



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XVI

NUMBER 24

May 25, 1994

Pages 2269 to 2316

CONTENTS IN THIS ISSUE

Pages 2282 to 2308 include ARC 4808A to ARC 4822A

AGENDA

Administrative rules review committee 2274

AGRICULTURE AND LAND

STEWARDSHIP DEPARTMENT[21]

Notice, Dairy — milk sample tests, 68.36
ARC 4821A 2282

ALL AGENCIES

Agency identification numbers 2280
Computer virus 2273
Publication procedures 2272
Schedule for rule making 2271

ATTORNEY GENERAL

Opinions summarized 2312

BANKING

Notice — Agricultural credit corporation
maximum loan rate 2283

CITATION OF ADMINISTRATIVE RULES 2279

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"
Filed, Practitioner's licenses; special
education endorsements, 14.13, 14.17,
14.20(14), 14.24, 15.4 ARC 4808A 2297

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice, Complaint, investigation, and resolution
procedure, ch 1, rescind 4.7 ARC 4812A 2283
Notice, Contested cases, ch 7 ARC 4813A 2285

EXECUTIVE DEPARTMENT

Executive Order 50 2309

HUMAN SERVICES DEPARTMENT[441]

Notice, Unemployed parent, 42.24 ARC 4815A .. 2291

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"
Filed, Medicare supplement coverage, 37.12(1),
37.23 ARC 4811A 2298

Filed, Commission payments on small group
health products, 71.11 ARC 4810A 2298

LIBRARIES AND INFORMATION SERVICES DIVISION[286]

EDUCATION DEPARTMENT[281]"umbrella"
Filed, Organization, rescind 224—chs 1 to 6;
adopt 286—chs 1 to 3 and 6 ARC 4817A 2299

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Notice Terminated, Continuing education,
5.2(2)"b" ARC 4814A 2292

PETROLEUM UST FUND BOARD, IOWA COMPREHENSIVE[591]

Notice, Remedial account claims, 11.7(1)"c" and
"f" ARC 4820A 2292
Filed, Prioritization of remedial account
eligible sites, 11.7 ARC 4822A 2305

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Hearing aid dealers, 120.2(2), 120.5(5),
120.9 to 120.14, 120.205 ARC 4816A 2294

PUBLIC HEARINGS

Summarized list 2277

PUBLIC SAFETY DEPARTMENT[661]

Filed, Governor's traffic safety bureau,
20.1 to 20.5 ARC 4809A 2306

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"
Notice, Prelicense education and continuing
education, 3.3, 3.4(3), 3.7 ARC 4818A 2295

SECRETARY OF STATE[721]

Notice, Election — alternative telephone
surcharge, 21.810(4) ARC 4819A 2295

TREASURER OF STATE

Notice — Public funds interest rates 2296

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 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.

The ARC number which appears before each agency heading is assigned by the Administrative Rules Coordinator for identification purposes and should always be used when referring to this item in correspondence and other communications.

The Iowa Administrative Code Supplement is also published every other week in loose-leaf form, pursuant to Iowa Code section 17A.6. It contains replacement pages for the Iowa Administrative Code. These replacement pages incorporate amendments to existing rules, new rules or emergency or temporary rules which have been filed with the Administrative Rules Coordinator and published in the Iowa Administrative Bulletin.

PHYLLIS BARRY, Administrative Code Editor

Telephone: (515)281-3355

KATHLEEN BATES, Administrative Code Assistant

(515)281-8157

SUBSCRIPTION INFORMATION

Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly as follows:

First quarter	July 1, 1993, to June 30, 1994	\$221.00 plus \$11.05 sales tax
Second quarter	October 1, 1993, to June 30, 1994	\$165.75 plus \$8.29 sales tax
Third quarter	January 1, 1994, to June 30, 1994	\$110.50 plus \$5.53 sales tax
Fourth quarter	April 1, 1994, to June 30, 1994	\$ 55.25 plus \$2.76 sales tax

Single copies may be purchased for \$15.00 plus \$0.75 tax. Back issues may be purchased if the issues are available.

Iowa Administrative Code

The Iowa Administrative Code and Supplements are sold in complete sets and subscription basis only. All subscriptions for the Supplement (replacement pages) must be for the complete year and will expire on June 30 of each year.

Prices for the Iowa Administrative Code and its Supplements are as follows:

Iowa Administrative Code - \$1,002.75 plus \$50.14 sales tax

(Price includes 18 volumes of rules and index, plus a one-year subscription to the Code Supplement and the Iowa Administrative Bulletin. Additional or replacement binders can be purchased for \$9.00 plus \$0.45 tax.)

Iowa Administrative Code Supplement - \$350.00 plus \$17.50 sales tax
(Subscription expires June 30, 1994)

All checks should be made payable to the Iowa State Printing Division. Send all inquiries and subscription orders to:

**Iowa State Printing Division
Grimes State Office Building
Des Moines, IA 50319
Phone: (515)281-5231**

Schedule for Rule Making 1994

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. 3 '93	Dec. 22 '93	Jan. 11	Jan. 26	Jan. 28	Feb. 16	Mar. 23	June 20
Dec. 17 '93	Jan. 5	Jan. 25	Feb. 9	Feb. 11	Mar. 2	Apr. 6	July 4
Dec. 31 '93	Jan. 19	Feb. 8	Feb. 23	Feb. 25	Mar. 16	Apr. 20	July 18
Jan. 14	Feb. 2	Feb. 22	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 28	Feb. 16	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 11	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 25	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sept. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sept. 26
Mar. 25	Apr. 13	May 3	May 18	May 20	June 8	July 13	Oct. 10
Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	July 1	July 20	Aug. 24	Nov. 21
May 20	June 8	June 28	July 13	July 15	Aug. 3	Sept. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sept. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '95
July 1	July 20	Aug. 9	Aug. 24	Aug. 26	Sept. 14	Oct. 19	Jan. 16 '95
July 15	Aug. 3	Aug. 23	Sept. 7	Sept. 9	Sept. 28	Nov. 2	Jan. 30 '95
July 29	Aug. 17	Sept. 6	Sept. 21	Sept. 23	Oct. 12	Nov. 16	Feb. 13 '95
Aug. 12	Aug. 31	Sept. 20	Oct. 5	Oct. 7	Oct. 26	Nov. 30	Feb. 27 '95
Aug. 26	Sept. 14	Oct. 4	Oct. 19	Oct. 21	Nov. 9	Dec. 14	Mar. 13 '95
Sept. 9	Sept. 28	Oct. 18	Nov. 2	Nov. 4	Nov. 23	Dec. 28	Mar. 27 '95
Sept. 23	Oct. 12	Nov. 1	Nov. 16	Nov. 18	Dec. 7	Jan. 11 '95	Apr. 10 '95
Oct. 7	Oct. 26	Nov. 15	Nov. 30	Dec. 2	Dec. 21	Jan. 25 '95	Apr. 24 '95
Oct. 21	Nov. 9	Nov. 29	Dec. 14	Dec. 16	Jan. 4 '95	Feb. 8 '95	May 8 '95
Nov. 4	Nov. 23	Dec. 13	Dec. 28	Dec. 30	Jan. 18 '95	Feb. 22 '95	May 22 '95
Nov. 18	Dec. 7	Dec. 27	Jan. 11 '95	Jan. 13 '95	Feb. 1 '95	Mar. 8 '95	June 5 '95
Dec. 2	Dec. 21	Jan. 10 '95	Jan. 25 '95	Jan. 27 '95	Feb. 15 '95	Mar. 22 '95	June 19 '95
Dec. 16	Jan. 4 '95	Jan. 24 '95	Feb. 8 '95	Feb. 10 '95	Mar. 1 '95	Apr. 5 '95	July 3 '95
Dec. 30	Jan. 18 '95	Feb. 7 '95	Feb. 22 '95	Feb. 24 '95	Mar. 15 '95	Apr. 19 '95	July 17 '95

20 days from the publication date is the **minimum** date for a public hearing or cutting off public comment.

35 days from the publication date is the **earliest** possible date for the agency to consider a noticed rule for adoption. It is the regular effective date for an adopted rule.

180 days See 17A.4(1)"b." If the agency does not adopt rules within this time frame, the Notice should be terminated.

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
26	Friday, June 3, 1994	June 22, 1994
1	Friday, June 17, 1994	July 6, 1994
2	Friday, July 1, 1994	July 20, 1994

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.

A T T E N T I O N

TO: Administrative Rules Coordinators and Text Processors of State Agencies
 FROM: Phyllis Barry, Iowa Administrative Code Editor
 SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Iowa Administrative Code Division is using a PC system to assist in the printing of the Iowa Administrative Bulletin. In order to most effectively transfer rules from the various agencies sending their rules on a diskette, please note the following:

1. We use a Windows environment with Lotus Ami Professional 3.0 as our word processing system and can import directly from any of the following:

Ami Pro 1.2	Manuscript	Rich Text Format
Ami Pro Macro	Microsoft Word	Samna Word
dBase	Microsoft Word for Windows	SmartWare
DCA/FFT	1.x, 2.0**	SuperCalc
DCA/RFT	MultiMate	Symphony Document
DIF	Navy DIF	Windows Write
Display Write 4	Office Writer	Word for Windows 1.x, 2.0**
Enable	Paradox	WordPerfect 4.1, 4.2, 5.0, 5.1*
Excel 3.0, 4.0	Peach Text	WordStar
Exec MemoMaker	Professional Write	WordStar 2000 ver 1.0, 3.0

* WordPerfect 6.0 filter is not yet available.

** Microsoft Word for Windows 6.0 filter is not yet available.

2. If you do not have any of the above, a file in an ASCII format is helpful.

3. Submit only 3 1/2" or 5 1/4" high density MSDOS or compatible format diskettes. Please indicate on each diskette the agency name, file name, the format used for exporting, chapter or chapters of rules being amended.

4. **Deliver this diskette to the Administrative Code Division, 4th Floor, Lucas Building when documents are submitted to the Governor's Administrative Rules Coordinator.**

Diskettes from agencies will be returned **unchanged** by the Administrative Code Division. Please refer to the hard-copy document which is returned to your agency by the Governor's office. This document reflects any changes in the rules—update your diskettes accordingly.

Your cooperation helps us to print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

SPECIAL NOTICE

DETECTION OF A COMPUTER VIRUS

TO: ALL STATE AGENCIES
FROM: PHYLLIS BARRY
IOWA ADMINISTRATIVE CODE EDITOR
RE: COMPUTER VIRUS DETECTED

The process used by the Iowa Administrative Code Division to create the Iowa Administrative Bulletin increasingly uses information on floppy disks submitted by executive agencies. This cooperative relationship between the legislative and executive branches has been successful and has greatly enhanced the process of publishing the Iowa Administrative Bulletin. Unfortunately, the Division recently discovered that the personal computer (PC) used to create the Administrative Bulletin was "infected" with a virus, and consequently this PC then infected other computers and disks.

The name of the virus is "Stoned," and its purpose appears to be limited to advocating the use of marijuana. The source of the virus on the Administrative Code Division's PC is not known, since the Division receives disks from numerous state agencies during each two-week cycle. A PC is infected by a virus when it accesses a disk that is infected with the virus. The virus is then transmitted to the hard drive of the PC accessing the infected disks and then the PC further spreads the virus because clean disks that are accessed by the PC become infected. These used disks are then returned to the agencies which sent them. The virus is not transmitted by a network.

It is not possible for the Legislative Computer Support Bureau to determine the source of the infection or the date on which the Division's PC was infected. However, it is suspected that the Division's PC was infected within the last two months. The floppy disks that the Division returned to your agency during that time, and any PC accessing those disks, should be considered capable of transmitting the virus. You are encouraged to scan any PC or disk that you believe may be infected by the virus, and then take appropriate action.

The Legislative Computer Support Bureau has been working with the Iowa Administrative Code Division to remove the virus and the Division is implementing procedures in order to detect the presence of viruses contained on disks submitted by your agency. If a disk is determined to be infected with the virus, you will be notified and the disk will be returned to you so that you can resubmit the information on an uninfected disk. The PC used by the Administrative Code Division is presently free of all viruses. Your agency is also encouraged to check for viruses on disks prior to submitting them to the Division. This procedure should greatly reduce the chances that another virus will occur.

The Iowa Administrative Code Division and the Legislative Computer Support Bureau regret that they cannot provide technical support to your agency or recommend procedures or programs to detect or eliminate viruses you may discover. Ms. Kimberly McKnight (281-6471) from the Administrative Code Division will answer any questions regarding the virus and procedures the Division will be using for future early detection.

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, June 14, 1994, at 10 a.m. and Wednesday, June 15, 1994, at 9 a.m. in Senate Committee Room 22, State Capitol. The following rules will be reviewed:

	Bulletin
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]	
Pesticide applicator recertification, 45.22(2)"a" and "c," 45.22(3), 45.22(4)"b," 45.22(5), 45.22(6), 45.22(16), 45.52, 48.7, <u>Filed</u> ARC 4781A	5/11/94
Livestock importation, 65.1(2), 65.11, 65.11(1)"a," <u>Notice</u> ARC 4804A	5/11/94
Dairy — antibiotic testing, 68.36, <u>Notice</u> ARC 4821A	5/25/94
BANKING DIVISION[187]	
COMMERCE DEPARTMENT[181]"umbrella"	
Real estate lending requirements for state-chartered banks, 9.2(5), <u>Filed</u> ARC 4784A	5/11/94
CREDIT UNION DIVISION[189]	
COMMERCE DEPARTMENT[181]"umbrella"	
Real estate lending, rescind chs 9, 10; new ch 9, <u>Notice</u> ARC 4796A	5/11/94
Corporate central credit union, ch 10, <u>Notice</u> ARC 4795A	5/11/94
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]	
Community economic betterment program, 22.2, 22.6(1), 22.6(2), 22.7, 22.8(3)"f," 22.9(3), 22.14, <u>Notice</u> ARC 4806A	
Rural leadership development program, ch 68, <u>Notice</u> ARC 4807A	5/11/94
Rural action training program, ch 69, <u>Notice</u> ARC 4805A	5/11/94
EDUCATIONAL EXAMINERS BOARD[282]	
EDUCATION DEPARTMENT[281]"umbrella"	
Issuance of practitioner's licenses and endorsements, special education endorsements, 14.13, 14.17, 14.20(14), 14.24, 15.4, <u>Filed</u> ARC 4808A	5/25/94
EDUCATION DEPARTMENT[281]	
Shared time, rescind ch 14, <u>Filed</u> ARC 4780A	5/11/94
Community colleges, 21.2(3), 21.10 to 21.12, <u>Filed</u> ARC 4779A	5/11/94
Competency development for vocational education programs, 46.7(2), <u>Filed</u> ARC 4778A	5/11/94
Vocational education council, ch 47 title, 47.1, 47.2, <u>Filed</u> ARC 4777A	5/11/94
Child development coordinating council, 64.15"5" and "6," 64.20, <u>Filed</u> ARC 4776A	5/11/94
Innovative programs for at-risk early elementary students — grant criteria, 65.9(4) to 65.9(7), <u>Filed</u> ARC 4775A	5/11/94
Updating and corrective amendments to chs 94 and 95, <u>Filed</u> ARC 4774A	5/11/94
ENVIRONMENTAL PROTECTION COMMISSION[567]	
NATURAL RESOURCES DEPARTMENT[561]"umbrella"	
Water quality standards, 61.3(3), Table 1, <u>Notice</u> ARC 4800A	5/11/94
Public water supply systems and wastewater treatment plants, 81.1, 81.2(3) to 81.2(8), 81.6(1), 81.6(2), 81.7, 81.8(1), 81.10(8), 81.10(10), 81.10(11), 81.12(2), 81.13(1), 81.14, <u>Notice</u> ARC 4799A	5/11/94
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]	
Complaint, investigation, and resolution procedure, ch 1, rescind 4.7, <u>Notice</u> ARC 4812A	5/25/94
Contested case procedures, ch 7, <u>Notice</u> ARC 4813A	5/25/94
HUMAN SERVICES DEPARTMENT[441]	
Unemployed parent, 42.24, <u>Notice</u> ARC 4815A	5/25/94
Medicaid reimbursement policy, 57.1, 75.8, 75.15(2)"b," 80.6, <u>Filed</u> ARC 4771A	5/11/94
Automatic redetermination, 76.11, <u>Filed</u> ARC 4773A	5/11/94
Medically needy, 86.3(5), <u>Filed</u> ARC 4772A	5/11/94
Certification of adoption investigators, purchase of adoption services, 107.3(2), 107.8(1)"d," 157.1, 157.3(1)"d," <u>Notice</u> ARC 4790A	5/11/94
Abuse of children, ch 175, <u>Notice</u> ARC 4791A	5/11/94
Respite care services, family-centered services — allocation of funds, 180.10, 182.11, <u>Notice</u> ARC 4789A	5/11/94

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Medicare supplement insurance — prohibition against using SHIP prepared materials, 37.12(1)"c," 37.23, <u>Filed</u> ARC 4811A	5/25/94
Small group health benefit plans, 71.11(8), 71.11(9), <u>Filed</u> ARC 4810A	5/25/94

LABOR SERVICES DIVISION[347]

EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

General industry safety and health — electric power generation, transmission and distribution; electrical protective equipment; hazard communication, 10.20, <u>Filed Emergency After Notice</u> ARC 4785A	5/11/94
General industry safety and health — personal protective equipment, 10.20, <u>Notice</u> ARC 4787A	5/11/94
Construction safety and health — cadmium, hazard communication, 26.1, <u>Filed Emergency After Notice</u> ARC 4786A	5/11/94
Occupational safety and health standards for agriculture — hazard communication, 28.1, <u>Filed Emergency After Notice</u> ARC 4794A	5/11/94

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Fee schedule for administration of the uniform national examination, 2.10, <u>Notice</u> ARC 4782A	5/11/94
--	---------

LAW ENFORCEMENT ACADEMY[501]

Fee schedules for administering and evaluating psychological and cognitive test or tests mandated by the academy, 2.2(6), <u>Notice</u> ARC 4783A	5/11/94
--	---------

LIBRARIES AND INFORMATION SERVICES DIVISION[286]

EDUCATION DEPARTMENT[281]"umbrella"

Organization and programs, rescind 224—chs 1 to 6, adopt 286—chs 1 to 3 and 6, <u>Filed</u> ARC 4817A	5/25/94
---	---------

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Continuing education, 5.2(2)"b," <u>Notice</u> ARC 4688A <u>Terminated</u> ARC 4814A	5/25/94
--	---------

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]

Prioritization of remedial account benefits and expenses, 11.7, <u>Filed</u> ARC 4822A	5/25/94
Remedial account prioritization, 11.7(1)"c" and "f," <u>Notice</u> ARC 4820A	5/25/94

PHARMACY EXAMINERS BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Pharmaceutical care — patient counseling, 8.20, <u>Notice</u> ARC 4801A	5/11/94
Patient counseling, 8.20(3), <u>Notice</u> ARC 4318A <u>Terminated</u> ARC 4803A	5/11/94
Controlled substance accountability, 10.10(6), <u>Filed</u> ARC 4802A	5/11/94

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Board of examiners for the licensing and regulation of hearing aid dealers, 120.2(2), 120.5(5), 120.9, 120.13(1), 120.13(6), 120.13(7), 120.205, <u>Notice</u> ARC 4816A	5/25/94
---	---------

PUBLIC BROADCASTING DIVISION[225]

CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

Transfer 225—chs 1 to 10 to 288—chs 1 to 10, amend 1.1, 1.2, 2.1, 2.1(3)"a," "b," and "e," 3.1, <u>Notice</u> ARC 4793A	5/11/94
Heating and cooling temperatures and humidity percents for Iowa communications network educational sites, 10.1(1)"e," <u>Filed Emergency</u> ARC 4792A	5/11/94

PUBLIC SAFETY DEPARTMENT[661]

Weapons, 4.1, 4.6(4), 4.51 to 4.59, <u>Filed</u> ARC 4798A	5/11/94
Access to criminal history files, taking of fingerprints, destruction of fingerprint records, fees, 11.3 to 11.5, 11.8, 11.10, 11.11, 11.15, 11.18, <u>Filed</u> ARC 4797A	5/11/94
Governor's traffic safety bureau, 20.1 to 20.5, <u>Filed</u> ARC 4809A	5/25/94

REAL ESTATE COMMISSION[193E]

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

Continuing education records, 3.3(5) to 3.3(10), 3.4(3), 3.7, Notice **ARC 4818A** 5/25/94

SECRETARY OF STATE[721]

Ballot forms for alternative telephone surcharge to fund emergency telephone service, 21.810(4),

Notice **ARC 4819A** 5/25/94

TRANSPORTATION DEPARTMENT[761]

General requirements and covenants for highway and bridge construction, 125.1 to 125.3, Notice **ARC 4770A** 5/11/94

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Interest on customer deposits, 19.4(3), 20.4(4), 21.4(2)"e," 22.4(2)"b," Filed Emergency **ARC 4788A** 5/11/94

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regulatory 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, 1995.

Senator Berl E. Priebe, Co-chair
2106 100th Avenue
Algona, Iowa 50511

Representative Janet Metcalf, Co-chair
1808 79th Street
Des Moines, Iowa 50322

Senator H. Kay Hedge
R.R. 1, Box 39
Fremont, Iowa 52561

Representative Horace Daggett
400 N. Bureau
Creston, Iowa 50801

Senator John P. Kibbie
R.R. 1, Box 139A
Emmetsburg, Iowa 50536

Representative Minnette Doderer
2008 Dunlap Court
Iowa City, Iowa 52245

Senator William Palmer
1340 E. 33rd Street
Des Moines, Iowa 50317

Representative Roger Halvorson
609 S. Main
Monona, Iowa 52159

Senator Sheldon Rittmer
3539 230th Street
DeWitt, Iowa 52742

Representative David Schrader
R.R. 2
Monroe, Iowa 50170

Joseph A. Royce
Legal Counsel
Capitol, Room 116A
Des Moines, Iowa 50319
Telephone (515)281-3084

Paula Dierenfeld
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 15
Des Moines, Iowa 50319
Telephone (515)281-6331

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
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]		
Livestock importation, 65.1(2), 65.11 IAB 5/11/94 ARC 4804A	Conference Room — 2nd Floor Wallace State Office Bldg. Des Moines, Iowa	May 31, 1994 10 a.m. to 12 noon
CREDIT UNION DIVISION[189]		
Real estate lending, rescind chs 9 and 10, new ch 9 IAB 5/11/94 ARC 4796A	Conference Room Suite 370 200 E. Grand Ave. Des Moines, Iowa	May 31, 1994 9 a.m.
Corporate central credit union, ch 10 IAB 5/11/94 ARC 4795A	Conference Room Suite 370 200 E. Grand Ave. Des Moines, Iowa	May 31, 1994 9 a.m.
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Community economic betterment program, 22.2, 22.6 to 22.9, 22.14 IAB 5/11/94 ARC 4806A	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	May 31, 1994 1:30 p.m.
Rural leadership development program, ch 68 IAB 5/11/94 ARC 4807A	Room 134 Work Force Development Administrative Center 150 Des Moines St. Des Moines, Iowa	May 31, 1994 9 to 10 a.m.
Rural action training program, ch 69 IAB 5/11/94 ARC 4805A	Room 134 Work Force Development Administrative Center 150 Des Moines St. Des Moines, Iowa	May 31, 1994 10:30 to 11:30 a.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Pollution — voluntary operating permit program, 22.200 to 22.207 IAB 4/13/94 ARC 4750A	Gold Room Oakdale Hall University of Iowa Iowa City, Iowa	May 25, 1994 10:30 a.m.
	Supervisor's Room — 2nd Floor Webster County Courthouse 703 Central Ave. Fort Dodge, Iowa	May 26, 1994 11 a.m.
Water quality standards, 61.3(3), Table 1 IAB 5/11/94 ARC 4800A	Community Center 530 W. Bluff St. Cherokee, Iowa	June 6, 1994 10:30 a.m.
	Community Meeting Room 15 N. 6th St. Clear Lake, Iowa	June 6, 1994 7 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Opera House
207 N. Main
Elkader, Iowa

June 7, 1994
1 p.m.

Public Library
Room A
123 S. Linn St.
Iowa City, Iowa

June 8, 1994
10:30 a.m.

Henry County Senior Center
Monroe and S. Jackson Sts.
Mt. Pleasant, Iowa

June 8, 1994
7 p.m.

Conference Room — 4th Floor
Wallace State Office Bldg.
900 E. Grand Ave.
Des Moines, Iowa

June 10, 1994
10:30 a.m.

Public water supply systems and
wastewater treatment plants,
amendments to ch 81
IAB 5/11/94 **ARC 4799A**

Conference Room — 4th Floor
Wallace State Office Bldg.
Des Moines, Iowa

June 3, 1994
10 a.m.

HUMAN SERVICES DEPARTMENT[441]

Child abuse,
ch 175
IAB 5/11/94 **ARC 4791A**

Iowa Bldg. — Suite 600
Conference Room — 6th Floor
411 Third St. S.E.
Cedar Rapids, Iowa

June 3, 1994
10 a.m.

Lower Level
417 E. Kanesville Blvd.
Council Bluffs, Iowa

June 1, 1994
10 a.m.

Bicentennial Bldg. — 5th Floor
Conference Room 3
428 Western
Davenport, Iowa

June 1, 1994
10 a.m.

Conference 104
City View Plaza
1200 University
Des Moines, Iowa

June 2, 1994
10 a.m.

Liberty Room
Mohawk Square
22 N. Georgia Ave.
Mason City, Iowa

June 1, 1994
10 a.m.

Conference Room
120 E. Main
Ottumwa, Iowa

June 7, 1994
10 a.m.

Suite 624
507 7th St.
Sioux City, Iowa

June 6, 1994
1 p.m.

Conference Room 201
Pinecrest Office Bldg.
1407 Independence Ave.
Waterloo, Iowa

June 3, 1994
10 a.m.

LABOR SERVICES DIVISION[347]

General industry safety and health,
10.20
IAB 5/11/94 ARC 4787A

Labor Services Division
1000 E. Grand Ave.
Des Moines, Iowa

June 2, 1994
9 a.m.
(If requested)

LAW ENFORCEMENT ACADEMY[501]

Costs and administration of tests,
2.2(6)
IAB 5/11/94 ARC 4783A

Conference Room
Camp Dodge
Johnston, Iowa

May 31, 1994
9:30 a.m.

LIVESTOCK HEALTH ADVISORY COUNCIL[521]

Recommendations for fiscal year 1994-95,
ch 1
IAB 4/27/94 ARC 4766A

Iowa Poultry Association
535 E. Lincoln Way
Ames, Iowa

June 14, 1994
10 a.m.

PETROLEUM UST BOARD, IOWA COMPREHENSIVE[591]

Remedial account prioritization,
11.7(1)
IAB 5/25/94 ARC 4820A

Conference Room
Sixth Floor
Lucas State Office Bldg.
Des Moines, Iowa

June 15, 1994
10 a.m.

PUBLIC BROADCASTING DIVISION[225]

Amend and transfer 225 — chs 1 to 10
to 288 — chs 1 to 10,
IAB 5/11/94 ARC 4793A

Maytag Auditorium
Iowa Public Television
6450 Corporate Dr.
Johnston, Iowa

May 31, 1994
9 a.m.

SECRETARY OF STATE[721]

Election — alternative telephone surcharge
to fund emergency telephone service,
21.810(4)
IAB 5/25/94 ARC 4819A

Secretary of State's Office
Second Floor
Hoover State Office Bldg.
Des Moines, Iowa

June 15, 1994
1:30 p.m.

TRANSPORTATION DEPARTMENT[761]

Highway and bridge construction,
125.1 to 125.3
IAB 5/11/94 ARC 4770A

Commission Room
800 Lincoln Way
Ames, Iowa

June 2, 1994
10 a.m.
(If requested)

UTILITIES DIVISION[199]

Energy adjustment clause,
20.9(2) to 20.9(4)
IAB 4/13/94 ARC 4737A

Hearing Room — 1st Floor
Lucas State Office Bldg.
Des Moines, Iowa

June 7, 1994
10 a.m.

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).

AGENCY IDENTIFICATION NUMBERS

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].

Implementation of reorganization is continuing and 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]

Public Broadcasting Division[225]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

City Development Board[263]

Iowa Finance Authority[265]

High Technology Council[267]

Product Development Corporation[271]

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]

EMPLOYMENT SERVICES DEPARTMENT[341]

Industrial Services Division[343]

Job Service Division[345]

Labor Services Division[347]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 GENERAL SERVICES DEPARTMENT[401]
 HEALTH DATA COMMISSION[411]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services, Division of [429]
 Persons With Disabilities Division[431]
 Spanish-Speaking People Division[433]
 Status of Blacks Division[434]
 Status of Women Division[435]
 HUMAN SERVICES DEPARTMENT[441]
 INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
 INTERNATIONAL NETWORK ON TRADE(INTERNET)[497]
 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]
 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]
 Disaster Services Division[607]
 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]
 SESQUICENTENNIAL COMMISSION, IOWA STATEHOOD[731]
 SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
 TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority, Iowa[765]
 TREASURER OF STATE[781]
 UNIFORM STATE LAWS COMMISSION[791]
 VETERANS AFFAIRS COMMISSION[801]
 VETERINARY MEDICINE BOARD[811]
 VOTER REGISTRATION COMMISSION[821]
 WALLACE TECHNOLOGY TRANSFER FOUNDATION[851]

REORGANIZATION—NOT IMPLEMENTED

Agencies listed below are identified in the Iowa Administrative Code with WHITE TABS*. These agencies have not yet implemented government reorganization.

Iowa Advance Funding Authority[515]

Records Commission[710]

* It is recommended that all white tabs be moved to a separate binder rather than interspersed with the colored tabs, which implemented state government reorganization.

ARC 4821A

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 159.5(11), the Iowa Department of Agriculture and Land Stewardship gives Notice of Intended Action to amend Chapter 68, "Dairy," Iowa Administrative Code.

This rule is intended to implement the antibiotic testing requirements contained in Appendix N of the Pasteurized Milk Ordinance by setting out testing and sampling protocols and penalties for dairy farmers whose milk sample tests contain more than tolerable levels of antibiotics.

Any interested person may make written suggestions or comments on the following proposed rule prior to 4:30 p.m. on June 14, 1994. Such written material should be directed to Jake Wakefield, Bureau Chief of the Dairy Products Control Bureau, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code chapter 192.

The following rule is proposed.

Adopt the following new rule:

21—68.36(192) Antibiotic testing.

68.36(1) The dairy industry shall screen all Grade A and Grade B farm bulk milk pickup tankers and farm can milk loads for the antibiotic or drug indicated by the Iowa department of agriculture and land stewardship. A sampling method shall be used with can milk loads to ensure that the sample includes raw milk from every can on the vehicle.

68.36(2) When loads are found to contain antibiotics or drugs or other inhibitors at levels exceeding established "safety levels," the dairy products control bureau shall be notified immediately of the results and of the ultimate disposition of the raw milk. The producer samples from the violative load shall be tested for trace back to the farm.

68.36(3) Further pickups of the violative individual producer(s) shall be immediately discontinued and the permit shall be suspended until such time that subsequent testing establishes that the milk does not exceed safe levels of inhibitory residues.

68.36(4) The dairy products control bureau staff, including the contract inspectors, shall monitor the dairy industry inhibitor load testing activities by making unannounced, on-site inspections to collect load samples and to review the load sampling records.

68.36(5) For the first violative occurrence within a 12-month period, the producer's permit shall be suspended for two days or an equivalent penalty. If the milk purchaser has in place a penalty equal to or exceeding a two-day suspension, the two-day suspension shall be waived. As used in this subrule, an "equivalent penalty" means a monetary penalty that must be paid by the

producer, equaling at least two days of production for the producer.

68.36(6) For the second violative occurrence within a 12-month period, the producer's permit shall be suspended for four days or an equivalent penalty. If the milk purchaser has in place a penalty equal to or exceeding a four-day suspension, the four-day suspension shall be waived. As used in this subrule, an "equivalent penalty" means a monetary penalty that must be paid by the producer, equaling at least four days of production for the producer.

68.36(7) For the third violative occurrence within a 12-month period, the permit shall be suspended for four days and, in addition, the department shall initiate administrative procedures to revoke the producer's permit. Upon revocation the producer may reapply for a permit effective at least four days after the effective date of the revocation. However, a Grade A permit holder shall be ineligible for a Grade A permit until the applicant has been selling on the Grade B Class 1 market for at least 60 days. A Grade B permit holder shall be ineligible for a Grade A or Grade B permit until the applicant has been selling on the undergrade Class 3 market for at least 60 days. For purposes of this rule, a producer on the undergrade market shall be paid no more than 90 percent of the Grade B rate.

68.36(8) For the fourth violation occurrence within a 12-month period, the permit shall be suspended for four days and, in addition, the department shall initiate administrative procedures to revoke the producer's permit. Upon revocation, the producer may reapply for a permit effective at least 12 days after the effective date of the revocation. However, a Grade A permit holder shall be ineligible for a Grade A permit until the applicant has been selling on the Grade B Class 1 market for at least 60 days. A Grade B permit holder shall be ineligible for a Grade A or Grade B permit until the applicant has been selling on the undergrade Class 3 market for at least 60 days. For purposes of this rule, a producer on the undergrade market shall be paid no more than 90 percent of the Grade B rate.

68.36(9) When the tests show that a load is nonviolative, but routine regulatory sampling shows that a producer on the load is violative, the permit shall be suspended until subsequent testing establishes that the milk does not exceed safe levels of inhibitory residues. The first or second monetary penalty within a 12-month period shall be waived. In case of a third violation within a 12-month period, the permit shall be suspended and revocation procedures shall be initiated as provided in subrule 68.36(7). In the event of a fourth violation within a 12-month period, the permit shall be suspended and revocation procedures shall be initiated as provided in subrule 68.36(8).

68.37(10) Each violative occurrence within a 12-month period, including a violative producer found on a nonviolative load, shall count as a first, second, third or fourth violation against the producer. The permit shall be reinstated to a temporary status after subsequent testing shows no inhibitor residues. With each violation, the Milk and Dairy Beef Residue Prevention Protocol program shall be administered by the veterinarian to the producer, with the program certificate being signed by both. Failure to obtain the program certificate within 30 days and failure to mail or fax a copy to the dairy products control bureau office within 35 days from the date of the producer notice will result in the permit suspension of both the Grade A and Grade B producer to the Class 3

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

manufacturing undergrade status with the respective lowered milk price.

68.36(11) Records shall be kept by the industry at each receiving or transfer station of all incoming farm pickup loads of raw milk. The records shall be retained for a period of at least 12 months.

a. The records shall include the following information:

- (1) Name of the organization;
- (2) Name of test(s) used;
- (3) Date of the test(s);
- (4) Identification of the load;
- (5) Pounds of milk on the load and pounds belonging to the producer;
- (6) Initials of the person filling out the record.

b. When the load is violative, the records shall also include the following:

- (1) Names of the producers on the load;
- (2) Identification of the violative producer(s);
- (3) The first name of the dairy products control bureau office person telephoned;
- (4) Location of disposition of the violative load.

68.36(12) When telephoning the dairy products control bureau office to report a violative load, the following information shall be given:

- a. Name of the person telephoning;
- b. Name of the organization;
- c. Route number and name of the milk hauler;
- d. Verification that all producers on the violative load were tested;
- e. Name(s) of the violative producer(s);
- f. The concentration of residue in the producer sample;
- g. The concentration of residue in the load sample;
- h. Name of test(s) used;
- i. Name of analyst;
- j. Pounds of milk on the load and violative producer(s) pounds;
- k. Location of disposition of the milk.

NOTICE—AGRICULTURAL CREDIT CORPORATION MAXIMUM LOAN RATE

In accordance with the provisions of Iowa Code section 535.12, the Superintendent of Banking has determined that the maximum rate of interest that may be charged on loans by Agricultural Credit Corporations as defined in Iowa Code section 535.12, subsection 4, shall be:

July 1, 1992 – July 31, 1992	5.70%
August 1, 1992 – August 31, 1992	5.35%
September 1, 1992 – September 30, 1992	5.10%
October 1, 1992 – October 31, 1992	4.90%
November 1, 1992 – November 30, 1992	4.75%
December 1, 1992 – December 31, 1992	5.00%
January 1, 1993 – January 31, 1993	5.15%
February 1, 1993 – February 28, 1993	5.00%
March 1, 1993 – March 31, 1993	4.85%
April 1, 1993 – April 30, 1993	4.85%
May 1, 1993 – May 31, 1993	4.75%
June 1, 1993 – June 30, 1993	4.80%
July 1, 1993 – July 31, 1993	4.90%

August 1, 1993 – August 31, 1993	4.80%
September 1, 1993 – September 30, 1993	4.80%
October 1, 1993 – October 31, 1993	4.70%
November 1, 1993 – November 30, 1993	4.65%
December 1, 1993 – December 31, 1993	4.85%
January 1, 1994 – January 31, 1994	4.85%
February 1, 1994 – February 28, 1994	4.80%
March 1, 1994 – March 31, 1994	4.65%
April 1, 1994 – April 30, 1994	5.00%
May 1, 1994 – May 31, 1994	5.15%

ARC 4812A

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 17A.3 and Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board proposes to rescind Chapter 1, "Complaint Procedure," and adopt a new Chapter 1, "Complaint, Investigation, and Resolution Procedure," and to amend Chapter 4, "Reporting Requirements," Iowa Administrative Code.

New Chapter 1 includes a formal complaint process which citizens may utilize, which may result in Board investigation, and potentially may ultimately result in Board-initiated contested case action. The provisions also reflect the Board's practice of pursuing voluntary compliance and informal settlement where appropriate.

Item 2 rescinds a current description of the Board's process of issuing letters of reprimand, as this subject is incorporated into the proposed new Chapter 1.

These amendments were approved for Notice of Intended Action by the full Board in its meeting held April 28, 1994.

Any interested person may make written comments on these amendments on or before June 14, 1994. Written comments should be addressed to Kay Williams, Executive Director, Iowa Ethics and Campaign Disclosure Board, 514 E. Locust Street, Suite 104, Des Moines, Iowa 50309.

These rules are intended to implement Iowa Code sections 17A.10 and 17A.12 and Iowa Code Supplement sections 68B.32A, 68B.32B, and 68B.32D.

The following amendments are proposed.

ITEM 1. Rescind **351—Chapter 1** and insert in lieu thereof the following new chapter:

CHAPTER 1

COMPLAINT, INVESTIGATION, AND RESOLUTION PROCEDURE

351—1.1(68B) Formal complaints.

1.1(1) A formal complaint shall be on forms provided by the board and shall be certified under penalty of perjury

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ry. The complaint shall contain all information required by Iowa Code Supplement section 68B.32B(1).

1.1(2) A formal complaint is not deemed "accepted" by the board until after the legal review required by Iowa Code Supplement section 68B.32B(4). If the legal advisor opines that the complaint contains a legally sufficient allegation, the complaint is deemed accepted upon the completion of the legal review. If the legal advisor opines that the complaint does not contain a legally sufficient allegation and the board, upon review, makes a determination that the complaint does contain a legally sufficient allegation, the complaint is accepted upon completion of the board review. If the legal advisor opines that the complaint does not contain a legally sufficient allegation and the board, upon review, concurs, the complaint shall be dismissed without having been accepted.

1.1(3) Notice to the subject of a complaint is made only when a complaint is "accepted," subject to the conditions of Iowa Code Supplement section 68B.32B(3). A complaint is a public record, subject to the conditions of Iowa Code Supplement section 68B.32B(11).

1.1(4) The board's review of a formal complaint for legal sufficiency is not a contested case proceeding and shall be made solely on the basis of the facts alleged within the complaint.

This rule is intended to implement Iowa Code Supplement section 68B.32B.

351—1.2(68B) Investigations—board action.

1.2(1) Upon a determination that a formal complaint contains a legally sufficient allegation, the board shall refer the complaint to staff for investigation.

1.2(2) On its own motion, the board may refer to staff for investigation matters which the board believes may be subject to the board's jurisdiction, including matters which are informally brought to the board's attention by members of the public. However, the board will not consider information brought to the board anonymously unless tangible substantiation of the allegation has been provided.

1.2(3) Investigations may include the issuance and enforcement of investigative subpoenas requiring the production of books, papers, records, and other real evidence, as well as the attendance and testimony of witnesses for the purpose of an investigative interview.

1.2(4) Upon completion of an investigation, staff shall make a report to the board containing a recommendation for action as to whether a contested case should be commenced.

1.2(5) Upon receipt and review of the staff investigative report and recommendation, the board may:

a. Redirect the matter for further investigation or for negotiation of an informal settlement in lieu of a contested case;

b. Close the case with dismissal for lack of probable cause to believe a violation has occurred;

c. Close the case with dismissal without a determination regarding probable cause as an exercise of administrative discretion; or

d. Make a determination that probable cause exists to believe a violation has occurred and provide for the issuance of a statement of charges and notice of a contested case proceeding. Contested case proceedings shall be conducted in accordance with 351—Chapter 7.

This rule is intended to implement Iowa Code Supplement section 68B.32B.

351—1.3(68B) Grounds for disciplinary action. The board may impose discipline for:

1. Failure to timely file required campaign disclosure statements or reports.

2. Failure to comply with requirements regarding maintenance of committee funds or records.

3. Failure to timely respond or provide information to board or staff inquiries regarding campaign disclosure reports.

4. Failure to provide proper disclaimer statements on political published material.

5. The making or acceptance of prohibited corporate contributions.

6. The making of an improper expenditure from a candidate's committee.

7. Improper use of public funds or resources for a political purpose.

8. Other violations of Iowa Code chapter 56 or rules adopted thereunder.

9. The making or acceptance of a prohibited gift within the executive branch of state government.

10. Engaging in an unacceptable conflict of interests within the executive branch of state government without taking required remedial action, as specified in Iowa Code Supplement section 68B.2A.

11. Violation of the ban on certain lobbying activities by an affected member of the executive branch of state government.

12. Violation of restriction on sales of goods or services by a member of the executive branch of state government.

13. Failure to file required personal financial disclosure statements by an affected member of the executive branch of state government.

14. Failure to file lobbyist registration, lobbyist reports, or lobbyist client reports by lobbyists or clients of lobbyists engaged in lobbying the executive branch of state government.

15. Other violations of Iowa Code Supplement chapter 68B or rules adopted thereunder, as applied to the executive branch of state government.

This rule is intended to implement Iowa Code Supplement sections 68B.32A and 68B.32B.

351—1.4(68B) Disciplinary remedies; routine enforcement matters—contested case challenge.

1.4(1) Options for board-imposed discipline are set out in Iowa Code Supplement section 68B.32D and include the assessment of a civil penalty not to exceed \$2000. In addition, if the board determines that a violation appears to have been committed with deliberate intent, the board may refer the matter to the attorney general or appropriate county attorney with a recommendation for criminal prosecution.

1.4(2) Routine violations may be handled administratively rather than through a disciplinary process. Classes of matters which may be handled in this manner unless unique circumstances exist, rather than through a full investigative process and commencement of a contested case, include but are not limited to: late campaign disclosure reports; late lobbyist reports; late lobbyist client reports; and the failure to provide the required disclosure statement of political published material. The board may adopt penalty schedules for late reports. The board may direct that a person who may be subject to board discipline take specified remedial action. The board may issue

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

a letter of reprimand if the board finds that a violation had occurred, but has subsequently been rectified, and that the person had or had available information which should have prevented the violation. A letter of reprimand places the recipient on notice that future violations may be subject to more serious discipline. Letters of reprimand are public documents, and a record of letters of reprimand may be included when providing a public report of official actions of the board.

1.4(3) A person subject to board discipline may accept administrative resolution, but is not required to do so. If the person accepts the administrative resolution of a routine enforcement matter through the payment of a scheduled penalty, compliance with recommended remedial action, or acceptance of a letter of reprimand, the matter shall be closed. If the person wishes to contest the administrative resolution, the person shall make a request for reconsideration or for a contested case proceeding in writing to the board's executive director which shall be received within 30 days of the date of the correspondence informing the person of the assessment of a scheduled penalty or of other intentions for administrative resolution. Requests for waiver or reduction of a scheduled penalty shall be treated as a request for reconsideration. If the person requests reconsideration and subsequently wishes to contest the board's action on the reconsideration, the person may make a written request for a contested case proceeding to the executive director which shall be received within 30 days of the date of the correspondence informing the person of the board's action.

1.4(4) Upon timely receipt of a request for a contested case proceeding to challenge administrative resolution of a routine enforcement matter, the board shall provide for the issuance of a statement of charges and notice of hearing. The contested case shall be conducted in accordance with the provisions of 351—Chapter 7. The burden shall remain on board staff to prove that a violation has occurred. Failure to challenge the administrative resolution through a request for a contested case proceeding is a failure to exhaust administrative remedies.

1.4(5) The board may admonish a person who it believes may have a minor violation but who the board believes had no knowledge or access to knowledge regarding the law. An admonition is not discipline and is not subject to contested case review.

This rule is intended to implement Iowa Code Supplement sections 68B.32A, 68B.32B, and 68B.32D.

351—1.5(17A,68B) Informal settlements.

1.5(1) Informal settlements may be negotiated at any time during an investigation or after the commencement of a contested case proceeding. Negotiations on behalf of the board shall be conducted by the board's legal counsel. Upon agreement of the parties to commence negotiation, the board's legal counsel is authorized to discuss informal settlement proposals with the chairperson or the chairperson's designee. After commencement of a contested case, consent to negotiation by a respondent constitutes a waiver of notice and opportunity to be heard pursuant to Iowa Code section 17A.17 during informal settlement discussions between the board's legal counsel and the board member.

1.5(2) All informal settlements shall be in writing and are subject to approval of a majority of the full board. If the board fails to approve a proposed informal settlement, it shall be of no force or effect to either party.

1.5(3) A board member who is designated to act in negotiation of an informal settlement may review investigative material in the course of conducting the negotiation. The designated board member is not disqualified from participating in the adjudication of a contested case by virtue of reviewing the investigative material or having participated in negotiation discussions.

This rule is intended to implement Iowa Code sections 17A.10 and 17A.12 and Iowa Code Supplement section 68B.32B.

ITEM 2. Rescind and reserve rule 351—4.7(56).

ARC 4813A**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 17A.3 and Iowa Code Supplement section 68B.32A, the Iowa Ethics and Campaign Disclosure Board proposes to adopt a new Chapter 7, "Contested Case Procedures," Iowa Administrative Code.

The proposed chapter sets out the Uniform Rules for Contested Cases as modified by the Board. Those modifications are as follows:

- X.1 Scope and applicability. In lieu of the words "(agency name)", "Iowa Ethics and Campaign Disclosure Board" is inserted. Reference is also made that the chapter follows the Uniform Rules with some modifications.

- X.2 Definition of "Presiding officer." In lieu of the words "(designate official)", the words "board chairperson, the board member designated as chair of a hearing panel, or the administrative law judge, if any, assisting the board or a hearing panel; except that, with regard to substantive or dispositive motions, "presiding officer" means all participating members of the board" are inserted.

- X.5 Notice of hearing. Paragraphs "c" and "e" of subrule X.5(1) are deleted.

- X.10 Pleadings. In lieu of subrule X.10(2), the following is inserted: "7.10(2) Statement of charges. The statement of charges shall set forth in ordinary and concise language the acts or omissions with which the person is charged and shall be of sufficient detail to enable the efficient preparation of the respondent's defense. The statement of charges shall specify the statute(s) and any rule(s) which are alleged to have been violated and may also include the additional information which the board deems appropriate to the proceeding. The statement of charges may be consolidated with the notice of hearing described in rule 7.5(17A,68B)." Also, in lieu of subrule 7.10(3), the following is inserted: "7.10(3) Answer. A respondent is not required to file an answer in response to a statement of charges."

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

- Subrule X.11(3) is deleted.
- X.11(4)—In lieu of the words "(designate office)", the words "the office of the Iowa Ethics and Campaign Disclosure Board, 514 East Locust, Suite 104, Des Moines, Iowa 50309" are inserted.
- X.15(1)—In lieu of the words "(designate office)", the words "presiding officer" are inserted.
- X.19—The following subrule is added: "7.19(8) Within seven days after the close of the hearing, either party may file a draft decision for the consideration of the board, hearing panel, or administrative law judge, who may adopt all or part of any draft decision. Copies of a draft decision shall also be provided to the opposing party."
- X.23—In lieu of the words "(agency name)", the word "board" is inserted.
- X.24—In lieu of the words "(board, commission, director)" the word "board" is inserted.
- X.25(1)—In lieu of the words "(the agency)(or a quorum of the agency)" the words "a quorum of the board" are inserted.
- In lieu of subrule X.25(2), the following is inserted: "7.25(2) When the board does not preside at the reception of evidence, the hearing panel shall issue a proposed decision. The board will automatically conduct a review of all proposed decisions which are issued."
- X.26—In lieu of Uniform Rule 26, a substitute rule is inserted which provides a procedure for automatic Board review of all proposed decisions.
- X.27(3)—In lieu of the words "(agency name)", the word "board" is inserted.
- X.27(4)—In lieu of the words "(agency name)", the word "board" is inserted.
- X.28—In lieu of the words "(agency name)", the word "board" is inserted. In lieu of the words "notice of appeal", the words "statement of exceptions" are inserted. In lieu of the words "(board, commission, director)", the word "board" is inserted.

Existing rules concerning the conduct of contested cases are contained in current Chapter 1 and are proposed to be rescinded by a separate Notice of Intended Action submitted simultaneously as **ARC 4812A**.

These rules were approved for Notice of Intended Action by the full Board in its meeting held April 28, 1994.

Any interested person may make written comments on these rules on or before June 14, 1994. Written comments should be addressed to Kay Williams, Executive Director, Iowa Ethics and Campaign Disclosure Board, 514 E. Locust Street, Suite 104, Des Moines, Iowa 50309.

These rules are intended to implement Iowa Code sections 17A.11 to 17A.18 and Iowa Code Supplement sections 68B.32A and 68B.32C.

The Board proposes to adopt the following **new** Chapter 7:

CHAPTER 7 CONTESTED CASE PROCEDURES

351—7.1(17A,68B) Scope and applicability. This chapter applies to contested case proceedings conducted by the Iowa ethics and campaign disclosure board. The board has modified for its use the uniform rules for contested cases which are printed in the first Volume of the Iowa Administrative Code.

351—7.2(17A,68B) Definitions. Except where otherwise specifically defined by law.

"Contested case" means a proceeding defined by Iowa Code section 17A.2(5).

"Issuance" means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

"Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

"Presiding officer" means the board chairperson, the board member designated as chair of a hearing panel, or the administrative law judge, if any, assisting the board or a hearing panel; except that, with regard to substantive or dispositive motions, "presiding officer" means all participating members of the board.

"Proposed decision" means the presiding officer's recommended findings of fact, conclusions of law, decision, and order in a contested case in which the Iowa ethics and campaign disclosure board did not preside.

351—7.3(17A,68B) Time requirements.

7.3(1) Time shall be computed as provided in Iowa Code subsection 4.1(34).

7.3(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by (specify rule number). Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer shall afford all parties an opportunity to be heard or to file written arguments.

351—7.4(17A,68B) Requests for contested case proceeding. Any person claiming an entitlement to a contested case proceeding shall file a written request for such a proceeding within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the agency action in question.

The request for a contested case proceeding should state the name and address of the requester, identify the specific agency action which is disputed, and where the requester is represented by a lawyer identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved, and include a short and plain statement of the issues of material fact in dispute.

351—7.5(17A,68B) Notice of hearing.

7.5(1) Delivery. Delivery of the notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Certified mail, return receipt requested; or
- c. Publication, as provided in the Iowa Rules of Civil Procedure.

7.5(2) Contents. The notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
 - b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. A reference to the particular sections of the statutes and rules involved;
 - d. A short and plain statement of the matters asserted.
- If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Thereafter, upon application, a more definite and detailed statement shall be furnished;

e. Identification of all parties including the name, address and telephone number of the person who will act as advocate for the agency or the state and of parties' counsel where known;

f. Reference to the procedural rules governing conduct of the contested case proceeding; and

g. Reference to the procedural rules governing informal settlement.

351—7.6(17A,68B) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the agency in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

351—7.7(17A,68B) Telephone proceedings. The presiding officer may resolve preliminary procedural motions by telephone conference in which all parties have an opportunity to participate. Other telephone proceedings may be held with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen.

351—7.8(17A,68B) Disqualification.

7.8(1) A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

a. Has a personal bias or prejudice concerning a party or a representative of a party;

b. Has personally prosecuted or advocated, in connection with that case, the specific controversy underlying that case, or another pending factually related contested case, or pending factually related controversy that may culminate in a contested case involving the same parties.

c. Is subject to the authority, direction or discretion of any person who has personally prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;

d. Has personally investigated the pending contested case by taking affirmative steps to interview witnesses directly or to obtain documents directly. The term "personally investigated" does not include either direction and supervision of assigned investigators or unsolicited receipt of oral information or documents which are relayed to assigned investigators.

e. Has acted as counsel to any person who is a private party to that proceeding within the past two years;

f. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;

g. Has a spouse or relative within the third degree of relationship that: (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or

h. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

(In a situation where a presiding officer or other person knows of information which might reasonably be deemed

to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is inappropriate.)

7.8(2) If a party asserts disqualification on any appropriate ground, including those listed in subrule 7.8(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(4). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 7.24(17A,68B) and seek a stay under rule 7.28(17A,68B).

351—7.9(17A,68B) Consolidation—severance.

7.9(1) Consolidation. The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where: (a) the matters at issue involve common parties or common questions of fact or law; (b) consolidation would expedite and simplify consideration of the issues involved; and (c) consolidation would not adversely affect the rights of any of the parties to those proceedings.

7.9(2) Severance. The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

351—7.10(17A,68B) Pleadings.

7.10(1) Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer.

7.10(2) Statement of charges. The statement of charges shall set forth in ordinary and concise language the acts or omissions with which the person is charged and shall be of sufficient detail to enable the efficient preparation of the respondent's defense. The statement of charges shall specify the statute(s) and any rule(s) which are alleged to have been violated and may also include the additional information which the board deems appropriate to the proceeding. The statement of charges may be consolidated with the notice of hearing described in rule 7.5(17A,68B).

7.10(3) Answer. A respondent is not required to file an answer in response to a statement of charges.

7.10(4) Amendment. Any notice of hearing, petition, or other charging document may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

351—7.11(17A,68B) Service and filing of pleadings and other papers.

7.11(1) When service required. Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding shall

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the state or the agency, simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

7.11(2) Service—how made. Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

7.11(3) Filing—when made. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the office of the Iowa Ethics and Campaign Disclosure Board, 514 East Locust, Suite 104, Des Moines, Iowa 50309, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

7.11(4) Proof of mailing. Proof of mailing includes either: a legible United States postal service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (agency office and address) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mail box with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

351—7.12(17A,68B) Discovery.

7.12(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

7.12(2) Any motion relating to discovery shall allege that the moving party has previously made a good faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 7.12(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

7.12(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

351—7.13(17A,68B) Subpoenas.

7.13(1) Issuance.

a. An agency subpoena shall be issued to a party on request. Such a request must be in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address, and telephone number of the requesting party.

b. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

7.13(2) Motion to quash or modify. The presiding officer may quash or modify a subpoena for any lawful reason upon motion in accordance with the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena shall be set for argument promptly.

351—7.14(17A,68B) Motions.

7.14(1) No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought. Any motion for summary judgment shall comply with the Iowa Rules of Civil Procedure and is subject to disposition according to the requirement of those rules.

7.14(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the agency or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

7.14(3) The presiding officer may schedule oral argument on any motion.

7.14(4) Motions pertaining to the hearing, including motions for summary judgment, must be filed and served at least ten days (or other time period designated by the agency) prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the agency or an order of the presiding officer.

351—7.15(17A,68B) Prehearing conference.

7.15(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days (or other time period designated by the agency) prior to the hearing date. A prehearing conference shall be scheduled not less than three business days (or other time period designated by the agency) prior to the hearing date.

Written notice of the prehearing conference shall be given by the presiding officer to all parties. For good cause the presiding officer may permit variances from this rule.

7.15(2) Each party shall bring to the prehearing conference:

a. A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and

b. A final list of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

c. Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments must be served on all parties.

7.15(3) In addition to the requirements of subrule 7.15(2), the parties at a prehearing conference may:

a. Enter into stipulations of law or fact;

b. Enter into stipulations on the admissibility of exhibits;

c. Identify matters which the parties intend to request be officially noticed;

d. Enter into stipulations for waiver of any provision of law; and

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

e. Consider any additional matters which will expedite the hearing.

7.15(4) Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference.

351—7.16(17A,68B) Continuances. Unless otherwise provided, applications for continuances shall be made by the presiding officer.

7.16(1) A written application for a continuance shall:

a. Be made at the earliest possible time and no less than seven days (or other time period designated by the agency) before the hearing except in case of unanticipated emergencies;

b. State the specific reasons for the request; and

c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer. No application for continuance shall be made or granted without notice to all parties except in an emergency where notice is not feasible. The agency may waive notice of such requests for a particular case or an entire class of cases.

7.16(2) In determining whether to grant a continuance, the presiding officer may consider:

- a. Prior continuances;
- b. The interest of all parties;
- c. The likelihood of informal settlement;
- d. The existence of an emergency;
- e. Any objection;
- f. Any applicable time requirements;
- g. The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h. The timeliness of the request; and
- i. Other relevant factors.

The presiding officer may require documentation of any grounds for continuance.

351—7.17(17A,68B) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing only in accordance with agency rules. Unless otherwise provided, a withdrawal shall be with prejudice.

351—7.18(17A,68B) Intervention.

7.18(1) Motion. A motion for leave to intervene in a contested case proceeding shall state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

7.18(2) When filed. Motion for leave to intervene shall be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a

statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor shall be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances which would delay the proceeding will ordinarily be denied.

7.18(3) Grounds for intervention. The movant shall demonstrate that: (a) intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties; (b) the movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and (c) the interests of the movant are not adequately represented by existing parties.

7.18(4) Effect of intervention. If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceedings.

351—7.19(17A,68B) Hearing procedures.

7.19(1) The presiding officer presides at the hearing, and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

7.19(2) All objections shall be timely made and stated on the record.

7.19(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director, or duly authorized agent. Any party may be represented by an attorney or another person authorized by law.

7.19(4) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

7.19(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

7.19(6) Witnesses may be sequestered during the hearing.

7.19(7) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

7.19(8) Within seven days after the closing of the hearing, either party may file a draft decision for the consideration of the board, hearing panel, or administrative

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

law judge, who may adopt all or part of any draft decision. Copies of a draft decision shall also be provided to the opposing party.

351—7.20(17A,68B) Evidence.

7.20(1) The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

7.20(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

7.20(3) Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

7.20(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

7.20(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

7.20(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

351—7.21(17A,68B) Default.

7.21(1) If a party fails to appear in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, proceed with the hearing and render a decision in the absence of the party.

7.21(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

351—7.22(17A,68B) Ex parte communication.

7.22(1) Prohibited communications. Following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between any party or representative of any party in connection with any issue of fact or law in a case and any person assigned to render a proposed or final decision or make findings of fact or conclusions of law except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each

other. Nothing in this provision is intended to preclude persons assigned to render a proposed or final decision in a contested case or to make findings of fact or conclusions of law in such a case from seeking the advice or help of persons other than those with personal interest in, or those engaged in personally investigating as defined in subrule 7.8(1), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as that advice or help does not violate Iowa Code subsection 17A.12(8).

7.22(2) Disclosure of prohibited communications. Any person who receives a communication prohibited by subrule 7.22(1) shall disclose that communication to all parties. A copy of any prohibited written communication or a summary of any prohibited oral communication shall be submitted for inclusion in the record.

7.22(3) The presiding officer or the agency may impose appropriate sanctions for violations of this rule. Possible sanctions include a decision against the offending party; censure, suspension, or revocation of the privilege to practice before the agency; and censure, suspension, dismissal, or other disciplinary action against agency personnel.

351—7.23(17A,68B) Recording costs. Upon request, the board shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means shall bear the cost of that recordation, unless otherwise provided by law.

351—7.24(17A,68B) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order (of the presiding officer). In determining whether to do so, the board shall weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the agency at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for interlocutory review must be filed within 14 days (or other time period designated by the agency) of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

351—7.25(17A,68B) Final decision.

7.25(1) When a quorum of the board presides over the reception of evidence at the hearing, its decision is a final decision.

7.25(2) When the board does not preside at the reception of evidence, the hearing panel shall issue a proposed decision. The board will automatically conduct a review of all proposed decisions which are issued.

351—7.26(17A,68B) Board review.

7.26(1) Within 14 days after issuance of a proposed decision, any party may serve a statement of exceptions taken with the proposed decision, if any, together with a brief and argument, if any, by delivery of the original and five copies of each document to the board's executive director, and shall also serve copies to the opposing party. This time requirement may be extended by stipulation of the parties and approval by the board chairperson or the presiding officer.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

7.26(2) At the time designated for filing briefs and arguments, either party may request oral argument. The board may complete its review on the briefs or may grant an opportunity for oral argument. If a request for oral argument is granted or such is required by the board on its own motion, the board's executive director shall notify all parties of the date, time, and place. The chairperson or the chairperson's designee shall preside at the oral argument and determine the procedural order of the proceedings.

7.26(3) The record on review shall be the entire record made before the hearing panel or presiding officer.

7.26(4) A written request to present additional evidence must be filed within 14 days of issuance of the proposed decision. The board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

7.26(5) The board's decision on review of a proposed decision is a final decision.

351—7.27(17A,68B) Applications for rehearing.

7.27(1) By whom filed. Any party to a contested case proceeding may file an application for rehearing from a final order.

7.27(2) Content of application. The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the agency decision on the existing record and whether, on the basis of the grounds enumerated in subrule 7.26(4), the applicant requests an opportunity to submit additional evidence.

7.27(3) Time of filing. The application shall be filed with the board within 20 days after issuance of the final decision.

7.27(4) Notice to other parties. A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the applicant does not contain a certificate of service, the board shall serve copies on all parties.

7.27(5) Disposition. Any application for a rehearing shall be deemed denied unless the agency grants the application within 20 days after its filing.

351—7.28(17A,68B) Stays of agency actions.

7.28(1) When available.

a. Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding, pending review by the agency. The petition for a stay shall be filed with the statement of exceptions and shall state the reasons justifying a stay. The board may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the board for a stay, pending judicial review, of all or part of that proceeding. The petition for a stay shall state the reasons justifying a stay.

7.28(2) When granted. In determining whether to grant a stay, the presiding officer or board, as appropriate, shall consider whether substantial questions exist as to the propriety of the order for which a stay is requested, whether the party will suffer substantial and irreparable injury without the stay, and whether, and the extent to which, the interests of the public and other persons will be adversely affected by such a stay.

7.28(3) Vacation. A stay may be vacated by the issuing authority upon application of the board or any other party.

This chapter is intended to implement Iowa Code sections 17A.11 to 17A.18 and Iowa Code Supplement sections 68B.32A and 68B.32C.

ARC 4815A**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 239.18, the Department of Human Services proposes to amend Chapter 42, "Unemployed Parent," appearing in the Iowa Administrative Code.

This amendment clarifies that under welfare reform when both parents of a common child are in the home and neither parent is incapacitated, eligibility for assistance must be determined under the Unemployed Parent program, without regard to either parent's hours of employment, income or resources.

Prior to implementation of the welfare reform waiver policies for the Family Investment Program-Unemployed Parent (FIP-UP) assistance (the federal program is known as AFDC-UP), eligibility for the Unemployed Parent program existed when both parents of a child were in the home and the child was considered dependent due to unemployment of the parent who was the primary wage earner. "Unemployment" meant working less than 100 hours per month, regardless if the earnings were above or below FIP income limits, and having a recent work history.

Two-parent families were often determined ineligible for public assistance because the qualifying parent did not have the required work history or was working 100 hours or more per month, resulting in severe financial hardship. To overcome the hardship and qualify for assistance in their time of need, some families resorted to separating or they failed to report both parents in the home altogether.

By comparison, one-parent families are not subject to the additional, restrictive rules as described above, but are only required to meet the FIP income and resource limits to qualify for assistance.

To encourage family stability and achieve more equitable rules for needy two-parent families, the Department sought and received federal waivers to eliminate the primary wage earner provision, the work history requirement, and the 100-hour limit on working hours.

The unemployed parent program for the welfare reform group represents the remainder of the eligibility factors for the federal AFDC unemployed parent program established by 42 U.S.C. section 607 after the United States Department of Health and Human Services waived requirements regarding primary wage earner, work history, and the 100-hour limit on working hours. After the waiver of the foregoing requirements, the remaining eligi-

HUMAN SERVICES DEPARTMENT[441](cont'd)

bility factors related to the unemployed parent program require that a common child live in a home with both parents and require that neither parent is incapacitated as defined at 441—subrule 41.21(5). Given the elimination of the work-related eligibility requirements of the unemployed parent program, this means that both parents of a common child will be considered "unemployed" and will be included in the filing unit.

For the welfare reform group, the category of AFDC assistance provided for by the unemployed parent program is still known as the "unemployed parent program" even though the work-related requirements do not exist. For the welfare reform group, the category of AFDC assistance provided for by the unemployed parent program is still known as the "unemployed parent program" even though the word "unemployed" as used in the program name is meaningless in comparison to the remaining program requirements. For the welfare reform group, the category of AFDC assistance provided for by the unemployed parent program is still known as the "unemployed parent program" even though the word "unemployed" does not mean its regular meaning as used in the program name, because the program includes employed parents in the filing unit and because the word "unemployed" as used in the program applicable to the welfare reform group derives its meaning from the federal program established by 42 U.S.C. section 607 and from the waivers granted by the United States Department of Health and Human Services.

Both parents of the common child shall be deemed unemployed even though both parents or one of the parents is employed full-time or is employed less or more than full-time. Both parents of the common child shall be deemed unemployed even though both parents or one of the parents has countable resources in excess or below the allowable resource limit. Both parents of the common child shall be deemed unemployed even though both parents or one of the parents has income from employment. Both parents of the common child shall be deemed unemployed even though both parents or one of the parents has income from a source or sources other than employment.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before June 15, 1994.

This amendment is intended to implement Iowa Code sections 239.2, 239.5, and 239.17.

The following amendment is proposed.

Amend rule 441—42.24(239), introductory paragraph, as follows:

441—42.24(239) Eligibility. *When both parents of a common child are in the home and neither parent is incapacitated as defined at 441—subrule 41.21(5), eligibility for assistance shall be determined under the unemployed parent program, without regard to either parent's hours of employment, income or resources. For the purpose of determining eligibility and benefit amount, the filing unit shall include the common child, any parent and any deprived sibling of the common child living in the home with the common child as described at 441—subrule 41.28(1). Each parent in an unemployed parent case shall meet the following requirements:*

ARC 4814A**NURSING BOARD[655]****Notice of Termination**

Pursuant to the authority of Iowa Code section 147.76, the Iowa Board of Nursing terminates rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on March 30, 1994, as **ARC 4688A**, amending Chapter 5, "Continuing Education," Iowa Administrative Code.

These amendments were also Adopted and Filed Emergency as **ARC 4690A**. The Notice was published to solicit comments. Since no comments were received and no changes are required to the emergency amendments, there is no further need to proceed with rule making for **ARC 4688A**.

ARC 4820A**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 455G.4(3) and 455G.9(5), the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby gives Notice of Intended Action to amend Chapter 11, "Remedial or Insurance Claims," Iowa Administrative Code.

Iowa Code section 455G.9(5) provides "The Board shall adopt rules to prioritize claims and allocate available money if funds are not available to immediately settle all current claims". The Board adopts rule 591—11.7(455G) [ARC 4822A herein] which requires priority be given to remedial account claims for high-risk sites requiring remediation after paying expenses, including administrative costs, bond reserving requirements, bond service costs, and 28E agreements, and paying costs for site cleanup reports.

The Board has determined the total current bond capacity of the fund is approximately \$188,000,000. The Board has determined that the expenses which are currently the top priority under rule 591—11.7(455G) will exceed \$15,000,000. The Board has also determined the total site cleanup report costs which are the second highest priority under rule 591—11.7(455G) will exceed \$62,000,000. In addition, the Board has determined the corrective action costs at high-risk sites requiring remediation which is the third and last priority under rule 591—11.7(455G) will exceed \$266,000,000 and may exceed \$351,000,000.

Therefore, based on these determinations, the application of the prioritization rule 591—11.7(455G) currently leaves the fund with a shortfall of, at least, \$155,000,000

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

and possibly a shortfall in excess of \$240,000,000. It is the Board's conclusion the fund does not have the requisite financial resources to immediately pay for all administrative and other expenses, all site cleanup report costs, and all claims for high-risk sites requiring remediation.

Specifically, the Board concludes the fund does not have enough money available "to immediately settle all current claims" under rule 591—11.7(455G). Therefore, Iowa Code section 455G.9(5) requires the Board to adopt amendments further prioritizing remedial account claims. The Board proposes amendments to rule 591—11.7(455G) to further implement the required remedial account prioritization.

When Iowa Code chapter 455G was first promulgated in 1989, the statement of legislative intent provided "It is the intent of this Act to assist owners and operators, and especially small businesses". Based, in part, on this stated legislative intent, the proposed amendments to rule 591—11.7(455G) give priority to owners and operators who are small businesses.

The proposed amendments may necessitate additional annual expenditures exceeding \$100,000 by political subdivisions or agencies and entities which contract with political subdivisions. Therefore, a fiscal note accompanies this Notice.

The Board has determined these proposed amendments may have an impact on small business. The Board has considered the factors listed in Iowa Code section 17A.31(4). However, the Board has also determined the amendments do not impose a regulatory burden on small business but instead will continue to provide a financial benefit to some small businesses while removing a financial benefit some other small businesses would otherwise enjoy.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 15, 1994. Such written comments should be directed to the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board, Pat Rounds, Interim Administrator, UST Program, 1000 Illinois Street, Des Moines, Iowa 50314.

Persons who want to orally convey their views should contact Pat Rounds, Interim Administrator, Iowa Comprehensive Petroleum Underground Storage Tank Fund Board, at (515)284-1616 or at 1000 Illinois Street, Des Moines, Iowa 50314.

There will be a public hearing on June 15, 1994, at 10 a.m., in the Conference Room of the Division of Insurance, Sixth Floor, Lucas State Office Building, Des Moines, Iowa. Persons may present their views at this public hearing either orally or in writing.

The proposed amendments are intended to implement Iowa Code section 455G.9(5).

The following amendments are proposed.

ITEM 1. Amend 11.7(1)"c" as follows:

c. All other benefits subject to this rule have third priority and shall be further prioritized as follows:

(1) All sites classified by the department as high risk as defined in Iowa Code section 455B.474 shall have the highest priority, after 11.7(1)"a" and "b" above, except sites that have been classified as being high risk but which are allowed to monitor the site as otherwise provided by statute or rule.

(2) ~~Should it be determined pursuant to classification of sites as defined in 11.7(1)"c"(1) that sufficient funds are~~

~~not available for all high risk sites, the board shall establish by rule additional priority classifications reflecting funding available compared to the total expected costs of benefits allowed under Iowa Code section 455G.9. Initially, payments on sites defined in 11.7(1)"c"(1) will be made only to eligible claimants who are small businesses as defined by Iowa Code section 455G.2(18). Should there be remedial account funds available after all payments have been made related to sites defined in 11.7(1)"c"(1) for eligible claimants who are small businesses, payments will be made on such sites to claimants who are not small businesses.~~

ITEM 2. Amend subrule 11.7(1) by adding the following new paragraph:

f. The effective date for prioritization of benefits under 11.7(1)"c"(2) shall be September 1, 1994. Budgets for work to be completed prior to September 1, 1994, will be approved up to August 31, 1994. Work completed after August 31, 1994, related to a site that is not a high-risk site requiring remediation owned and operated by a small business will not be paid. All program-eligible remedial sites shall continue to have their budgets reviewed subject to board rules.

FISCAL NOTE

REMEDIAL ACCOUNT PRIORITIZATION

(Pursuant to Iowa Code section 25B.6)

The following summarizes the potential economic impact to political subdivisions or agencies and entities which contract with political subdivisions if the proposed prioritization of claim benefits amendment to 591 Iowa Administrative Code Chapter 11, "Remedial and Insurance Claims," is adopted.

Based on the proposed prioritization rule, only sites which are classified as "high risk" and are owned by a "small business" will receive remedial benefits in excess of the costs of preparing the site cleanup report (SCR). Board counsel has reviewed and determined that all governmental entities are excluded from the definition of a "small business." Governmental entities will have to look to other funding sources to pay for their remediation costs if the proposed prioritization rule is adopted.

The potential economic impact on governmental entities is as follows:

Remedial and Retroactive Claim Reserves—All Open Governmental Claims as of April 26, 1994 (491 Claims from 293 Government Bodies)	\$31,630,302
Less: Estimated SCR Costs on Governmental Claims Yet to be Paid	<u>2,000,000</u>
Potential Reduction in Iowa UST Program Remedial Benefits for Governmental Entities	\$29,630,302

The Iowa Comprehensive Underground Storage Tank Financial Responsibility Program provides reimbursement, in accordance with Iowa Code and Administrative Rules, to eligible claimants if funding is available. The Iowa Comprehensive Underground Storage Tank Financial Responsibility Program does not require that governmental entities expend funds to remediate petroleum contamination that exists on their properties.

ARC 4816A

PROFESSIONAL LICENSURE
DIVISION[645]BOARD OF EXAMINERS FOR THE LICENSING AND
REGULATION OF HEARING AID DEALERS

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 154A.4, the Board of Examiners for the Licensing and Regulation of Hearing Aid Dealers hereby gives Notice of Intended Action to amend Chapter 120, "Board of Examiners for the Licensing and Regulation of Hearing Aid Dealers," Iowa Administrative Code.

The proposed amendments clarify the application procedure, strike all references to "258A" and insert "272C" to reflect renumbering of the 1993 Iowa Code, clarify reinstatement procedures, reduce examination fee from \$50 to \$35 and require that the check for this fee be made payable to the examination service, add a penalty for late renewal of license and add temporary permit under license denial rules.

Any interested person may make comments on the proposed amendments not later than June 14, 1994, addressed to Marilyn Ubaldo, Professional Licensure, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The proposed amendments are intended to implement Iowa Code chapters 154A and 272C.

The following amendments are proposed.

ITEM 1. Amend subrule 120.2(2) as follows:

120.2(2) The forms properly filled in shall be filed with the ~~state department of public health~~ *division of professional licensure* at least 30 days prior to the examination together with a check or money order in the amount specified in the application *for the application fee and made payable to the Iowa Board of Examiners for Hearing Aid Dealers and with a check or money order in the amount specified in the application for the examination fee and made payable to the International Hearing Society. All fees are nonrefundable. The application fee is to cover the cost of administration and is not refundable.*

ITEM 2. Amend **645—Chapter 120** by striking all references to "258A" and inserting "272C" to reflect renumbering of the 1993 Iowa Code.

ITEM 3. Rescind subrule 120.5(5) and insert the following new subrule in lieu thereof:

120.5(5) A late renewal fee will be assessed for failure to renew license by January 31 of the odd-numbered year.

ITEM 4. Add a new rule **645—120.9(272C)** and renumber rules **645—120.9(154A)** to **645—120.13(154A)** as **645—120.10(154A)** to **645—120.14(154A)**.

645—120.9(272C) Reinstatement of lapsed license. A licensee who fails to renew a license within 90 days after the expiration date of license and who fails to obtain an

exemption under rule 120.7(272C) shall be considered to have allowed the license to lapse.

120.9(1) A person who has allowed a license to lapse may apply to the board for reinstatement of the license.

120.9(2) Reinstatement may be granted by the board if the applicant:

a. Submits written application for reinstatement to the board on forms provided by the board; and

b. Pays all of the renewal fees then due, not to exceed five renewals; and

c. Pays the penalty and reinstatement fees that are assessed by the board for failure to renew; and

d. Provides evidence of completion of continuing education during the period the license had lapsed.

(1) If the license had lapsed for three years or less, the applicant for reinstatement shall complete a total number of hours of accredited continuing education computed by multiplying by 16 the number of years the license had lapsed;

(2) If the license had lapsed for four years, the applicant shall complete at least 64 hours of accredited continuing education.

(3) If the license had lapsed for five years, the applicant shall complete at least 80 hours of accredited continuing education.

(4) If the license had lapsed for more than five years, the applicant shall complete 100 hours of accredited continuing education with a minimum of ten hours in each of the categories listed in subrule 120.8(2). The applicant shall also be reexamined and show evidence of successful completion of the Iowa state hearing aid dealers licensing examination with a passing grade on the reexamination.

120.9(3) In lieu of the foregoing provisions of 120.9(2)"d," the applicant may furnish evidence of successful completion, with a passing grade, of the Iowa state license examination conducted within one year immediately prior to the submission of the application for reinstatement.

120.9(4) If the applicant for reinstatement holds a current valid hearing aid dealers license in another state whose requirements meet or exceed the requirements of Iowa, the applicant need only submit:

a. A written application on a form provided by the state board, and

b. Proof of current valid hearing aid dealers license, and

c. The current renewal fee, and

d. The penalty fee for failure to renew, and

e. Proof of continuing education hours obtained equivalent to continuing education required in Iowa.

The applicant may do this in lieu of the process and requirements in subrules 120.9(1) to 120.9(3).

ITEM 5. Amend subrule 120.12(1) as follows:

~~**120.12(1) 120.13(1)**~~ The application fee for a license to practice as a hearing aid dealer issued upon the basis of an examination or reciprocity is \$130. *Check or money order should be made payable to the Iowa Board of Examiners for Hearing Aid Dealers.* For those persons who are required to take the examination, the examination fee is an additional ~~\$50~~ \$35 and *check or money order should be made payable to the International Hearing Society. Both fees should be mailed with the application.*

ITEM 6. Amend subrule 120.12(6) as follows:

~~**120.12(6) 120.13(6)**~~ Fee for reinstatement of an inactive or lapsed license is \$100.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 7. Add a **new** subrule 120.13(7) as follows:
120.13(7) Fee for failure to renew license by January 31 of the odd-numbered year is \$50.

ITEM 8. Amend rule 645—120.205(272C) as follows:
645—120.205(272C) License denial. Any request for a hearing before the board concerning the denial of a license or temporary permit shall be submitted by the applicant in writing to the board at the address in 120.201(272C) by certified mail, return receipt requested, within 30 days of the mailing of a notice of denial of license.

ARC 4818A**REAL ESTATE COMMISSION[193E]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 543B.9, the Iowa Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 3, "Prelicense Education and Continuing Education," Iowa Administrative Code.

One of the proposed amendments establishes a new procedure for licensees to report continuing education. Licensees will certify that required education has been completed. The Commission will verify compliance by random audit.

Another amendment disallows out-of-state license law and other state specific courses being used to meet Iowa's continuing education requirements.

The National Association of Real Estate License Law Officials no longer accredits courses; therefore, language found in the current rules should be omitted.

The Commission is proposing that all courses sponsored by the National Association of Realtors be deemed acceptable as continuing education, not just those courses that lead to a professional designation.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 24, 1994. Such written materials should be directed to Roger L. Hansen, Executive Secretary, Iowa Real Estate Commission, 1918 S.E. Hulsizer, Ankeny, Iowa 50021.

These amendments are intended to implement Iowa Code section 543B.15.

The following amendments are proposed.

ITEM 1. Amend 193E—3.3(543B) by inserting the following **new** subrule 3.3(5) and renumbering existing subrules 3.3(5) to 3.3(9) as 3.3(6) to 3.3(10).

3.3(5) Continuing education records. Applicants for license renewal pursuant to Iowa Code section 543B.15 shall certify that the number of hours of continuing education required to renew a license was completed as described in 3.2(2) and 3.3(2).

a. The commission will verify by random audit the education claimed by the licensee. The responsibility of

maintaining records which support continuing education claimed and the validity of the credits is the responsibility of the licensee. The documentation shall be retained by the licensee for a period of six years after completion of the course, program or activity.

b. It will not be acceptable for a licensee to complete the required education after the fact.

c. Failure to provide required evidence of completion of claimed education within 60 days of the written notice from the commission shall result in the license being placed on inactive status. Prior to activating a license which has been placed on inactive status pursuant to this provision, the licensee must submit evidence satisfactory to the commission that all required continuing education has been completed.

d. Filing a false affirmation is prima facie evidence of a violation of 543B.29(1), (3).

ITEM 2. Amend renumbered subrule 3.3(7) to read as follows:

3.3(7 8) Subrules 3.2(2) and 3.3(2) to 3.3(6)(7) shall apply to every Iowa real estate licensee unless exempted by Iowa Code subsection ~~258A.2(3)~~ 272C.2(5).

ITEM 3. Amend subrule 3.4(3) as follows:

3.4(3) In addition to courses approved directly by the commission, the following will be deemed to be acceptable as continuing education:

a. Credits earned in a state which has a continuing education requirement for renewal of a license if the course is approved by the real estate licensing board of that state for credit for renewal. *However, state specific courses are not acceptable.*

b. ~~Credits earned in courses accredited by the National Association of Real Estate License Law Officials as real estate continuing education.~~

c. ~~Courses sponsored by the National Association of Realtors (NAR) or its affiliates which lead to a professional designation. Certifications for credit for NAR courses issued by the Iowa Association of Relators will be acceptable.~~

d. c. An instructor may request a one-time credit for a program, course, or activity taught equal to the credit hours approved for attendees.

ITEM 4. Rescind and reserve 193E—3.7(117).

ARC 4819A**SECRETARY OF STATE[721]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 47.1 and 34A.6(3), the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

SECRETARY OF STATE[721](cont'd)

The amendment specifies the ballot forms for elections to impose an alternative telephone surcharge to fund emergency telephone service.

Any interested person may make written suggestions or comments on the proposed amendment on or before Tuesday, June 14, 1994. Written comments may be sent to the Elections Division, Office of the Secretary of State, Second Floor, Hoover State Office Building, Des Moines, Iowa 50319. Fax transmissions may be sent to (515)242-5953. Oral comments may be made by telephone to (515)281-5865, voice or TDD.

A public hearing will be held on Wednesday, June 15, 1994, at 1:30 p.m. at the Secretary of State's Office, Second Floor, Hoover State Office Building. Anyone who wishes to attend the hearing should notify the Director of Elections no later than 4:30 p.m. on June 14, 1994. Notice may be made in writing or by telephone to (515)281-5865.

This amendment is intended to implement Iowa Code section 34A.6A.

The following amendment is proposed.

Amend rule 721—21.810(34A) by adding the following new subrule:

21.810(4) Form of ballot for alternative surcharge. The ballot for elections conducted pursuant to Iowa Code section 34A.6A shall be in the following form:

(Insert the letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED?

YES
NO

Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a temporary monthly surcharge increase to (an amount between one dollar and two dollars and fifty cents to be determined by the local joint E911 service board) on each telephone access line collected as part of each telephone subscriber's monthly phone bill if provided within (description of the proposed service area). The surcharge shall be collected for not more than 24 months, after which the surcharge shall return to the current amount of (specify current surcharge rate).

A map may be used to show the proposed E911 service area. If a map is used the public measure shall read as follows:

"Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a temporary monthly surcharge increase to (an amount between one dollar and two dollars and fifty cents to be determined by the local joint E911 service board) on each telephone access line collected as part of each telephone subscriber's monthly phone bill if provided within the proposed E911 service area shown on the map below. The surcharge shall be collected for not more than 24 months, after which the surcharge shall return to the current amount of (specify current surcharge rate)."

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 Banking Richard Buenneke, 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 May is 8.50%.

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 April 30, 1994, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7 - 31 days Minimum 2.70%
32 - 89 days Minimum 2.70%
90 - 179 days Minimum 3.20%
180 - 364 days Minimum 3.40%
One year Minimum 3.70%
Two years or more Minimum 4.70%

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

ARC 4808A

EDUCATIONAL EXAMINERS
BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2(12), the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," and Chapter 15, "Requirements for Special Education Endorsements," Iowa Administrative Code.

The amendments strike all references to "260" and insert "272" to reflect renumbering of the 1993 Iowa Code; establish an American Sign Language endorsement; broaden the language for the type and nature of the master's degree accepted for a professional teacher's license; broaden the current regional exchange license to include all states using the same licensure criteria as set out in the current Regional Exchange Agreement; modify requirements for a substitute license, eliminating the issuance of this license on the basis of an emergency, limited substitute or similar out-of-state licenses; and revise the rule for the conditional special education endorsement to eliminate the need for a written statement from the Area Education Agency Director of Special Education.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 2, 1994, as ARC 4583A. A public hearing was held on March 2, 1994. The amendments to Chapters 14 and 15 are identical to the Notice of Intended Action with the exception of 14.20(14)"b"(4)"5," which was modified to read, "Teaching the culture of deaf people."

These amendments are intended to implement Iowa Code chapter 272.

These amendments will become effective July 1, 1994.

The following amendments are adopted.

ITEM 1. Amend 282—14.13(272) as follows:

282—14.13(272) Requirements for a professional teacher's license.

1. Holder of or eligible for an educational license.
2. Five years of teaching experience.
3. Master's degree in an ~~area of endorsement listed in 14.18 "1" or "2," or the special education teaching endorsement in 282—Chapter 15 instructional endorsement area, or in an area of educational or instructional improvement or school curriculum; the master's degree must be related to school-based programming.~~

The professional teacher's license is valid for five years and may be renewed by meeting requirements listed in 282—17.6(272).

ITEM 2. Amend 282—14.17(272) as follows:

282—14.17(272) Requirements for a substitute teacher's license. A substitute teacher's license may be issued to an individual who has met the following:

Has been the holder of, or presently holds, a license in Iowa; or holds or held a regular teacher's license or certificate in another state, exclusive of temporary, emergency, substitute certificate or license, or a certificate based on an alternative certification program ~~or some other state.~~

Has successfully completed all requirements of an approved teacher education program and is eligible for the provisional license, but has not applied for and been issued this license, or who meets all requirements for the provisional license with the exception of the degree but whose degree will be granted at the next regular commencement.

A substitute license is valid for five years and for not more than 90 days of teaching during any one school year.

The holder of a substitute license is authorized to teach in any school system in any position in which a regularly licensed teacher was employed to begin the school year.

This license may be renewed by meeting requirements listed in 282—17.9(272).

ITEM 3. Amend 282—14.20(272) by adding the following **new** subrule:

14.20(14) American Sign Language endorsement.

a. Authorization. The holder of this endorsement is authorized to teach American Sign Language in kindergarten and grades one through twelve.

b. Program requirements.

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core.

(4) Content. Completion of 18 semester hours of course work in American Sign Language to include the following:

1. Second language acquisition.
2. Sociology of the deaf community.
3. Linguistic structure of American Sign Language.
4. Language teaching methodology specific to American Sign Language.

5. Teaching the culture of deaf people.

6. Assessment of students in an American Sign Language program.

c. Other. Be the holder of or eligible for one other teaching endorsement listed in rule 14.18(272).

ITEM 4. Amend 282—14.24(272) as follows:

282—14.24(272) Two-year exchange license. A two-year nonrenewable exchange license may be issued to an individual under the following conditions:

1. Has completed a state-approved teacher education program in a college or university approved by the state board of education or the state board of educational examiners in the home state ~~which is party to the exchange certification agreement.~~

2. Holds a valid regular certificate or license in the ~~home state in which the preparation was completed party to the exchange certification agreement.~~

3. Is not subject to any pending disciplinary proceedings in ~~any the home state.~~

Each applicant for the exchange license shall comply with all requirements with regard to application processes and payments of licensure fees.

Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by *an analysis of the application, the transcripts and the license or certificate held in the state in which the basic preparation for licensure was completed* ~~the receiving state.~~

Each individual receiving the two-year exchange license will have to complete any identified licensure defi-

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ciencies in order to be eligible for an initial regular license in Iowa the receiving state.

ITEM 5. Amend 282—Chapter 15 by striking all references to "260" and inserting "272" to reflect renumbering of the 1993 Iowa Code.

ITEM 6. Amend 282—15.4(272) as follows:

282—15.4(272) Conditional special education license. A conditional special education license may be issued to an individual under the following conditions:

- 1. Holds a valid license.
- 2. Has completed at least one-half of the credits necessary for a special education endorsement.
- 3. Files a written request from the employing school official supported by the respective area education agency special education officials. *This written request must indicate approval by the respective area education agency special education official.*
- 4. Statement from a college/university outlining the course work to be completed for the endorsement.

This conditional license may be issued for a term of up to three years based on the amount of preparation needed to complete the requirements for the endorsement.

These rules are intended to implement Iowa Code chapter 272.

[Filed 4/28/94, effective 7/1/94]
[Published 5/25/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/25/94.

ARC 4811A

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 514D.9, the Iowa Division of Insurance adopts amendments to Chapter 37, "Medicare Supplement Insurance Minimum Standards," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 16, 1994, as **ARC 4667A**.

These amendments require that all group Medicare supplement coverage attain a 75 percent loss ratio regardless of the method used to market the coverage. Use of this loss ratio is encouraged by the National Association of Insurance Commissioners in order to benefit consumers.

The proposed amendments also authorize the Senior Health Insurance Information Program (SHIIP) to compile a premium and benefit guide and prohibit the use of the guide by producers in the solicitation of consumers.

There are no changes as a result of the written comments received by the Insurance Division and these amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code section 514D.9(1).

These amendments shall become effective on July 1, 1994.

The following amendments are adopted:

ITEM 1. Amend subrule 37.12(1) by rescinding paragraph "c."

ITEM 2. Amend 191—Chapter 37 by adding a new rule as follows:

191—37.23(514D) Prohibition against using SHIIP prepared materials. The Senior Health Insurance Information Program (SHIIP) may prepare a consumer Medicare supplement insurance premium guide and benefits comparison guide. This guide and the SHIIP name or logo shall not be used in the solicitation or sale of health insurance products. Violation of this provision shall be deemed an unfair trade practice under Iowa Code chapter 507B.

[Filed 5/2/94, effective 7/1/94]
[Published 5/25/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/25/94.

ARC 4810A

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 505.8, the Iowa Division of Insurance hereby amends Chapter 71, "Small Group Health Benefit Plans," Iowa Administrative Code.

These new subrules address fair marketing rules in relation to commission payments on small group health products.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 2, 1994, as **ARC 4635A**.

Interested persons were allowed to comment on the proposed new subrules. Four written comments were received. The Iowa Small Employer Health Reinsurance Board reviewed the comments received. There were changes made from the Notice of Intended Action as a result of the input and further consideration of the proposed new subrules. These changes are as follows:

Proposed subrule 71.11(8) is renumbered as 71.11(9) and provides that commission payments on the sale of basic and standard benefit plans can be no less than 75 percent of the level of commission payments on other small group health products.

Proposed subrule 71.11(9) which addresses payment levels on the basic and standard plan is renumbered as 71.11(8) and provides that a small group carrier cannot set commissions in such a way as to make them unattractive to market.

This amendment shall become effective June 29, 1994.

This amendment is intended to implement Iowa Code chapter 513B.

The following amendment is adopted.

Amend rule 191—71.11(513B) by adding the following new subrules:

71.11(8) A small group carrier shall not price the basic and standard benefit plans nor set the commissions in such a way to make the plans unattractive for a producer to market. A small employer carrier shall provide reasonable compensation, as provided in the plan of opera-

INSURANCE DIVISION[191](cont'd)

tion, to a producer, if any, for the sale of a basic or standard health benefit plan.

71.11(9) A small employer carrier shall establish commission payments for the sale of basic and standard health benefit plans within each class of business at no less than 75 percent of the level of commission payments assessed on other small group health products.

[Filed 5/2/94, effective 6/29/94]

[Published 5/25/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/25/94.

ARC 4817A

LIBRARIES AND INFORMATION SERVICES DIVISION[286]

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3 and Iowa Code Supplement section 256.52, the State Commission of Libraries hereby rescinds 224—Chapters 1 to 6 and adopts 286—Chapter 1, "Organization and Operation," Chapter 2, "Public Records and Fair Information Practices," Chapter 3, "Statewide Programs and Agreements Background," and Chapter 6, "Library Services and Construction Act (LSCA) Grant Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 30, 1994, as ARC 4687A, and the rules were simultaneously Adopted and Filed Emergency as ARC 4680A. A public hearing was held on May 3, 1994.

The Division of Libraries and Information Services rescinds rules of the Library Division 224—Chapters 1 to 6 and adopts 286—Chapters 1 to 3 and 6 under the umbrella of the Department of Education pursuant to Iowa Code Supplement section 256.51.

There were three changes made from the Notice of Intended Action as a result of one oral comment. These changes are as follows:

In subrule 3.9(1), the definition "State information products" was changed to "State publications" and in that definition the words "informational materials" were changed to "informational products or materials".

In subparagraph 3.9(4)"d"(4) "contract between" was changed to "contract with".

The changes to 3.9(1) help clarify the definition of state documents to include state information in various formats, including electronic. The change to 3.9(4)"d"(4) supplies the appropriate preposition.

These rules shall become effective June 29, 1994, at which time the Adopted and Filed Emergency rules are hereby rescinded.

Rescind 224—Chapters 1 and 6 and adopt the following new chapters in lieu thereof:

CHAPTER 1
ORGANIZATION AND OPERATION

286—1.1(256) **Definitions.** The definitions used in Iowa Code chapters 17A and 256 will apply for terms used

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

"ADA" means the Americans with Disabilities Act of 1990.

"Administrator" means the state librarian, who shall serve as the administrator of the division of libraries of the department of education.

"Department" means the department of education.

"Director" means the director of the department of education.

"LSCA" means the Library Services and Construction Act Grant Program as defined by P.L. 101-254 (1990).

"State librarian" means the chief operating officer of the state library.

"State library" means the library agency within the division of libraries of the department of education.

286—1.2(256) Mission. The mission of the state library is to promote excellence in libraries and library services to Iowans; foster the development of statewide cooperative services and shared resources among libraries; and meet the informational needs of the three branches of government and Iowa's medical and legal communities.

286—1.3(256) Organization and operation.

1.3(1) Location. The state library is located at East 12th Street and Grand Avenue, Des Moines, Iowa 50319; telephone (515)281-4105; fax (515)281-6191. Business hours are 8 a.m. to 4:30 p.m., Monday through Friday, excepting legal holidays.

1.3(2) Sections. The state library consists of eight sections: library development (includes the Library Services and Construction Act Grant Program, library accreditation, library staff certification, Open Access, Access Plus, continuing education and consulting); networking (includes the Iowa Locator, the Iowa Fax Network, and Iowa Resources and Information Sharing (IRIS)); information services (includes the state medical, federal documents, state documents, and patents depository collections); the state law library; technical services (includes the state documents depository program); the state data center; audiovisual services; and administration.

1.3(3) Commission on libraries. The commission on libraries consists of seven members as defined in Iowa Code section 256.52. The commission shall meet at a time and place specified by the chair. Notice of a meeting and the agenda will be posted at the state library at least ten days prior to the meeting and shall be mailed to any interested individual or organization upon request. The operation of commission meetings shall be governed by the following procedures:

a. A quorum shall consist of four members.

b. Any action taken by the commission requires an affirmative vote by at least four members.

c. Persons wishing to appear before the commission shall submit a written request to the state librarian not less than 14 days prior to a meeting. Presentations shall be allowed at the discretion of the chair. Persons wishing to submit written material shall do so at least 14 days prior to a meeting so that commission members have adequate time to receive and evaluate the material.

d. Near the conclusion of each meeting, the chair shall set the date, time and location of the next meeting.

1.3(4) Minutes. Minutes of commission meetings are available for inspection at the state librarian's office during regular business hours. Copies of minutes are available upon request at no charge, allowing for reasonable transcription time.

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

286—1.4(256) Information delivery.

1.4(1) Photocopies of library materials for Iowa residents. The state library will provide library service to any resident of Iowa. To ensure the availability of high-demand library materials for in-house use, the state library may choose not to lend specific library items. In lieu of lending the original item, the library may choose to provide a photocopy of the requested material at a nominal charge. Fax and priority delivery services may also be requested by the borrower at additional expense.

1.4(2) Photocopies of library materials for nonresidents of Iowa. To encourage interstate resource sharing, the state library may enter into reciprocal free interlibrary loan photocopy agreements with out-of-state libraries. For other out-of-state businesses and residents, the state library will charge the following fees:

first 10 pages	\$5.00 minimum
11-20	6.50
21-30	8.00
31-50	10.00
over 50	10.00 plus 15¢ per page

Fax and priority delivery services may also be requested by the borrower at additional cost to the borrower.

This rule shall not preclude the state library from participating in interstate library compacts to support reciprocal resource sharing.

286—1.5(256) Access to library's collections.

1.5(1) The state library's materials collections are housed in the Historical Building, East 12th Street and Grand Avenue, Des Moines, and in the State Capitol Building. Both buildings are listed on the National Register of Historic Places under the National Historic Preservation Act and are accessible to the disabled.

1.5(2) Primary research and study areas of the library's two locations are accessible to the disabled; however, upper tiers are generally closed to all public access. Staff may authorize access on a case-by-case basis or will retrieve materials requested by library users.

286—1.6(256) Collection policy of the library. Purpose is to define the intended coverage and clientele; establish collection management and selection policies; provide staff with the means to ensure consistency, responsiveness, and wise use of funds in collection building; assist in development of performance measures; establish priorities to guide budget allocations and cataloging and preservation decisions; and document the library's commitment to intellectual freedom.

See: Collection Policy. State Library of Iowa, May 28, 1993.

These rules are intended to implement Iowa Code Supplement sections 256.50 to 256.56.

CHAPTER 2

PUBLIC RECORDS AND FAIR
INFORMATION PRACTICES

The library division hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices, which are printed in the first Volume of the Iowa Administrative Code:

286—2.1(17A,22) Definitions. As used in this chapter: "Agency." In lieu of the words "(official or body issuing these rules)", insert "library division".

286—2.3(17A,22) Requests for access to records.

2.3(1) Location of record. In lieu of the words "(insert agency head)", insert "state librarian". Also in lieu of the words "(insert agency name and address)", insert "State Librarian, State Library of Iowa, East 12th Street and Grand Avenue, Des Moines, Iowa 50319".

2.3(2) Office hours. In lieu of the words "(insert customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert "8 a.m. to 4:30 p.m., Monday through Friday, excepting legal holidays".

286—2.9(17A,22) Disclosures without the consent of the subject.

2.9(1) Open records are routinely disclosed without the consent of the subject.

2.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 2.10(17A,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

286—2.10(17A,22) Routine use.

2.10(1) Defined. "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

2.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement autho-

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

rities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

286—2.11(17A,22) Consensual disclosure of confidential records.

2.11(1) Consent to disclosure by a subject individual. To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 2.7(17A,22).

2.11(2) Complaints to public officials. A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

286—2.12(17A,22) Release to subject.

2.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 2.6(17A,22). However, the agency need not release the following records:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5).)

Other records will be released in accordance with the Iowa Code.

2.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

286—2.13(17A,22) Availability of records.

2.13(1) General. Agency records are open for public inspection and copying unless otherwise provided by rule or law.

2.13(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Records which are exempt from disclosure under Iowa Code section 22.7;

b. Minutes of closed meetings of a government body as provided in Iowa Code section 21.5(4);

c. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in mak-

ing inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law;

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency;

(See Iowa Code sections 17A.2 and 17A.3)

d. Individual ranking sheets (except for requester's own) of grant application evaluators; or

e. Any other records made confidential by law.

2.13(3) Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 2.4(17A,22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 2.4(3).

286—2.14(17A,22) Personally identifiable information.

This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 2.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

2.14(1) Personnel records. These records concern departmental employees and their families, as well as applicants for employment with the department. The system contains material on health, dental, life, and long-term disability insurance; pay and benefit documents; tax withholding; position description questionnaires; affirmative action and equal employment opportunity; disciplinary information; grievances and appeals; performance planning and evaluation; training; deferred compensation; worker's compensation; payroll records; and other materials relating to the employees of the department. Some of the information may be confidential under Iowa Code section 22.7(11) and other legal provisions. These records contain names, social security numbers and other identifying numbers, and are collected in paper form and through the state's automated data processing system.

2.14(2) Reserved.

286—2.15(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 2.1(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in rule 2.13(17A,22). The records listed may contain information about individuals.

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

2.15(1) Council, board, and commission records. Agendas, minutes, and materials presented to the state library commission are available from the state library, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. Council and commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored on an automated data processing system.

2.15(2) Administrative records. This includes documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions.

2.15(3) Publications. This office receives a number of books, periodicals, newsletters, government documents, annual reports and brochures related to its mission. These materials would generally be open to the public but may be protected by copyright law. Most publications of general interest are available in the library division.

2.15(4) Office publications. This office issues a variety of materials including promotional and grants brochures and pamphlets, press releases, project and annual reports, and newsletters which may contain information about individuals, staff or members of boards, councils, or commissions.

2.15(5) Rule-making records. Public documents generated during the promulgation of agency rules, including notices and public comments, are available for public inspection.

2.15(6) Other records. Other records are disclosed to the public unless otherwise exempted from disclosure by law.

286—2.16(17A,22) Data processing systems. None of the data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

286—2.17(17A,22) Applicability. This chapter does not:

2.17(1) Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

2.17(2) Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.

2.17(3) Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the regulations of another agency.

2.17(4) Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

2.17(5) Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

These rules are intended to implement Iowa Code section 22.11.

CHAPTER 3

STATEWIDE PROGRAMS AND AGREEMENTS BACKGROUND

The state library is charged with developing long-range plans for the continued improvement of library services in the state. The most recent long-range plan was entitled "Iowa Libraries: A Time to Grow, 1985-90." The major accomplishments from that planning effort include the development of the interlibrary loan system and the statewide computerized card catalog, the establishment of a voluntary certification program for public librarians, and the establishment of standards for public libraries which includes a voluntary accreditation program.

Based on existing programs and services, the current planning effort addresses the state library's role in promoting and developing library services in the state, coordinating interlibrary cooperation, and providing Iowans with access to the publications of state government. The state library's other roles, such as meeting the information needs of the three branches of state government and providing census, patent, legal and medical information, are not addressed in this document.

See: Blueprints for the Future: A Long Range Plan for the State Library of Iowa 1992-1996. State Library of Iowa, 1992.

286—3.1(256) Iowa Resources and Information Sharing (IRIS). Purpose is to facilitate resource sharing in Iowa by providing an electronic interlibrary loan system for the sharing of interlibrary loans and the transfer of information (such as reference questions and the answers to those questions).

See: Blueprints for the Future: A Long Range Plan for the State Library of Iowa 1992-1996. State Library of Iowa, 1992.

286—3.2(256) Iowa Locator. Purpose is to increase Iowa citizens' access to holdings of Iowa libraries and to encourage multitype library cooperation in the state of Iowa.

See: Blueprints for the Future: A Long Range Plan for the State Library of Iowa 1992-1996. State Library of Iowa, 1992; Library Services and Construction Act grant applications and agreements. State Library of Iowa.

286—3.3(256) Open Access. Purpose is to provide Iowa citizens with direct access to more library materials and information resources. It is a reciprocal borrowing program that enables users from participating libraries to directly check out materials from other participating libraries.

See: Open Access Program Letter of Agreement. State Library of Iowa.

286—3.4(256) Access Plus. Purpose is to provide Iowa citizens with equal access to library resources by encouraging and supporting multitype resource sharing. Access Plus subsidizes participating libraries for each interlibrary loan, from the first loan, made to an eligible Iowa library.

See: Access Plus Program Letter of Agreement. State Library of Iowa.

286—3.5(256) Iowa Fax Network. Purpose of the Iowa Fax Network is to expedite responses to library users' requests by standardizing the use of telefacsimile (fax) for

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

the sending and receiving of requests or information between participating libraries.

See: Iowa Fax Network Letter of Agreement. State Library of Iowa.

286—3.6(256) In Service to Iowa: Public Library Measures of Quality. Purpose is to provide performance measures to encourage the ongoing development of quality library service in the state. By identifying policies, service levels, role selection and output measures, consistency and quality in all aspects of library service can be achieved.

See: In Service to Iowa: Public Library Measures of Quality. 2d ed. State Library of Iowa, 1989.

286—3.7(256) Iowa Certification Program for Public Librarians. Purpose is to improve library service in Iowa by encouraging public librarians to acquire, maintain and develop skills through basic and continuing education, by recognizing librarians who update skills, by improving the public image of librarians, and by providing guidelines for public library boards to use in developing hiring policies.

See: Iowa Certification Program for Public Libraries. State Library of Iowa, 1993.

286—3.8(256) Summer library program.

3.8(1) Purpose is to assist public libraries in planning summer reading programs by producing promotional and programming materials, locally adaptable, to help improve library service to youth in Iowa and to improve skills of librarians.

3.8(2) Procedures.

a. The manual and promotional materials are developed around a theme.

b. Participating libraries receive a base package of materials (manual, posters, bookmarks, and related materials). Additional quantities are available for purchase. Orders for materials are cumulated prior to printing.

c. Program materials are publicized and promoted through announcements in "Footnotes," the state library newsletter.

286—3.9(256) Iowa Depository for Iowa Publications Purpose. The depository library center is established within the state library to serve as the central agency for the collection and distribution of publications issued by state agencies to depository libraries.

3.9(1) Definitions.

"Core depository" shall receive only those publications found on the periodically compiled core list.

"Core list" of Iowa state documents is a selected list intended to meet the basic document needs of libraries.

"Depository library" means a library designated for the deposit of state publications.

"Depository library center" shall be the headquarters for the state documents depository program and shall also be referred to as the "state documents center."

"Full depository" shall be a library receiving everything collected by the depository library center.

"Permanent depository" shall be a library receiving and permanently maintaining two copies of each state publication.

"State agency" means a legislative, executive, or judicial office of the state and all of its respective offices, departments, divisions, bureaus, boards, commissions, committees, and state institutions of higher education governed by the state board of regents.

"State publications" are defined as any multiply produced informational products or materials regardless of format, method of reproduction, or source, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. The definition incorporates those publications that may or may not be financed by state funds but are released by private bodies such as research and consultant firms under contract with or supervision of any state agency. State information products specifically include, but are not limited to, public documents appearing as reports, directories, statistical compendiums, bibliographies, lists, state plans, statutes, codes, laws and bills, rules, regulations, transcripts of public hearings, journals, newsletters, bulletins, periodicals, books, pamphlets, brochures, charts, maps, surveys, other printed matter, audiovisual materials, microfilm, microfiche, and all electronic information sources in all electronic formats. State information products do not include correspondence and memoranda intended solely for internal use within the agency or between agencies, materials designated by law as being confidential, materials excluded from this definition by the department through the adoption and enforcement of rules, and materials determined by the depository library center staff to be exempt.

3.9(2) Administration of the depository program.

a. The state documents depository program shall be administered by the depository librarian under the direction of the state librarian.

b. A nine-member advisory council shall be organized to advise the state library regarding this program. The advisory council may be composed of members of state agencies, representatives of depository and nondepository libraries, and the general public. The council shall be appointed by the state librarian with the recommendation of the depository librarian.

c. The state library/depository library center shall serve as the last copy depository for predepository state information products and for those products never deposited with the center since its 1979 inception.

3.9(3) State agency requirements.

a. Upon issuance of a state publication a state agency shall deposit with the depository library center, at no cost to the center, 75 copies of the publication, or a lesser amount if specified by the center.

b. It shall be the responsibility of the issuing state agency to create duplicate copies of publications in limited supply to meet the minimal copy requirements of the depository library center as specified by the center.

3.9(4) Designation of depositories.

a. The state library and the University of Iowa shall be designated as the two permanent depositories for Iowa state publications.

b. The Library of Congress shall receive one copy of each state publication collected.

c. Depository status of additional libraries shall be determined by the state librarian upon written application by a library. A library may be designated as either a full depository or core depository based upon the judgment of the depository library center and the preference of the library.

d. Depository libraries may be selected on the basis of one or more of the following criteria:

(1) Geographic location consistent with a policy of distributing depositories so as to minimize the distance a user would need to travel.

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

(2) Demonstrated ability to handle the receipts desired based on size of collection, identified need of the library's clientele, and the availability of space, staff and equipment.

(3) Present federal depository status.

(4) Upon approval of the application, a contract with the depository library shall be completed.

3.9(5) Depository library requirements.

a. The permanent depositories shall permanently maintain two copies of each publication. One copy shall be considered archival and will not circulate. The other copy shall be available for loan.

b. All publications received under this program by the full depository and core depository libraries shall be retained for a minimum period of three years unless a lesser retention period is designated for an item or items by the depository library center.

c. The depository agrees to make the documents available for free public use.

d. Materials missing from depository shipments shall be claimed from the depository library center within one month of receipt of the shipment. After that time, requests shall be made directly to the issuing agency or the state printer.

3.9(6) Withdrawal of a library from the program.

a. A full depository library may withdraw from the depository program by sending written notice to the depository library center 60 days prior to such withdrawal.

b. A core depository library may withdraw from this program by sending written notice to the depository library center.

c. A library's depository designation may be withdrawn for failure to conform to the terms of the contract.

d. Upon termination of the contract the depository documents become the property of the depository library center and must be returned to the center or to such other depositories as may be specified by the center.

See: Blueprints for the Future: A Long Range Plan for the State Library of Iowa 1992-1996. State Library of Iowa, 1992.

These rules are intended to implement Iowa Code sections 256.50 to 256.55.

CHAPTERS 4 and 5
Reserved

CHAPTER 6

LIBRARY SERVICES AND CONSTRUCTION
ACT (LSCA) GRANT PROGRAM

286—6.1(256) Description. The Library Services and Construction Act (LSCA) Grant Program is an annual, federally funded, competitive grant program which provides assistance to local libraries and library programs in Iowa. The LSCA program is authorized by P.L. 101-254 (1990) and consists of Titles I, II, and III.

6.1(1) Title I grants. Title I grants assist public libraries by:

a. Extending public library services to areas and populations lacking these services;

b. Improving public library services to ensure that these services are adequate to meet the needs of specific areas and populations;

c. Making public library services accessible to individuals who are disadvantaged (e.g., handicap, age, literacy level, limited English-speaking proficiency) at the

same levels such services are made available to the public;

d. Improving public library service through effective use of technology;

e. Strengthening state library programs for public libraries.

6.1(2) Title II grants. Title II grants assist public libraries in the construction, renovation, and technological enhancement of public library buildings.

6.1(3) Title III grants. Title III grants provide funds to facilitate statewide resource sharing between public libraries and other types of libraries.

286—6.2(256) State LSCA advisory council. As authorized by P.L. 101-254 (1990), the state LSCA advisory council shall consist of a minimum of nine members appointed by the state librarian. The council may be enlarged in membership by the state librarian in order to extend representation of the library and information resources of the state.

6.2(1) Membership. The membership of the LSCA advisory council shall include representatives of each of the following:

a. Public libraries;

b. School libraries;

c. Academic libraries;

d. Special libraries such as legal or medical libraries;

e. Institutional libraries such as reformatory or state hospital libraries;

f. Libraries serving the handicapped in the state;

g. Library users. These users shall comprise at least one-third of the membership with at least one member being a representative of disadvantaged persons.

6.2(2) Duties of the state LSCA advisory council. The council advises the state library on the development of the state plan of library service, including the preparation of annual and long-range programs required by the U.S. Department of Education, and assists the state library in evaluating LSCA programs and activities.

286—6.3(256) Grant process. The state library shall establish one or more application cycles for the LSCA program each year funds are available. The annual competitive grant award procedure for LSCA funds is announced in "Footnotes," the state library's newsletter, and the LSCA grant handbook. Copies of the handbook are available from the state library without charge.

6.3(1) Letter of intent. A letter of intent to apply for LSCA funds shall precede each completed application. Specific instructions on the letter of intent, application form, and annual deadlines are published in the State Library of Iowa LSCA Program Handbook. All letters of intent and completed applications shall be addressed to: Library Development, State Library of Iowa, East 12th Street and Grand Avenue, Des Moines, Iowa 50319; telephone (515)281-4400 or (800)248-4483. All LSCA applications shall be submitted on forms prescribed by the state library.

6.3(2) Eligibility. The eligibility requirements for the LSCA grant program are as follows:

a. Title I applicants shall be public libraries or organizations incorporated under the Iowa nonprofit corporation Act who are applying for funding for projects which will benefit public libraries;

b. Title II applicants shall be public libraries;

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

c. Title III applicants shall be Iowa libraries of all types or nonprofit organizations that are applying for funding for projects which benefit public libraries;

d. A public library applying for any LSCA grant must have submitted to the state library a copy of its enabling ordinance; a current Public Library Information Survey, which is annually distributed by the state library; and a current Application and Report Form for Accreditation, which also is annually distributed by the state library. Note that a public library is not required to be accredited to be eligible to apply for an LSCA grant, but it must complete and submit the Application and Report Form for Accreditation.

6.3(3) Grants review. LSCA applications are reviewed by state library personnel for determination of eligibility. Eligible applications are reviewed by the state LSCA advisory council according to the schedule in the annual handbook. When the volume of LSCA applications is excessive, peer review teams may assist the council in the evaluation of the applications using the evaluation form printed in the LSCA handbook. Following any preliminary evaluation of the review teams, the LSCA advisory council reviews applications and reports scores and recommendations to the state librarian who shall make final grant award decisions according to the schedule in the LSCA handbook.

6.3(4) Preliminary review team evaluation. The LSCA grant application guidelines outline the criteria used to evaluate applications.

6.3(5) LSCA advisory council evaluation. Applications are evaluated based on the criteria outlined in the LSCA grant application guidelines.

6.3(6) Reporting procedures. All LSCA grant recipients shall submit to the state library documentation of all LSCA project-related expenses and periodic and final project reports as provided for in the LSCA handbook and as required by the U.S. Department of Education. LSCA-funded projects are subject to on-site monitoring by state library personnel.

6.3(7) Notification of award. The state library shall, within 15 calendar days of the decision, notify all LSCA grant applicants of the results of their application.

6.3(8) Informal appeals. Informal appeals shall be made on procedural grounds only. Such grounds include alleged conflicts of interest, unfair or impartial treatment of applications, or procedures not uniformly applied to all applicants. Applicants may, within 15 calendar days of receipt of written notice of decision, request information regarding reasons why the application was not selected in the competitive process.

6.3(9) Informal appeal hearing. A written request for an informal appeal hearing with the state librarian shall be made within 10 calendar days of receipt of information regarding reasons why the applicant was declined funding. The hearing shall be held within 15 calendar days of the date of the request during regular business hours of the state library. The hearing shall be held before the state librarian or such members of a review board as the state librarian designates. The state librarian shall:

a. Notify the appellant as to the day, hour, and location of the hearing;

b. Inform the appellant of the right to submit any written documents regarding the application;

c. Inform the appellant that a spokesperson must be appointed if the appeal involves more than one person per project. The state librarian or designee shall direct ques-

tions only to the spokesperson during the hearing. Any other discussion or comments shall be reserved for a closed executive session. No indication of decision shall be given at the time of the hearing;

d. Notify the appellant in writing of the decision of the state librarian or designee within five calendar days of the hearing.

6.3(10) Formal appeal. A formal appeal of an LSCA decision may be made to the Director of the Department of Education, Grimes Building, Capitol Complex, Des Moines, Iowa 50319, within 15 calendar days of the appeal decision.

a. The appellant's argument should contain:

- (1) The facts of the appeal;
- (2) An argument in favor of the appeal;
- (3) The remedy sought.

b. Appeals will be allowed on the procedural grounds that:

- (1) Staff or review committee acted outside the statutory authority;
- (2) Staff or review committee violated published policy or rules;
- (3) Staff or review committee failed to provide adequate public notice;
- (4) Staff or review committee altered the review or approval process to the detriment of the applicant without adequate prior notice;
- (5) Staff or review committee was influenced to act as a result of a conflict of interest;
- (6) Staff or review committee acted in a biased or unfair manner.

c. The director of the department of education will consider and rule on the appeal after receiving all documentation from the appellant and will notify the appellant in writing of the decisions within 30 days. The decision of the director of the department of education is final except as provided for in Iowa Code sections 17A.19 and 17A.20.

These rules are intended to implement Iowa Code Supplement section 256.51(2)"b."

[Filed 5/6/94, effective 6/29/94]
[Published 5/25/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/25/94.

ARC 4822A

**PETROLEUM UNDERGROUND
STORAGE TANK FUND BOARD,
IOWA COMPREHENSIVE[591]**

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455G.4(3) and 455G.9(5), the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby amends Chapter 11, "Remedial or Insurance Claims," Iowa Administrative Code.

This rule was published under Notice of Intended Action in the Iowa Administrative Bulletin on October 27, 1993, as **ARC 4364A**.

This rule revises Board policy concerning priority of sites eligible for benefits under Iowa Code section

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

455G.9. The rule sets forth Board policy and procedures relating to the handling of prioritization of remedial account eligible sites within the state of Iowa. This rule is intended to provide guidance to owners, operators, consultants, contractors and others relative to the overall issue of which sites will receive priority for receipt of remedial benefits.

A public hearing was held on November 17, 1993. No public comments were received at the hearing, by telephone, or in writing. The only difference between the adopted rule and that which was proposed was clarification of the dates that the prioritization would begin and further clarification relating to payment cutoff dates.

The adopted rule was approved by the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board at its April 28, 1994, Board meeting.

This rule will become effective July 1, 1994.

This rule is intended to implement Iowa Code chapter 455G.

The following rule is adopted.

Amend 591—Chapter 11 by adding the following new rule:

591—11.7(455G) Prioritization of remedial account benefits and expenses.

11.7(1) Payments of funds available to the board shall be disbursed for allowable administrative and program expenses, as well as eligible claims as defined in Iowa Code section 455G.9. Benefits payable under Iowa Code sections 455G.10 and 455G.11 shall not be subject to this chapter. Priority of payments is as follows:

a. All expenses, including bond service costs, bond reserving requirements, administrative costs and 28E agreements as approved by the board have first priority.

b. Costs for site cleanup reports as defined in Iowa Code section 455B.474, subject to all other eligibility requirements, have second priority.

c. All other benefits subject to this rule have third priority and shall be further prioritized as follows:

(1) All sites classified by the department as high risk as defined in Iowa Code section 455B.474 shall have the highest priority, after 11.7(1)"a" and "b" above, except sites that have been classified as being high risk but which are allowed to monitor the site as otherwise provided by statute or rule.

(2) Should it be determined pursuant to classification of sites as defined in 11.7(1)"c"(1) that sufficient funds are not available for all high-risk sites, the board shall establish by rule additional priority classifications reflecting funding available compared to the total expected costs of benefits allowed under Iowa Code section 455G.9.

d. Exceptions to the prioritization of claims:

(1) Overexcavation occurring on low-risk sites for upgrade or other purposes approved by the board shall be paid on all sites which qualify, unless covered under 11.7(1)"c"(2), regardless of prioritization of other claims.

(2) Benefits payable under Iowa Code section 455G.9(1)"d" shall be paid provided:

1. All counties making application for benefits under Iowa Code section 455G.9(1)"d" shall notify the board on or before January 1, 1995, that a site exists in the county which might be subject to this section.

2. All counties requesting assistance shall confirm that the site has been registered with the DNR in accordance with their rules. If a site has not been registered, the

county making a request for benefits under Iowa Code section 455G.9(1)"d" shall register the site with DNR.

3. For benefits to be paid, a claim form as provided by the board shall be completed and mailed to the board on or before January 1, 1995, to receive benefits. The claim form shall also include information on the prior owners, last known addresses and contact names.

4. For the purposes of receiving benefits under this rule, the county requesting assistance shall comply with DNR reporting requirements regarding tank closure notification and signatures for appropriate documents, such as the site cleanup report.

(3) Sites individually approved for benefits by the board through contract, negotiated settlement, court or administrative order or otherwise, shall be paid regardless of prioritization of other claims.

e. The effective date for prioritization of benefits under 11.7(1)"c"(1) shall be July 1, 1994. Budgets for work to be completed prior to July 1, 1994, will be approved up to June 30, 1994. Payments will be made for work documented and completed up to June 30, 1994. Work completed, regardless of the date that the bills were submitted to the board for payment after June 30, 1994, related to a site that is not classified as high risk will not be paid. All program-eligible remedial sites shall continue to have their budgets reviewed subject to board rules.

11.7(2) Reserved.

[Filed 5/9/94, effective 7/1/94]
[Published 5/25/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/25/94.

ARC 4809A

**PUBLIC SAFETY
DEPARTMENT[661]**

Adopted and Filed

Pursuant to the authority of 23 U.S.C. 402 and Governor's Executive Order Number Twenty-Three, signed June 9, 1986, the Iowa Department of Public Safety hereby amends Chapter 20, "Governor's Traffic Safety Bureau," Iowa Administrative Code.

These amendments update provisions of rules which govern the administration of the state's highway safety program and the distribution of federal funds under that program by the Governor's Traffic Safety Bureau. A Notice of Intended Action proposing these amendments was published in the Iowa Administrative Bulletin on October 13, 1993, as **ARC 4317A**.

A public hearing on these proposed amendments was held on November 3, 1993. No comment was received at the public hearing and the only comment received about the amendments came from the Administrative Rules Review Committee. This comment is reflected in one of the three changes made in these amendments from the text of the amendments proposed in the Notice of Intended Action.

The first change in these amendments from the Notice of Intended Action is the inclusion of an exception to sub-

PUBLIC SAFETY DEPARTMENT[661](cont'd)

rule 20.3(6) which extends the application deadline from March 1 to June 1 for the current year only for funds allocated to the Governor's Traffic Safety Bureau pursuant to 23 U.S.C. 153. These are funds allocated for highway safety programs because Iowa does not have a motorcycle helmet law meeting federal standards. The exception to the subrule was previously added by emergency rule making [ARC 4627A] and was effective March 1, 1994. The second change in these amendments from the text of the Notice of Intended Action occurs in subrule 20.4(1); what is now the introductory paragraph of that subrule has been revised to improve its clarity. The third change from the Notice of Intended Action responds to a concern expressed by members of the Administrative Rules Review Committee that criteria used in allocating funds be stated in greater detail than they were in the proposed amendments. This concern has been addressed with the inclusion in subrule 20.4(1) of additional language stating the criteria applied by the Governor's Traffic Safety Bureau in allocating funds available for highway safety programs in Iowa.

These amendments are intended to implement Title 23 U.S.C., section 402, as amended through September 1, 1993, and Governor's Executive Order Number Twenty-Three, signed June 9, 1986.

The following amendments are adopted and will become effective July 1, 1994.

ITEM 1. Amend rule 661—20.1(23USC402, PL89-564,7) as follows:

~~661—20.1(23USC402, PL89-564,7 ExecOrd23) Authority. Title 23 U.S.C. section 402 (b)(1) states: "The Secretary shall not approve any state highway safety program under this section which does not . . . (A) provide that the Governor of the state shall be responsible for the administration of the program." requires each state to have a highway safety program sponsored by the U.S. Secretary of Transportation and for which the governor of the state shall be responsible.~~

~~20.1(1) The governor has designated the commissioner of the department of public safety as governor's highway safety representative for Iowa and established the department of public safety as the state highway safety agency in Governor's Executive Order Number Twenty-Three, signed June 9, 1986, and published in the Iowa Administrative Bulletin on July 2, 1986.~~

~~20.1(2) The governor's traffic safety bureau will shall administer the state highway safety program be administered in the department of public safety in accordance with the provisions of chapter 7 Title 23 U.S.C. and Governor's Executive Order Number Twenty-Three.~~

ITEM 2. Amend rule 661—20.2(23USC402, PL89-564) as follows:

~~661—20.2(23USC402, PL89-564 ExecOrd23) Purpose. The purpose of the highway safety program is to provide a coordinated federal, state and local effort to reduce traffic-related deaths, injuries, and property damage crashes.~~

~~20.2(1) The purpose of the six federally established The following eight highway safety standard priority areas has been established by the federal government to provide a guide to program involvement and reimbursement. These highway safety areas are: alcohol; police traffic services; emergency medical services; traffic records; occupant restraints; and engineering; motorcycles; and pe-~~

~~destrians/bicycles. Funding is available to bring the highway safety standard areas up to a federally approved level, but federal and state emphasis is on impact programs which reduce traffic fatalities.~~

~~20.2(2) Reserved.~~

ITEM 3. Amend rule 661—20.3(PL89-564) as follows:

~~661—20.3(PL89-564 23USC402, ExecOrd23) Responsibility Responsibilities.~~

~~20.3(1) The governor's traffic safety bureau shall develop and prepare the state's highway safety plan based on evaluation of highway crashes and traffic safety problems within the state and establish priorities for same.~~

~~20.3(1 2) The governor's traffic safety bureau will shall encourage and assist local units of government in improving their traffic safety programs.~~

~~20.3(2 3) The governor's traffic safety bureau will shall serve as a reviewing authority of for federal and state traffic safety programs and comment to the governor on their effectiveness, when appropriate.~~

~~20.3(3 4) The governor's traffic safety bureau will shall monitor progress safety program activity and audit expenditures of funds by state and local agencies as authorized by Title 23 U.S.C. 402.~~

~~20.3(4 5) The governor's traffic safety bureau will shall coordinate the state highway safety program plan with the various other state agencies having the greatest interest and impact in reducing traffic fatalities.~~

~~20.3(5) Federally appropriated funds as set forth in P.L. 89-564, section 402, will be allocated by the governor's traffic safety bureau located in the department of public safety, based on: (1) Federally mandated projects; and (2) high fatality and personal injury crash causations and locations.~~

~~The following criteria will be used to rank Iowa's counties according to the severity of their highway safety problems:~~

- ~~a. Fatal crashes by county.~~
- ~~b. Personal injury crashes by county.~~
- ~~c. Alcohol-related fatal crashes by county.~~
- ~~d. Alcohol-related personal injury crashes by county.~~
- ~~e. Vehicle miles of travel by county.~~
- ~~f. Serious traffic offenses by county.~~

~~Eligibility of counties and cities within those counties for the limited federal funds available will be determined according to county rankings on the six listed criteria.~~

~~20.3(6) Highway safety proposals Proposals for funding highway safety programs may be submitted at any time by any eligible city, county, or state agency, or non-profit agency organization or any other eligible organization or individual., but the proposals Applications must be received prior to March 1 to be included considered for funding in the next federal fiscal year beginning October 1. Initial proposals should include project title, statement of the highway safety problem to be addressed supported by three years of crash data, what is being proposed to solve the problem, how it will be evaluated, a proposed budget breakdown, and a letter of intent accepting responsibility for the proposed project from the governing responsible authority of the organization making application (mayor, city council, board of supervisors, or state department head).~~

~~Only written requests containing the above listed elements will be considered for funding. Assistance in developing and submitting a highway safety proposal proposals for highway safety funding may be obtained by~~

PUBLIC SAFETY DEPARTMENT[661](cont'd)

contacting the Director, Governor's Traffic Safety Bureau, Iowa Department of Public Safety, Wallace State Office Building 307 East 7th Street, Des Moines, Iowa 50319.

EXCEPTION: Applications for funding of programs pursuant to the authority of 23 U.S.C. 153 for federal fiscal year 1995 (October 1, 1994, through September 30, 1995) must be received by the governor's traffic safety bureau on or before June 1, 1994.

~~This rule is intended to implement Title 23 U.S.C. sections 153 and 402, Public Law 89-564.~~

ITEM 4. Amend rule 661—20.4(PL89-564) as follows:

661—20.4(PL89-564 23USC402,ExecOrd23) Funding criterion criteria.

20.4(1) Allocation of federally appropriated funds administered by the governor's traffic safety bureau pursuant to Title 23 U.S.C. as amended through September 1, 1993, shall be based on: (1) federally mandated projects; and (2) high fatality and personal injury crash causations and locations.

The following criteria will be used to rank Iowa's counties according to the severity of their highway safety problems:

- a. *Fatal crashes by county.*
- b. *Personal injury crashes by county.*
- c. *Serious personal injury crashes by county.*
- d. *Alcohol-related fatal crashes by county.*
- e. *Alcohol-related personal injury crashes by county.*
- f. *Vehicle miles of travel by county.*
- g. *Serious traffic offenses by county.*
- h. *Fatal and injury crashes involving motorcycles by county.*
- i. *Fatal and injury crashes involving pedestrians and bicycles by county.*

Eligibility of counties, and cities within those counties, for the limited federal funds available will be determined according to county rankings on the nine listed criteria.

~~20.4(2) Pursuant to P.L. 89-564, Title 23, U.S.C. 402(C), at least 40 percent of all federal funds apportioned under this section to a state to the state of Iowa pursuant to Title 23 U.S.C., section 402, for any fiscal year will shall be expended by the political subdivisions of that the state in carrying to carry out local highway safety programs authorized by the governor's representative for highway safety.~~

~~20.4(1) The political subdivision whose approved project meets state requirements to the satisfaction of the governor's representative for highway safety, contingent upon~~

~~the availability of federal moneys, shall receive reimbursement for costs incurred in implementing the project. All final approval and program authority rests with the governor's representative for highway safety.~~

~~20.4(2) All approved eligible applicants must complete and administer their activity in accordance with the Iowa Highway Safety Program Policies and Procedures Manual 1979, as amended.~~

~~20.4(3) All forms including contract procedures, monitoring reports, progress and fiscal reports, and their explanations are contained in the Iowa Highway Safety Program Policies and Procedures Manual. Copies of this manual are available upon request from the Director, Governor's Traffic Safety Bureau, Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319.~~

ITEM 5. Amend 661—Chapter 20 by adding the following **new** rule:

661—20.5(23USC402,ExecOrd23) Program requirements.

20.5(1) All approved programs funded by the governor's traffic safety bureau must be administered in compliance with the Iowa Governor's Traffic Safety Bureau Policies and Procedures Manual, 1993.

20.5(2) Highway safety contract procedures and reporting forms and their explanations are contained in the Iowa Governor's Traffic Safety Bureau Policies and Procedures Manual, 1993.

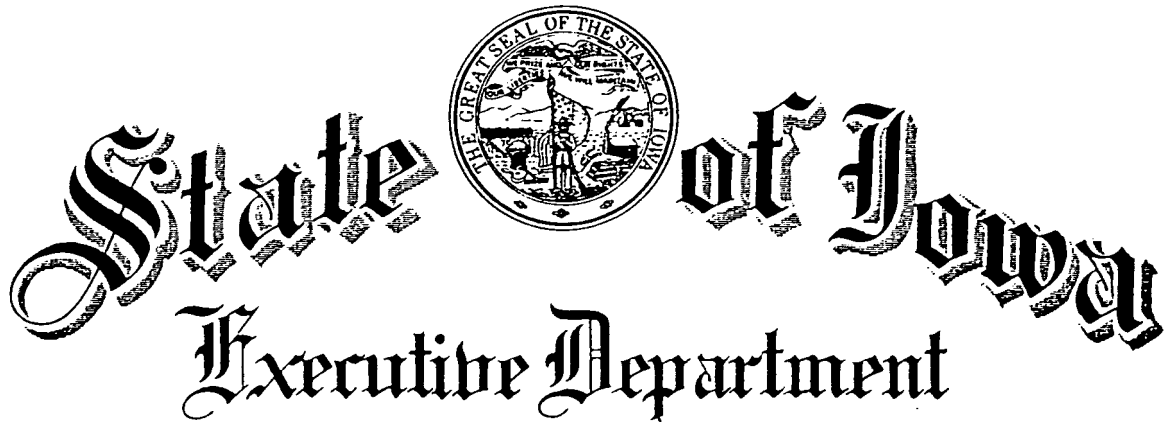
20.5(3) Single copies of the Iowa Governor's Traffic Safety Bureau Policies and Procedures Manual may be obtained on request from the Director, Governor's Traffic Safety Bureau, Iowa Department of Public Safety, 307 East 7th Street, Des Moines, Iowa 50319.

ITEM 6. Amend **661—Chapter 20** by adding the following **new** implementation sentence at the end of the chapter:

These rules are intended to implement Title 23 U.S.C., section 402, as amended through September 1, 1993, and Governor's Executive Order Number Twenty-Three, signed June 9, 1986.

[Filed 4/29/94, effective 7/1/94]
[Published 5/25/94]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/25/94.



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

EXECUTIVE ORDER 50 *

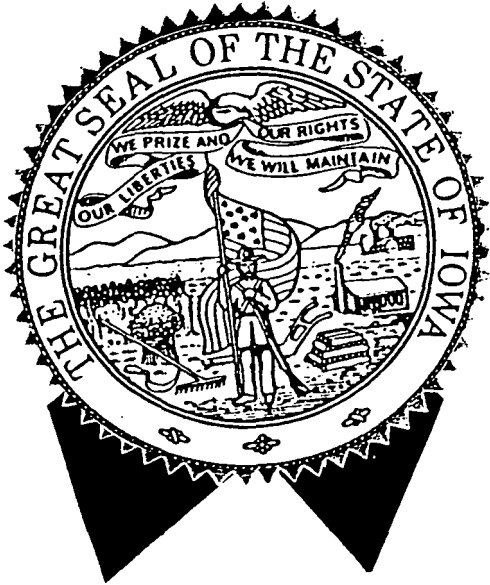
- WHEREAS, health care costs continue to rise at levels twice the rate of inflation and;
- WHEREAS, approximately 250,000 Iowans are currently without health insurance coverage and;
- WHEREAS, Iowa's large elderly population requires increasing access to quality and affordable health care and;
- WHEREAS, Iowa's rural providers and consumers continue to face significant challenges in assuring access to quality, affordable health care and;
- WHEREAS, escalating health care costs create significant impediments to the expansion of Iowa business and industry and;
- WHEREAS, Iowa insurers are a vital industry to our state. As such, state government must assure the ability of Iowa insurers to remain competitive in their industry and;
- WHEREAS, the Clinton Administration and members of Congress are currently working toward health reform nationally and;
- WHEREAS, state government must communicate effectively with the federal government our concerns about how proposed national reforms may impact Iowa and;
- WHEREAS, as Governor, in the spring of 1993 I appointed the Iowa Health Reform Council to develop recommendations relating to reform of Iowa's health care system and;

- WHEREAS,** based on the Council's recommendations, significant reforms were passed this legislative session in Iowa, including CHMIS, rural provider retention and recruitment, telmedicine, small group insurance reforms, and employer conduit and;
- WHEREAS,** the Iowa Health Reform Council included among its recommendations, the establishment of a transition entity to be responsible for overseeing implementation of Iowa's reforms;
- NOW THEREFORE,** I, Terry E. Branstad, Governor of Iowa, hereby create the Iowa Health Reform Transition Team to:
- coordinate implementation of reform within the state,
 - communicate with the federal government Iowa's interests in health care reform, and
 - continue to inform and receive input from Iowans on changes needed in the health care system to assure access to quality, affordable health care for all Iowans.

The Transition Team shall be composed of:

- o 4 health care providers,
- o 2 insurers,
- o 5 members interested in health care reform including consumers and representatives of business and labor,
- o Iowa Commissioner of Insurance, or his/her designee,
- o Director of Iowa Department of Public Health or his/her designee,
- o Director of Department of Human Services or his/her designee,
- o Director of Iowa Department of Management or his/her designee.

The Transition Team shall complete its work by October 30, 1995. This Executive Order is hereby ordered repealed on that date.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 2nd day of May in the year of our Lord one thousand nine hundred ninety-four.

Terry E. Branstad
GOVERNOR

ATTEST:

Elaine Baxter
SECRETARY OF STATE

*** SUMMARY OF THE OPINIONS OF THE ATTORNEY GENERAL****BONNIE J. CAMPBELL**

March and April, 1994

CONSTITUTIONAL LAW: MOTOR VEHICLE

Differential treatment based on age. U.S. Const. amend. XIV and Iowa Const. art. I, § 6; Iowa Code Supp. § 321.196 (1993); and 761 IAC 605.26(2). While the Iowa Department of Transportation's rule allowing renewal of driver's licenses by mail for people at least seventeen years and eleven months but under sixty-five years does disparately impact upon drivers over the age of sixty-four, a rational reason exists for the classification. Therefore, the rule does not appear to unconstitutionally discriminate against those drivers over age sixty-four. (Burger to Tyrrell, State Representative, 4-5-94) #94-4-1(L)

COUNTIES

Chapter 347A Hospital; Certification of Budget. Iowa Code §§ 24.2(1), 24.2(4), 24.17, 347A.1, 347A.3 (1993). The board of hospital trustees for a hospital organized under Iowa Code chapter 347A must certify its annual budget under chapter 24 of the Code. (Mason to Hahn, State Representative, 3-21-94) #94-3-1(L)

Design and construction of county hospital addition - competitive bidding. Iowa Code §§ 331.341(1), 347.13(2), 384.96, 384.97, 384.102 (1993). The plans, specifications and entire contract for a proposed building must be available to enable contractors to competitively bid on the project and allow for inspection by all interested parties and bidders. Soliciting a package bid to both design and build a county hospital addition is not authorized and would be contrary to the competitive bidding process. (Olson to Lytle, Van Buren County Attorney, 4-5-94) #94-4-2(L)

COUNTIES: MENTAL HEALTH

Payment to County Hospitals. Iowa Code §§ 125.82; 229.1(14); 347.16(2) & (3); 665.2, 665.3 (1993). Free care and treatment must be provided to the sick and injured resident indigents at county hospitals. A county of legal settlement may be required to pay a county hospital for the care and treatment of those who are indigent for costs including those associated with the admission or commitment for substance abuse or mental health treatment regardless of admission status. A court order requires that a county hospital admit the person for treatment regardless of the definition of acute care pursuant to Medicare, Medicaid or other third party payment systems. (Ramsay to Grundberg, State Representative, 4-29-94) #94-4-3(L)

1993 IOWA CODE**OPINION**

24.2(1)	94-3-1(L)
24.2(4)	94-3-1(L)
24.17	94-3-1(L)
125.82	94-4-3(L)
229.1(14)	94-4-3(L)
331.341(1)	94-4-2(L)
347.13(2)	94-4-2(L)
347.16(2) & (3)	94-4-3(L)
347A.1	94-3-1(L)
347A.3	94-3-1(L)
384.96	94-4-2(L)
384.97	94-4-2(L)
384.102	94-4-2(L)
665.2	94-4-3(L)
665.3	94-4-3(L)

1993 IOWA CODE SUPPLEMENT**OPINION**

321.196	94-4-1(L)
---------	-----------

UNITED STATES CONSTITUTION**OPINION**

Amend. XIV	94-4-1(L)
------------	-----------

IOWA CONSTITUTION**OPINION**

art. I, § 6	94-4-1(L)
-------------	-----------

IOWA ADMINISTRATIVE CODE**OPINION**

761--605.26(2)	94-4-1(L)
----------------	-----------

IOWA ADMINISTRATIVE BULLETIN

Iowa State Printing Division

Grimes State Office Building

Des Moines, Iowa 50319

Bulk Rate
U.S. Postage
PAID
Des Moines, Iowa
Permit No. 1195
