assisted living program certified under this chapter that holds itself out as providing special care for persons with cognitive impairment or dementia, such as Alzheimer's disease, in a dedicated setting.

ITEM 2. Amend rule 321—27.8(231C) as follows:

**321—27.8(231C) Structure.****27.8(1) General requirements.**

a. The structure of the assisted living program shall be designed and operated to meet the needs of the tenants.

~~27.8(2) b.~~ Building and grounds shall be well maintained, clean, safe and sanitary.

~~27.8(3) c.~~ Assisted living programs ~~may shall~~ have private dwelling units with a *single-action* lockable ~~doors~~ *entrance door*. *An assisted living program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or remove the lock and shall do so if the presence of the lock presents a danger to the health and safety of the tenant.* ~~and~~

d. Assisted living programs may have individual cooking facilities *within the private dwelling units*. *Any assisted living program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or easily remove appliances and shall do so if the presence of cooking appliances presents a danger to the health and safety of the tenant.*

**27.8(4) 27.8(2) Dwelling units.**

a. *For assisted living programs certified prior to July 4, 2001.*

(1) Each dwelling unit shall have at least one room which will have not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

b. (2) Each dwelling unit shall have not less than 190 square feet of floor area, excluding bathrooms.

~~c.~~ (3) A dwelling unit used for double occupancy shall have not less than 290 square feet of floor area, excluding bathrooms.

~~27.8(5) (4)~~ The assisted living program shall have a minimum common area of 15 square feet per tenant.

b. *For new construction built on or after July 4, 2001.*

(1) *Each dwelling unit shall have at least one room that will have not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.*

(2) *Each dwelling unit used for single occupancy shall have a total square footage of not less than 240 square feet of floor area, excluding bathrooms and door swing.*

(3) *A dwelling unit used for double occupancy shall have a total square footage of not less than 340 square feet of floor area, excluding bathrooms and door swing.*

(4) *Each dwelling unit shall contain a bathroom, including but not limited to a toilet, sink and bathing facilities. An assisted living program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or remove the water control and shall do so if the presence of the water control presents a danger to the health and safety of the tenant.*

(5) *The assisted living program shall have a minimum of 25 square feet of common space per tenant.*

ELDER AFFAIRS DEPARTMENT[321](cont'd)

c. For a structure being converted to or rehabilitated for use as an assisted living program on or after July 4, 2001.

(1) Each dwelling unit shall have at least one room that has not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

(2) Each dwelling unit used for single occupancy shall have a total square footage of not less than 190 square feet of floor area, excluding bathrooms and door swing.

(3) A dwelling unit used for double occupancy shall have a total square footage of not less than 290 square feet of floor area, excluding bathrooms and door swing.

(4) The assisted living program shall have a minimum common area of 15 square feet per tenant dedicated for use by assisted living program tenants.

(5) Each dwelling unit shall have a bathroom, including but not limited to a toilet, sink and bathing facilities.

27.8(3) Dwelling units in dementia-specific assisted living programs. Dementia-specific assisted living programs are excepted from 27.8(2) as follows:

a. For an assisted living program built in a family or neighborhood design:

(1) Each dwelling unit used for single occupancy shall have total square footage of not less than 150 square feet of floor area, excluding a bathroom;

(2) Each dwelling unit used for double occupancy shall have total square footage of not less than 250 square feet of floor area, excluding a bathroom; and

(3) The common areas shall be increased by the equivalent of the waived square footage.

b. Self-closing doors are not required for individual dwelling units or bathrooms.

ITEM 3. Amend rule 321—27.9(231C) as follows:

321—27.9(231C) Fire Life safety.

27.9(1) The assisted living program shall have a written emergency and fire safety procedure. An assisted living program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall also include written procedures regarding appropriate staff response if a tenant with cognitive impairment or dementia is missing.

27.9(2) The assisted living program facility program's structure and procedures shall meet the fire life safety standards of the National Fire Protection Association, 1994 edi-

tion, chapter 22 or 23 and referenced addenda, as designated for this category in 661 IAC 5.626(231C) and such other building and public safety codes as may apply to an assisted living program as defined in Iowa Code section 231C.1, including but not limited to the Americans with Disabilities Act, the Fair Housing Act, applicable regulations of the Occupational Safety and Health Administration, and rules pertaining to accessibility contained in the Iowa State Building Code, administration section, division 7, and 661 IAC 18.

27.9(3) The assisted living program shall have the means to control the maximum temperature of water at sources accessible by a tenant to prevent scalding and shall do so for tenants with cognitive impairment or dementia or at tenant request.

27.9(4) Each sleeping room shall have a minimum of 5.7 square feet of operable window in accordance with 661 IAC 5.52(1), exception 2. Waiver of this requirement must be granted by the state fire marshal or designee.

27.9(5) Reserved.

27.9(6) Dementia-specific assisted living programs built on or after July 4, 2001, shall also meet the following life safety criteria:

a. Have an operating alarm system connected to each exit door from the dementia-specific assisted living program; and

b. Be built at a minimum of Type V (III) construction.

27.9(7) Visual and audible fire alarms shall be installed in exit corridors and common spaces, and in tenant dwelling units as required by the Americans with Disabilities Act. In cases where the visual or audible alarm located in a fully accessible dwelling unit of a dementia-specific assisted living program has been proven to be disruptive to the evacuation of the dwelling unit's tenant, the visual or audible alarm may be disabled. Disabling an alarm shall require documentation indicating why the tenant does not need the alarm in the dwelling unit and how the tenant will be safely evacuated. Said documentation shall be maintained in the record of the tenant occupying the accessible dwelling unit.

[Filed Emergency After Notice 7/5/01, effective 7/5/01]

[Published 7/25/01]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/25/01.

## ARC 0829B

REVENUE AND FINANCE  
DEPARTMENT[701]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.17(19), 422.33, 422.34A, and 422.68, the Department of Revenue and Finance hereby amends Chapter 4, "Multilevel Marketer Agreements," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXIII, Number 24, page 1838, on May 30, 2001, as ARC 0702B.

Paragraph 4.1(4)"b"(1) is amended by adding language clarifying that the Department has the authority to audit multilevel marketers for tax periods prior to the effective date of the multilevel marketer agreement for which the multilevel marketer held a permit with the Department.

This amendment is identical to that published under Notice of Intended Action.

This amendment will become effective August 29, 2001, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

This amendment is intended to implement Iowa Code sections 421.5 and 421.17(22B).

The following amendment is adopted.

Amend subparagraph 4.1(4)"b"(1) as follows:

(1) The department will not audit, assess or demand payment of sales tax, penalty or interest from the multilevel marketer for any tax periods ending before the effective date of the multilevel marketer agreement, *unless the multilevel marketer had a permit registration with the department prior to the effective date of this multilevel marketing agreement. If a multilevel marketer had a permit registration with the department prior to the effective date of this multilevel marketing agreement, the department may audit, assess, refund, or demand payment of tax, penalty, and interest from the multilevel marketer for any of those previous tax periods within the applicable statute of limitation.*

[Filed 7/3/01, effective 8/29/01]

[Published 7/25/01]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/25/01.

## ARC 0830B

REVENUE AND FINANCE  
DEPARTMENT[701]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 453C.1(10), the Department of Revenue and Finance hereby adopts Chapter 85, "Tobacco Master Settlement Agreement," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXIII, Number 23, page 1775, on May 16, 2001, as ARC 0674B.

The rules establish procedures to enable the Department of Revenue and Finance to collect information to ascertain the amount of state excise tax paid on cigarettes sold by tobacco product manufacturers in Iowa each year.

These rules are identical to those published under Notice of Intended Action.

These rules will become effective August 29, 2001, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These rules are intended to implement Iowa Code chapter 453C.

The following new chapter is adopted.

## CHAPTER 85

## TOBACCO MASTER SETTLEMENT AGREEMENT

**701—85.1(453C) National uniform tobacco settlement.** In 1998 the state of Iowa entered into an agreement with cigarette manufacturers called the Master Settlement Agreement (MSA). Subsequent to entering into that agreement, in 1999 the Iowa general assembly enacted Iowa Code chapter 453C. The statute requires the department of revenue and finance to promulgate regulations to ascertain the amount of excise tax paid on cigarettes sold by nonparticipating tobacco product manufacturers in Iowa each year.

**701—85.2(453C) Definitions.** For the purposes of this chapter, the definitions set forth in Iowa Code section 453C.1 shall apply.

**701—85.3(453C) Report required.** Reports must be filed by tobacco products distributors, cigarette distributors, and persons who sell tobacco products at retail that were purchased from a person who is not required to file a distributor report. The report must be filed annually on or before the last day of the month following the close of the calendar year in which the sales were made and must be in a form and manner requested by the department. The reports are to be mailed to Iowa Department of Revenue and Finance, Compliance Division, Cigarette Tax Unit, P.O. Box 10456, Des Moines, Iowa 50306-0456.

**701—85.4(453C) Report information.** The report must include the following information with respect to units sold that were not purchased from a participating tobacco product manufacturer or units sold that were purchased from a participating tobacco product manufacturer but are not units sold as covered by the MSA:

1. The number of units sold.
2. The brand of the units sold.
3. The name and address of the person from whom each unit was purchased.
4. The name and address of the manufacturer of the unit, if known.
5. The name and address of the importer of the unit, if known, and whether that importer is the exclusive importer of the unit, if known.

A retailer may need to file a report when purchasing roll-your-own tobacco or cigarettes over the Internet, through a catalog from a vendor located outside of Iowa, from an Indian tribe or from an enrolled member of an Indian tribe located on a reservation in or outside Iowa, by mail order, or from a vendor located in another state.

A retailer must also, upon request by the department, report information with respect to units sold that were purchased from any participating tobacco product manufacturer.

**701—85.5(453C) Record-keeping requirement.** Every person who sells at retail tobacco products purchased from a person who is not required to file a report required by this chapter and every tobacco products distributor and cigarette distributor subject to this reporting rule must maintain com-

## REVENUE AND FINANCE DEPARTMENT[701](cont'd)

plete and accurate records and underlying documentation for five years to support the data required to be supplied to the department under rule 701—85.4(453C). Upon request, all requested records and documents must be provided to the department.

**701—85.6(453C) Confidentiality.** The department of revenue and finance may disclose any and all information filed pursuant to rule 701—85.4(453C) to the attorney general for use in enforcing compliance with Iowa Code chapter 453C.

These rules are intended to implement Iowa Code chapter 453C.

[Filed 7/3/01, effective 8/29/01]

[Published 7/25/01]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/25/01.



**AGENCY**


Public Health Department[641]

**RULE**

38.8(11)  
[IAB 4/4/01, ARC 0597B]

**DELAY**

Effective date of May 9, 2001, delayed 70 days by the Administrative Rules Review Committee at its meeting held May 4, 2001. [Pursuant to §17A.4(5)] At its meeting held July 10, 2001, the Committee voted to delay the effective date until adjournment of the 2002 Session of the General Assembly. [Pursuant to §17A.8(9)]



**State of Iowa**  
**Executive Department**

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

\* IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**EXECUTIVE ORDER NUMBER TWENTY**

- WHEREAS,** the State of Iowa has enjoyed a proud history of developing and maintaining a well-educated population; and
- WHEREAS,** Iowa students have traditionally ranked among the nation's best in academic performance and overall student achievement; and
- WHEREAS,** the state's current educational system reflects a traditional approach, wherein the structure of education delivery is divided into three distinct, and somewhat disjointed, levels: (1) early childhood; (2) kindergarten through 12<sup>th</sup> grade; and (3) post-secondary, with each level being further divided into public and private educational systems; and
- WHEREAS,** our traditional educational system can sometimes lead to inefficiencies including: inconsistent admission criteria; service duplication; inefficient funding strategies; and delayed responses to critical state needs; and
- WHEREAS,** the current system is not well-suited for the development of a seamless and comprehensive approach to strategic planning, which can be designed to address the state's critical needs; and
- WHEREAS,** dramatic shifts in the nature of the state's economy are creating a growing demand for a highly educated and well-trained workforce; and
- WHEREAS,** a comprehensive effort to develop strategies for re-shaping the structure and nature of education in this state must include steps to coordinate the services that are delivered by all educational institutions within the State of Iowa.

**NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa, do hereby order and direct the creation of the IOWA EDUCATION ROUNDTABLE.**

- I. Purpose. The Iowa Education Roundtable shall be convened to examine the current structure of educational service delivery within the State of Iowa. The Iowa Education Roundtable shall advise this office on workable strategies for developing a well-coordinated and seamless service delivery system, wherein educators and administrators at all levels work together in a more cohesive manner to deliver and assess needed academic services.

The Iowa Education Roundtable shall address pertinent issues that lie at the heart of student achievement in the State of Iowa. Potential topical issues that the Roundtable may consider can include, but shall not be limited to: expanding access to early learning opportunities; smoothing student transitions between learning levels and across learning sectors; closing the achievement gap between students of different backgrounds; upgrading teacher education and professional development; strengthening relationships between families/communities and schools; creating a wider range of learning opportunities and experiences for students in the final two years of their secondary education; improving and streamlining remedial services; coordinating programming and curricula; and assessing employer needs within the state and implementing those needs into a comprehensive educational policy.

- II. Organization. The Iowa Education Roundtable shall be composed of twenty-one members appointed by the governor. Initial appointments to the Roundtable shall expire on July 1, 2002, when the group submits its first written report to the Governor's Office for review. Participants of this group will include representatives from the Iowa General Assembly, the Governor's Office, the Iowa Department of Education, educational institutions within the state, and state residents.

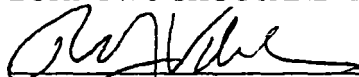
The Iowa Education Roundtable will receive administrative support from the Iowa Department of Education and the Iowa Board of Regents.

- III. Activities. The Iowa Education Roundtable shall convene no later than July 1, 2001. The Roundtable shall commence its activities by taking the following steps: (1) define the existing problem and identify a narrow set of priority issues to initiate the review (these issues shall consist of topics that have a significant impact on all sectors of education, and compliment existing efforts); (2) prepare an outline for examining the priority issues and seeking public input; (3) collaborate with existing governance authorities on the development of findings and proposed policy options; (4) generate recommendations for addressing priority issues and proposing the future direction and activities of the Roundtable.


The Roundtable shall submit a written report to the Governor's Office no later than July 1, 2002. The report shall contain Roundtable findings and recommendations, including a statement about whether Roundtable activities should be extended into the future.



IN TESTIMONY WHEREOF, I HAVE  
 HEREUNTO SUBSCRIBED MY NAME AND  
 CAUSED THE GREAT SEAL OF THE STATE  
 OF IOWA TO BE AFFIXED. DONE THIS  
 27<sup>TH</sup> DAY OF JUNE IN THE YEAR OF OUR  
 LORD TWO THOUSAND ONE.

  
 \_\_\_\_\_  
 THOMAS J. VILSACK  
 GOVERNOR

ATTEST:  
  
 \_\_\_\_\_  
 CHESTER J. CULVER  
 SECRETARY OF STATE



State of Iowa  
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA


EXECUTIVE ORDER NUMBER TWENTY-ONE

- WHEREAS,** the State of Iowa is committed to ensuring that all of Iowa's military veterans receive the benefits and support they deserve; and
- WHEREAS,** in 1992, the General Assembly split the Iowa Commission of Veterans Affairs and the Iowa Veterans Home from their respective umbrella departments, and created an independent entity, with the Iowa Commission of Veterans Affairs operating out of Camp Dodge and the Iowa Veterans Home located in Marshalltown, Iowa; and
- WHEREAS,** under current Iowa law, the Iowa Commission of Veterans Affairs shall prescribe the responsibilities of the executive director for the commission, supervise the administration of the Iowa Veteran's Home, assist county commissions of veterans affairs in the execution of their statutory duties and provide general assistance to the United States Veterans Administration; and
- WHEREAS,** the Iowa Commission of Veterans Affairs must coordinate all activities under its supervision, including the custodianship of more than 4,500,000 military records, which the commission makes available to veterans, their families, and veterans affairs agencies at federal, state and county levels; and
- WHEREAS,** the task of managing the operations of the commission, maintaining veteran records and assisting veterans affairs agencies on the federal and county levels offers a number of challenges under the current management structure; and
- WHEREAS,** the overall efficiency and effectiveness of the commission would be enhanced by restructuring its internal processes to set commission policy more effectively and share information between organizational officers.

NOW, THEREFORE, I Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and Constitution of the State of Iowa do hereby order and direct the establishment of a VETERANS AFFAIRS POLICY TASK FORCE, which shall make recommendations on future organizational and operational policy initiatives.


- I. The VETERANS AFFAIRS POLICY TASK FORCE shall be comprised of six members, who shall be appointed by the Governor. Two members shall be representatives from the Iowa Commission of Veterans Affairs; two members shall be representatives from the Iowa Association of County Commissioners of Veterans Affairs, one member shall be a representative from the Iowa Veterans Home and one member shall be a representative from the Iowa Veterans Council. The Task Force shall select a chairperson from its membership.
- II. The VETERANS AFFAIRS POLICY TASK FORCE shall develop a general policy for administrative operations at the Iowa Commission of Veterans Affairs office at Camp Dodge. The task force shall review the mission, vision, goals and objectives of the Commission and establish guidelines for administrative operations that support them.
- III. The VETERANS AFFAIRS POLICY TASK FORCE shall submit a report on its activities and its recommendations to the Iowa Commission of Veterans Affairs and the Governor's Office by September 30, 2001.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 3<sup>rd</sup> day of July, in the year of our Lord two thousand one.

  
GOVERNOR



  
SECRETARY OF STATE



**State of Iowa**  
**Executive Department**

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**SPECIAL ELECTION PROCLAMATION**

**WHEREAS,** the Office of State Representative from the 82nd Representative District, consisting of the following areas:

- A. the Eighty-second Representative District shall consist of:
  - a. Harrison County.
  - b. That portion of Pottawattamie County not contained in the eighty-first, eighty-third, eighty-fourth, eighty-fifth, or eighty-sixth representative district.

has become vacant by the reason of the resignation of Representative Donna Barry.

**NOW, THEREFORE, I,** Thomas J. Vilsack, Governor of the State of Iowa, by virtue of the authority vested in me by law do hereby proclaim and direct that a special election to fill said vacancy shall be held within said District on

**TUESDAY, THE 6<sup>TH</sup> DAY OF NOVEMBER, 2001, A.D.**

**WHEREFORE,** all electors within said 82nd Senate District will take due notice and the County Commissioner of Elections of said county will take official notice as provided in Chapter 39, Code of Iowa, 1997.



**IN TESTIMONY WHEREOF,** I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 5<sup>th</sup> day of July in the year of our Lord Two Thousand One.

  
 THOMAS J. VILSACK  
 GOVERNOR

ATTEST:  
  
 CHESTER J. CULVER



**State of Iowa**  
**Executive Department**

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

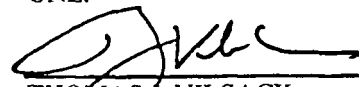
**PROCLAMATION OF DISASTER EMERGENCY**

- WHEREAS,** ON TUESDAY, JUNE 12 STRONG LINES OF THUNDERSTORMS MOVED ACROSS PORTIONS OF NORTHWEST IOWA; AND
- WHEREAS,** THESE STORMS SPAWNED HIGH WINDS, HEAVY RAINS, HAIL, TORNADOES, CAUSING FLOODING AND DAMAGES TO PRIVATE AND PUBLIC PROPERTY INCLUDING RESIDENCES, BUSINESSES, INFRASTRUCTURE AND AGRICULTURE, AND
- WHEREAS,** SURVEYS AND REPORTS FORWARDED BY STATE, AND LOCAL OFFICIALS INDICATE THAT STATE ASSISTANCE MAY BE NEEDED TO RECOVER FROM THE EFFECTS OF THESE STORMS:

NOW THEREFORE, I, THOMAS J. VILSACK, GOVERNOR OF THE STATE OF IOWA, DO HEREBY PROCLAIM A STATE OF DISASTER EMERGENCY FOR LYON COUNTY, OF THE STATE OF IOWA, FOR THE AFOREMENTIONED REASONS. THIS PROCLAMATION OF DISASTER EMERGENCY AUTHORIZES LOCAL AND STATE GOVERNMENT TO RENDER GOOD AND SUFFICIENT AID TO ASSIST THIS AREA IN ITS TIME OF NEED.



IN TESTIMONY WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME, AND CAUSED TO GREAT SEAL OF THE STATE OF IOWA TO BE AFFIXED. DONE AT DES MOINES THIS 2ND DAY OF JULY IN THE YEAR OF OUR LORD TWO THOUSAND ONE.




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THOMAS J. VILSACK  
GOVERNOR

ATTEST:




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CHESTER J. CULVER  
SECRETARY OF STATE



**\*SUMMARY OF OPINIONS OF THE ATTORNEY GENERAL**

THOMAS J. MILLER

April through June, 2001

**CASH RESERVE FUND**

Iowa Code § 8.56 (2001). The cash reserve fund sets forth separate methods under which money in the cash reserve fund can be disbursed. Subsection 1 authorizes disbursement of money for cash flow purposes which must be returned to the cash reserve fund by the end of the fiscal year in which it was disbursed. Subsection 3 authorizes appropriations from the cash reserve fund for nonrecurring emergencies. (Pottorff & Biederman to Wandro, Director, Iowa Department of Transportation, 6-11-01) #01-6-1(L)

**COUNTIES; SCHOOL DISTRICTS**

County contribution to wellness center; public purpose. Iowa Const., art. III, § 31 (1857); Iowa Code §§ 331.301, 346A.2 (2001). Consistent with the state constitutional requirement that an expenditure of public funds serve a public purpose, a county may contribute money to a regional wellness center, owned and operated by a school district, which will have an aquatic area, track, cardio-respiratory room, and other facilities that promote good health. (Kempkes to Ridout, Emmet County Attorney, 4-27-01) #01-4-2(L)

**COUNTY AND COUNTY OFFICERS**

County attorney; giving legal advice. Iowa Code § 331.756 (2001). A county attorney *qua* county attorney lacks authority to give legal advice to a private, nonprofit corporation that supervises criminal defendants released on probation or parole pursuant to court order. (Kempkes to Holmes, Story County Attorney, 5-17-01) #01-5-3(L)

**COUNTY AND COUNTY OFFICERS; COURTS**

Control over courthouse and personnel. Iowa Code §§ 331.301, 331.361, 331.502, 331.503, 331.903, 331.904 (2001). The supervisors and the auditor both act as caretakers of the courthouse, but the auditor acts subject to instruction from the supervisors. The auditor's general custody and control of the courthouse only involves the building, or buildings, occupied and appropriated according to law for the holding of courts. The supervisors, not the auditor, have authority to hire, fire, and assign maintenance and custodial personnel for the courthouse, purchase maintenance and custodial supplies, and determine the budget therefor. (Kempkes to Dearden, State Senator, 4-12-01) #01-4-1

## **COUNTY AND COUNTY OFFICERS; INCOMPATIBILITY OF OFFICES**

County board of supervisors appointing supervisor to county conservation board. Iowa Code section 331.216 (2001) supersedes the common law and permits county supervisors to appoint one of their own members to serve simultaneously on the county's conservation board. Enactment of section 331.216 reverses the conclusions reached in our prior opinions -- e.g., 1980 Op. Att'y Gen. 51 (#79-4-4(L)); 1980 Op. Att'y Gen. 202 (#79-6-5(L)); 1970 Op. Att'y Gen. 27 -- that the common law does not permit a supervisor to serve simultaneously as a member of another county office. (Kempkes to Hansen, Osceola County Attorney, 4-27-01) #01-4-4(L)

## **DEPARTMENT OF TRANSPORTATION; COUNTIES; MUNICIPALITIES**

Train speed regulation. Iowa Code § 327F.31 (2001). The Iowa Department of Transportation may only issue an order approving a locally proposed regulation for train speed if, in addition to meeting the requirements in its administrative rules and the test of reasonableness, the proposal satisfies the requirements of 49 U.S.C. § 20106: (1) it must be "necessary to eliminate or reduce an essentially local safety hazard"; (2) it must not be "incompatible with" a federal law, regulation, or order; and (3) it may not "unreasonably burden" interstate commerce. An opinion, which determines matters of law, cannot determine as a matter of fact whether a specific proposal satisfies the administrative rules or the second exception. (Kempkes to Wandro, Director, Iowa Department of Transportation, 5-7-01) #01-5-2

## **LAW ENFORCEMENT; POLICEMEN; FIREMEN; SHERIFF**

Appointment of reserve peace officers. Iowa Code §§ 80D.1A, 80D.6, 80D.9, 80D.11, 331.903, 362.10 (2001). The maximum age limitations imposed by Iowa Code sections 331.903(6) and 362.10 (2001) upon the service of "deputy sheriffs" and "police officers" in the State of Iowa are applicable to reserve peace officers appointed or employed pursuant to Iowa Code chapter 80D because reserve peace officers perform the same duties and functions as regular deputy sheriffs and police officers. (Lundquist to Shepard, Director, Iowa Law Enforcement Academy, 4-27-01) #01-4-3(L)

## **SCHOOLS AND SCHOOL DISTRICTS; STATE OFFICERS AND DEPARTMENTS**

Pupil transportation. Iowa Code §§ 256.11, 285.1, 285.2, 285.16 (2001). Resident pupils attending accredited college preparatory schools located either within or without the school district of their residences shall be entitled to transportation on the same basis as provided for resident pupils attending public schools. (Kempkes to Veenstra, State Senator, 6-11-01) #01-6-2(L)

## TAXATION; NONPROFIT CORPORATIONS; COOPERATIVE ASSOCIATIONS; RURAL WATER DISTRICTS

Property tax exemptions for pollution-control or recycling property of entities providing water to rural areas. Iowa Code §§ 357A.15, 427.1, 427A.1 (2001). Either section 427.1(17) or section 427.1(19) may exempt from property taxes the pollution-control or recycling property of nonprofit corporations having sewage treatment facilities and providing water to rural areas; only section 427.1(19) may exempt from property taxes the pollution-control or recycling property of cooperative associations having sewage treatment facilities and providing water to rural areas; the question whether either exemption applies to particular items of pollution-control or recycling property will depend upon an assessment of the relevant facts and circumstances, a task lying outside the proper scope of an opinion. Section 357A.15 exempts from property taxes all pollution-control or recycling property of rural water districts having sewage treatment facilities. (Kempkes to McKibben, State Senator, 5-1-01) #01-5-1

### 2001 IOWA CODE

	OPINION
8.56	#01-6-1(L)
80D.1A	#01-4-3(L)
80D.6	#01-4-3(L)
80D.9	#01-4-3(L)
80D.11	#01-4-3(L)
256.11	#01-6-2(L)
285.1	#01-6-2(L)
285.2	#01-6-2(L)
285.16	#01-6-2(L)
327F.31	#01-5-2
331.216	#01-4-4(L)
331.301	#01-4-1
	#01-4-2(L)
331.361	#01-4-1
331.502	#01-4-1
331.503	#01-4-1
331.756	#01-5-3(L)
331.903	#01-4-1
	#01-4-3(L)
331.904	#01-4-1
346A.2	#01-4-2(L)
357A.15	#01-5-1
362.10	#01-4-3(L)
427.1	#01-5-1
427A.1	#01-5-1

### IOWA CONSTITUTION

	OPINION
art. III, § 31	#01-4-2(L)

**IOWA ADMINISTRATIVE BULLETIN**  
**Customer Service Center**  
**Department of General Services**  
**Hoover State Office Building, Level A**  
**Des Moines, Iowa 50319**

PRSRT STD  
U.S. Postage  
**PAID**  
Des Moines, Iowa  
Permit No. 1195

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