



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

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### CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2019

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
<b>*Dec. 26 '18*</b>	Jan. 16 '19	Feb. 5 '19	Feb. 20 '19	Feb. 22 '19	Mar. 13 '19	Apr. 17 '19	July 15 '19
Jan. 11	Jan. 30	Feb. 19	Mar. 6	Mar. 8	Mar. 27	May 1	July 29
Jan. 25	Feb. 13	Mar. 5	Mar. 20	Mar. 22	Apr. 10	May 15	Aug. 12
Feb. 8	Feb. 27	Mar. 19	Apr. 3	Apr. 5	Apr. 24	May 29	Aug. 26
Feb. 22	Mar. 13	Apr. 2	Apr. 17	Apr. 19	May 8	June 12	Sep. 9
Mar. 8	Mar. 27	Apr. 16	May 1	May 3	May 22	June 26	Sep. 23
Mar. 22	Apr. 10	Apr. 30	May 15	<b>***May 15***</b>	June 5	July 10	Oct. 7
Apr. 5	Apr. 24	May 14	May 29	May 31	June 19	July 24	Oct. 21
Apr. 19	May 8	May 28	June 12	June 14	July 3	Aug. 7	Nov. 4
May 3	May 22	June 11	June 26	<b>***June 26***</b>	July 17	Aug. 21	Nov. 18
<b>***May 15***</b>	June 5	June 25	July 10	July 12	July 31	Sep. 4	Dec. 2
May 31	June 19	July 9	July 24	July 26	Aug. 14	Sep. 18	Dec. 16
June 14	July 3	July 23	Aug. 7	Aug. 9	Aug. 28	Oct. 2	Dec. 30
<b>***June 26***</b>	July 17	Aug. 6	Aug. 21	<b>***Aug. 21***</b>	Sep. 11	Oct. 16	Jan. 13 '20
July 12	July 31	Aug. 20	Sep. 4	Sep. 6	Sep. 25	Oct. 30	Jan. 27 '20
July 26	Aug. 14	Sep. 3	Sep. 18	Sep. 20	Oct. 9	Nov. 13	Feb. 10 '20
Aug. 9	Aug. 28	Sep. 17	Oct. 2	Oct. 4	Oct. 23	Nov. 27	Feb. 24 '20
<b>***Aug. 21***</b>	Sep. 11	Oct. 1	Oct. 16	Oct. 18	Nov. 6	Dec. 11	Mar. 9 '20
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Nov. 29	Dec. 18	Jan. 7 '20	Jan. 22 '20	Jan. 24 '20	Feb. 12 '20	Mar. 18 '20	June 15 '20
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### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
14	Wednesday, December 12, 2018	January 2, 2019
15	Wednesday, December 26, 2018	January 16, 2019
16	Friday, January 11, 2019	January 30, 2019

**PLEASE NOTE:**

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

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

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

**ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Update of human resources policies and procedures, 68.1, 68.2(2), 68.6 IAB 11/21/18 <b>ARC 4122C</b>	Procurement Conference Room, A Level Hoover State Office Bldg. Des Moines, Iowa	December 11, 2018 9 to 10 a.m.
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**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Noxious weeds, amendments to ch 58 IAB 12/5/18 <b>ARC 4151C</b>	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 26, 2018 9 a.m.
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**AUDITOR OF STATE[81]**

Organization and procedures, 25.4 to 25.8 IAB 11/21/18 <b>ARC 4125C</b>	State Capitol Building, Room 116 1007 E. Grand Ave. Des Moines, Iowa	December 11, 2018 10 to 11 a.m.
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**EDUCATIONAL EXAMINERS BOARD[282]**

Code of professional ethics and conduct—violations of contractual obligations, 25.3(5) IAB 12/5/18 <b>ARC 4147C</b>	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	January 2, 2019 1 p.m.
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**EDUCATION DEPARTMENT[281]**

Suicide prevention, identification of adverse childhood experiences, strategies to mitigate toxic stress response, amendments to ch 14 IAB 12/5/18 <b>ARC 4157C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2019 9 to 10 a.m.
Use of online learning and telecommunications for instruction by schools, amendments to ch 15 IAB 12/5/18 <b>ARC 4158C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2019 10 to 11 a.m.
Open enrollment—participation in cocurricular or extracurricular activities, amendments to ch 17 IAB 12/5/18 <b>ARC 4159C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2019 11 a.m. to 12 noon
Summer college credit program, 22.33 IAB 12/5/18 <b>ARC 4155C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2019 3 to 4 p.m.
Supplementary weighting, amendments to ch 97 IAB 12/5/18 <b>ARC 4156C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2019 1 to 2 p.m.

**EDUCATION DEPARTMENT[281](cont'd)**

Financial management of categorical funding, amendments to ch 98 IAB 12/5/18 <b>ARC 4160C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2019 2 to 3 p.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Chiropractic physicians—continuing education hours, 41.14(3) IAB 11/21/18 <b>ARC 4129C</b>	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	December 11, 2018 9 to 9:30 a.m.
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Physician assistants—opioid prescribing practices, 326.1, 327.6(3), 328.3(2)“d,” 329.2(32) IAB 11/21/18 <b>ARC 4128C</b>	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	December 11, 2018 8:30 to 9 a.m.
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Supervision of physician assistants at remote medical sites, 327.4(2) IAB 11/21/18 <b>ARC 4130C</b>	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	December 11, 2018 7:30 to 8 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Minors' school licenses; licensing information and forms; waiver of accompanying driver for intermediate licensee, amendments to ch 602 IAB 12/5/18 <b>ARC 4161C</b>	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	December 28, 2018 10 a.m. (If requested)
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**TREASURER OF STATE[781]**

Iowa educational savings plan trust, ch 16 IAB 11/21/18 <b>ARC 4124C</b>	First Floor Lucas State Office Bldg. Des Moines, Iowa	December 13, 2018 1 to 2 p.m.
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Iowa ABLE savings plan trust, ch 20 IAB 11/21/18 <b>ARC 4123C</b>	First Floor Lucas State Office Bldg. Des Moines, Iowa	December 12, 2018 1 to 2 p.m.
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**UTILITIES DIVISION[199]**

Rate cases, tariffs, and rate regulation election practice and procedure, amendments to ch 26 IAB 10/10/18 <b>ARC 4046C</b>	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	December 18, 2018 10:30 a.m. to 12:30 p.m.
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The following list will be updated as changes occur.

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

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

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

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**ARC 4151C**

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

**Notice of Intended Action**

**Proposing rule making related to noxious weeds  
and providing an opportunity for public comment**

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 58, “Noxious Weeds,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in 2018 Iowa Acts, House File 2422.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2018 Iowa Acts, House File 2422.

*Purpose and Summary*

The proposed amendments establish two priority lists of noxious weeds. One list identifies the noxious weeds for eradication, and the other list identifies the noxious weeds for control.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 26, 2018. Comments should be directed to:

Margaret Thomson  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Fax: 515.281.6236  
Email: [margaret.thomson@iowaagriculture.gov](mailto:margaret.thomson@iowaagriculture.gov)

*Public Hearing*

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

December 26, 2018  
9 a.m.

Second Floor Conference Room  
Wallace State Office Building  
Des Moines, Iowa

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

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 21—58.1(317) as follows:

**21—58.1(317) Definition. Definitions.** As used in this chapter, “sterile”:

“Class A noxious weed for eradication” means a noxious weed determined by the department to be the highest priority for eradication of existing infestations and prevention of new infestations.

“Class B noxious weed for control” means a noxious weed determined by the department to be a priority for preventing new infestations and stopping the spread of the species.

“Sterile” means any plant or variety that is incapable of reproduction or which is either noninvasive or nonaggressive in that the plant does not spread into areas where it was not initially planted.

ITEM 2. Adopt the following **new** rule 21—58.4(317,87GA,HF2422):

**21—58.4(317,87GA,HF2422) Noxious weed lists.**

**58.4(1)** Class A noxious weeds for eradication. The following weed is included:

- a. Palmer amaranth (*Amaranthus palmeri*).
- b. Reserved.

**58.4(2)** Class B noxious weeds for control. The following weeds are included:

- a. Canada thistle (*Cirsium arvense*).
- b. Teasel (*Dipsacus spp.*) biennial.
- c. Leafy spurge (*Euphorbia esula*).
- d. Bull thistle (*Cirsium vulgare*).
- e. Multiflora rose (*Rosa multiflora*).
- f. European morning glory or field bindweed (*Convolvulus arvensis*).
- g. All other species of thistles belonging in the genera of *Cirsium* and *Carduus*.

ITEM 3. Amend **21—Chapter 58**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 317.25 and 2018 Iowa Acts, House File 2422.

**ARC 4150C**

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

**Notice of Intended Action**

**Proposing rule making related to meat and poultry regulations  
and providing an opportunity for public comment**

The Agriculture and Land Stewardship Department hereby proposes to amend Chapter 76, “Meat and Poultry Inspection,” Iowa Administrative Code.

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

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 189A.7.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 189A and section 159.5.

*Purpose and Summary*

The proposed amendments update references to federal regulations in order to retain recognition of the state meat and poultry program. The federal regulations relate to roasting chickens, trichinae destruction requirements and canned meats.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 26, 2018. Comments should be directed to:

Margaret Thomson  
Iowa Department of Agriculture and Land Stewardship  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319  
Fax: 515.281.6236  
Email: [margaret.thomson@iowaagriculture.gov](mailto:margaret.thomson@iowaagriculture.gov)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

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

ITEM 1. Amend rule 21—76.1(189A), introductory paragraph, as follows:

**21—76.1(189A) Federal Wholesome Meat Act regulations adopted.** Part 301 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~January 1, 2016~~ July 30, 2018, is hereby adopted in its entirety by reference; and in addition thereto, the following subsections shall be expanded to include:

ITEM 2. Amend rule 21—76.2(189A) as follows:

**21—76.2(189A) Federal Wholesome Meat Act regulations adopted.** Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 412, Part 416, Part 417, Part 418, Part 424, Part 430, ~~Part 431~~, Part 441 and Part 442 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~January 1, 2017~~ July 30, 2018, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~January 1, 2016~~ July 30, 2018, are hereby adopted in their entirety by reference. Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.

This rule is intended to implement Iowa Code sections 189A.3 and 189A.7(8).

ITEM 3. Amend rule 21—76.3(189A), introductory paragraph, as follows:

**21—76.3(189A) Federal Poultry Products Inspection Act regulations adopted.** Part 381, Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~January 1, 2016~~ July 30, 2018, is hereby adopted in its entirety with the following exceptions: Sections 381.96, 381.97, 381.99, 381.101, 381.102, 381.104, 381.105, 381.106, 381.107, and 381.128, Subpart R, Subpart T, Subpart V, and Subpart W; and in addition thereto, the following subsections shall be expanded to include:

ITEM 4. Amend rule 21—76.4(189A) as follows:

**21—76.4(189A) Inspection required.** Every establishment except as provided in Section 303.1(a), (b), (c) and (d) of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of ~~January 1, 2016~~ July 30, 2018, in which slaughter of livestock or poultry, or the preparation of livestock products or poultry products is maintained for transportation or sale in commerce, shall be subject to the inspection and other requirements of those parts of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of ~~January 1, 2016~~ July 30, 2018, enumerated in rules 21—76.1(189A), 21—76.2(189A) and 21—76.3(189A).

This rule is intended to implement Iowa Code sections 189A.4 and 189A.5.

**ARC 4153C**

**CORRECTIONS DEPARTMENT[201]**

**Notice of Intended Action**

**Proposing rule making related to organization, policies, and procedures and providing an opportunity for public comment**

The Corrections Department hereby proposes to amend Chapter 1, “Departmental Organization and Procedures,” Chapter 38, “Sex Offender Management and Treatment,” Chapter 42, “Probation Services,” Chapter 43, “Residential Facilities,” Chapter 44, “Work Release,” and Chapter 45, “Parole,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 904.108.

CORRECTIONS DEPARTMENT[201](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 17A.3 and 905.7.

*Purpose and Summary*

Amendments to Chapters 1, 38, 42, 43, 44 and 45, as well as to other chapters of the Department's rules, were Adopted and Filed and published in the August 1, 2018, Iowa Administrative Bulletin as **ARC 3929C**. On August 14, 2018, the Administrative Rules Review Committee expressed concern regarding the changes to the rules pertaining to the judicial districts. Pursuant to Iowa Code section 17A.4, the Committee voted to delay the effective date of **ARC 3929C** for 70 days, allowing time for further discussion for the Department and the judicial districts to finalize changes. At its November 13, 2018, meeting, the Administrative Rules Review Committee reviewed language proposed by Corrections Department staff and, pursuant to Iowa Code section 17A.3, approved emergency adoption of the amendments that are also proposed in this Notice of Intended Action.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 201—Chapter 7.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 26, 2018. Comments should be directed to:

Michael Savala  
Department of Corrections  
Jessie Parker Building  
510 East 12th Street  
Des Moines, Iowa 50319  
Email: [michael.savala@iowa.gov](mailto:michael.savala@iowa.gov)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

CORRECTIONS DEPARTMENT[201](cont'd)

*Emergency Rule Making Adopted by Reference*

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 4152C**, IAB 12/5/18). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

**ARC 4149C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Notice of Intended Action**

**Proposing rule making related to Iowa energy center grant program and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to adopt new Chapter 404, "Iowa Energy Center Grant Program," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 15.106A and 15.120.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 15.120.

*Purpose and Summary*

2017 Iowa Acts, chapter 169, created new Iowa Code section 15.120 and transferred the Iowa Energy Center from Iowa State University to the Economic Development Authority. Pursuant to Iowa Code section 15.120, the Iowa Energy Center Board is directed to oversee programs, including grant programs, established by the Iowa Energy Center and to adopt rules for the administration of the Iowa Energy Center and its programs.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on December 26, 2018. Comments should be directed to:

Kristin Hanks-Bents  
Iowa Economic Development Authority  
200 East Grand Avenue  
Des Moines, Iowa 50309  
Email: [kristin.hanks-bents@iowaEDA.com](mailto:kristin.hanks-bents@iowaEDA.com)

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Adopt the following **new** 261—Chapter 404:

CHAPTER 404  
IOWA ENERGY CENTER GRANT PROGRAM

**261—404.1(15) Definitions.**

“*Activity*” means one or more specific activities, projects or programs associated with Iowa energy center grant funds.

“*Annual allocation*” means the annual dollar amount the board allocates to the Iowa energy center for energy center grant activities.

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

“*Board*” means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2).

“*Co-investigator*” means a person who shares the responsibility of conducting grant activities with the principal investigator of a project.

“*Funding announcement*” means a publicly available document that contains the official information for a grant, including the application deadline, goals of the activity, eligibility requirements, reporting requirements, availability of funds and instructions on applying for the grant.

“*Iowa energy center*” or “*IEC*” means the Iowa energy center created within the economic development authority pursuant to Iowa Code section 15.120.

“*Principal investigator*” means a person with the primary responsibility for conducting research.

“*Recipient*” means an organization that was awarded an Iowa energy center grant.

“*Subinvestigator*” means a person who is carrying out grant activities at the direction of the principal investigator and is receiving funds from the award made to the recipient.

“*Subrecipient*” means an organization contracting with and receiving funds from a recipient to carry out IEC grant activities.

**261—404.2(15) Policies and procedures handbook.** The authority will prepare a policies and procedures handbook for approval by the board. The board will review the policies and procedures handbook on an annual basis. The policies and procedures will include the annual allocation to each grant activity.

**261—404.3(15) Eligibility.**

**404.3(1) Eligible applicants.** Eligible applicants include Iowa businesses, colleges and universities, and private nonprofit agencies and foundations.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**404.3(2) Applications with subrecipients.** Any eligible applicant may submit an application that includes one or more subrecipients. The amount of an award that a subrecipient can receive is set forth in the policies and procedures.

**404.3(3) Joint applications.** Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

**404.3(4) Restrictions on applicants.** A principal investigator will be allowed to submit one application per funding announcement. An applicant who has submitted an application as the principal investigator for a funding announcement may also be named as a co-investigator on additional applications submitted for the same funding announcement, provided the applicant is not the principal investigator on any additional applications.

**404.3(5) Eligible projects.** Requirements for IEC grant awards include but are not limited to the following:

- a. Applicants shall demonstrate a benefit for ratepayers.
- b. Applicants shall demonstrate that they are eligible candidates.
- c. Applicants shall demonstrate the capacity for grants administration.
- d. Applicants who have previously received Iowa energy center awards shall have demonstrated acceptable past performance, including the timely expenditure of funds.
- e. Applications shall demonstrate the feasibility of completing the proposed activities with the funds requested.
- f. Applications shall identify and describe any other sources of funding for the proposed activities.

**404.3(6) Ineligible projects.** The following types of projects are ineligible for an award.

- a. Relocation of a business.
- b. Expansion of a business.
- c. Funding for existing training programs.
- d. Private asset development.
- e. Pipeline, transmission line, and distribution line construction.
- f. First generation ethanol.
- g. Cellulosic ethanol.

**261—404.4(15) Funding and award terms.**

**404.4(1)** For each fiscal year that funds are available, the board will determine the amount of funds available to be awarded as grants in that fiscal year.

**404.4(2)** If any funds are allocated to a specific grant activity but are not awarded after a funding cycle, the board may reallocate those funds to a different grant activity.

**404.4(3)** The board may reallocate any recaptured funds to a different grant activity.

**404.4(4)** The maximum grant award is \$1 million per application. The minimum grant award is \$10,000 per application.

**404.4(5)** The initial duration of a grant agreement will be no longer than three years. However, a recipient may apply for a no-cost extension of an agreement. If the approval of a no-cost extension would cause the duration of the grant agreement to exceed five years, the no-cost extension shall not be granted.

**261—404.5(15) Project budget.**

**404.5(1)** Eligible expenses. Only expenditures directly related to the implementation of the funded grant activity will be reimbursed. Examples of eligible expenses can be found in the policies and procedures handbook. Vehicle purchases are eligible only when the purchase of the vehicle is an integral part of the funded grant activity and must be approved by the board at the time the award is made.

**404.5(2)** Ineligible expenses include but are not limited to:

- a. Purchase or rental of buildings.
- b. Office equipment.
- c. Furniture and fixtures.
- d. Intangible assets.
- e. International travel.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

- f. Insurance.
- g. Phone expenses.

**404.5(3)** Other budget requirements include the following:

- a. Indirect costs shall not exceed more than 20 percent of a grant award.
- b. IEC grant funds shall not be used as cost share to a federal grant award.
- c. Vehicle purchases or other vehicle-related expenses are not eligible if the purchase or expense supports the proposed grant activity but is not an integral part of the proposed grant activity. If a vehicle purchase is an integral part of a grant activity but a recipient fails to obtain board approval prior to the purchase, then the vehicle purchase is ineligible.

**261—404.6(15) Application process and review.**

**404.6(1)** The board will issue funding announcements for grant applications at least once per fiscal year, provided funds are available.

**404.6(2)** Application forms will be available at [iowagrants.gov](http://iowagrants.gov).

**404.6(3)** Applications will only be accepted during the established application period, as identified by the Iowa energy center on its website at [www.iowaeconomicdevelopment.com](http://www.iowaeconomicdevelopment.com).

**404.6(4)** The Iowa energy center will review applications and make funding decisions after each funding announcement. Review criteria typically include but are not limited to:

- a. The proposed project demonstrates a need for further research, development, training or pilots.
- b. The proposed project provides a benefit to ratepayers.
- c. The application has a well-developed budget that is relevant to the project and that provides documentation of planned project expenses.
- d. The application describes a dissemination plan for postgrant activities.

**404.6(5)** Applicants must first submit a preapplication. The authority will review the preapplication for eligibility and recommend preapplications to the grant committee. The grant committee will review the preapplications and determine which preapplications warrant submission of full applications.

**404.6(6)** An application may not be submitted to the Iowa energy center until a preapplication has been submitted to the Iowa energy center and the grant committee has approved submission of the application. The authority will review applications for completeness, eligibility, and technical and financial merit. The authority may engage an outside technical review panel to complete technical review of applications. The authority will prepare recommendations for the grant committee. The grant committee will review the applications and staff recommendations and make recommendations to the board. Upon review of the recommendations of the grant committee, the board shall approve, defer, or deny each application.

**261—404.7(15) Administration.**

**404.7(1)** *Notice of approval.* The authority will notify successful applicants in writing of an approved request for funding. Notification will include the terms or conditions under which approval is granted.

**404.7(2)** *Agreement.* After notifying the recipient of an award, the authority will issue an agreement. The agreement shall be between the recipient and the authority.

**404.7(3)** *Transmittal.* The recipient must execute and return the agreement to the authority within 45 days of the transmittal of the final agreement from the authority. Failure to do so may be cause for the board to terminate the award.

**404.7(4)** *Disbursement of funds.* Recipients shall submit requests for grant funds in the manner prescribed by the authority. Disbursements shall be made on a reimbursement basis. No advance disbursements shall be allowed. Disbursements may be withheld if applicable performance reports have not been received and approved. Individual requests for funds shall be made in an amount equal to or greater than \$500 per request, except for the final draw of funds.

**404.7(5)** *Record keeping and retention.* Recipients shall retain all financial records, supporting documents and all other records pertinent to the grant for five years after agreement closeout.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**404.7(6) Performance reports and reviews.** Recipients shall submit performance reports to the authority as described in the policies and procedures handbook. The authority may perform annual project reviews and site inspections as necessary to ensure program compliance.

**404.7(7) Agreement amendments.**

*a.* Any substantive change to a funded IEC project, including time extensions, budget revisions, and alterations to proposed activities, will be considered an agreement amendment. The recipient shall request an amendment in writing. No amendment shall be valid until approved by the board, except as provided in paragraph 404.7(7)“*b*” and confirmed in writing by the authority.

*b.* Staff approvals.

(1) Staff may approve one no-cost extension provided that the extension complies with subrule 404.4(5). Additional no-cost extensions shall be presented to the board for approval.

(2) Budget modifications. Any substantial modification of a project budget shall require board approval. Staff may approve budget modifications that are not substantial. For purposes of this subparagraph, “substantial modification” means a budget modification of either \$10,000 or 10 percent of the total grant award, whichever is less.

**404.7(8) Agreement closeout.** Upon agreement expiration or project completion, the authority shall initiate project closeout procedures.

**404.7(9) Compliance with state and local laws and rules.** Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program, and with any applicable local rules.

**404.7(10) Noncompliance.** At any time during a project, the IEC may, for cause, find that a recipient is not in compliance with the requirements of this program. At the board’s discretion, remedies may include penalties up to and including the return of grant funds to the IEC. Findings of noncompliance may include the use of Iowa energy center funds for activities not described in the application; failure to complete approved activities in a timely manner; failure to comply with any applicable state or federal rules, regulations, or laws; or the lack of a continuing capacity of the recipient to carry out the approved project in a timely manner.

These rules are intended to implement Iowa Code section 15.120.

**ARC 4148C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Notice of Intended Action**

**Proposing rule making related to the alternate energy revolving loan program  
and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to adopt new Chapter 405, “Alternate Energy Revolving Loan Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 15.120.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 15.120 and 476.46.

*Purpose and Summary*

2017 Iowa Acts, chapter 169, amended Iowa Code section 476.46 and transferred the administration of the Alternate Energy Revolving Loan Program (AERLP) to the Iowa Energy Center created under Iowa Code section 15.120. Iowa Code section 15.120 requires the Iowa Energy Center Board to adopt rules for the administration of the Center’s programs.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on December 26, 2018. Comments should be directed to:

Kristin Hanks-Bents  
Iowa Economic Development Authority  
200 East Grand Avenue  
Des Moines, Iowa 50309  
Email: [kristin.hanks-bents@iowaEDA.com](mailto:kristin.hanks-bents@iowaEDA.com)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Adopt the following **new** 261—Chapter 405:

CHAPTER 405  
ALTERNATE ENERGY REVOLVING LOAN PROGRAM

**261—405.1(15) Definitions.**

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

“*Board*” means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2).

“*Iowa energy center*” or “*IEC*” means the Iowa energy center created within the economic development authority pursuant to Iowa Code section 15.120.

“*Project*” means an alternate energy production facility as defined in Iowa Code section 476.42 or a small hydro facility as defined in Iowa Code section 476.42.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**261—405.2(15) Loan amounts and terms.**

**405.2(1)** The minimum loan amount is \$25,000 per project.

**405.2(2)** The board shall not lend more than 50 percent of eligible project costs as defined in rule 261—405.5(15).

**405.2(3)** A project shall be eligible for not more than \$1 million in loans outstanding at any time under this program.

**405.2(4)** A borrower shall be eligible for not more than \$1 million in loans outstanding at any time under this program.

**405.2(5)** The board shall not issue a loan that exceeds the value of the collateral provided.

**405.2(6)** Security for loans. The board will accept security for a loan. The following forms of collateral will be accepted:

- a. Real property;
- b. Dedicated certificate of deposit;
- c. Irrevocable letter of credit;
- d. Corporate guarantee;
- e. Other forms of collateral if approved by the board, and only if the forms of collateral listed in paragraphs 405.2(6) “a” to “d” are inadequate.

**405.2(7)** Term. The duration of the loan shall be for 20 years, the estimated useful life of the project that is financed by the loan, the terms of any other loans used to finance the project, or the estimated return on investment for the project, whichever is shortest.

**261—405.3(15) Borrowers.**

**405.3(1)** *Eligible borrowers.* The project shall be wholly owned by the borrower. Eligible borrowers include:

- a. Persons whose primary residence is in Iowa.
- b. Businesses registered and domiciled in Iowa. For businesses organized as limited liability companies, each member of the limited liability company must be domiciled in Iowa and be an eligible borrower.
- c. Water and wastewater utilities subject to Iowa Code chapter 388, rural water districts subject to Iowa Code chapters 357A and 504, and sanitary districts subject to Iowa Code chapter 358.

**405.3(2)** *Ineligible borrowers.* Ineligible borrowers include:

- a. An organization that is lending to a project and also owns the project or is a member of an organization that owns the project.
- b. An individual or an organization with a history of defaulted loans or compliance violations with other state programs or rules.
- c. Regents institutions.
- d. Community colleges.
- e. State agencies.
- f. Cities, but not water or wastewater utilities subject to Iowa Code chapter 388.
- g. Counties.
- h. School districts.
- i. Nonprofit organizations.
- j. Gas and electric utilities subject to Iowa Code chapter 388 or rural electric cooperatives subject to Iowa Code chapter 476.

**261—405.4(15) Eligible projects.** A proposed project must meet the following criteria to be eligible for a loan under this program:

**405.4(1)** The project shall be located in Iowa.

**405.4(2)** The project shall be an alternate energy production facility as defined in Iowa Code section 476.42 or a small hydro facility as defined in Iowa Code section 476.42.

**405.4(3)** The project shall be wholly owned by the borrower.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**405.4(4)** The borrower shall be the owner, contract purchaser or lessee of the real property where the project is located.

**261—405.5(15) Eligible and ineligible costs.**

**405.5(1) Eligible costs.** Examples of eligible costs include:

- a. Real and personal property comprising a project;
- b. Materials and equipment required for necessary site preparation, construction and installation of a project;
- c. Labor for site preparation, construction and installation of a project. Only labor that is performed by a third party such as an independent contractor will be considered an eligible cost.

**405.5(2) Ineligible costs.** Examples of ineligible costs include:

- a. Feasibility studies;
- b. Permits;
- c. Administrative costs not associated with site preparation, construction and installation of a project;
- d. Costs incurred prior to the board's approval of a loan;
- e. Interconnection costs;
- f. Costs associated with maintenance, operation or repair of a project; and
- g. Other costs that the board determines to be ineligible.

**261—405.6(15) Application process.**

**405.6(1)** Application forms shall be available at [iowagrants.gov](http://iowagrants.gov).

**405.6(2)** Applications will be accepted during an established application period, as determined by the board from time to time and as funds are available.

**405.6(3)** If an applicant intends to finance more than one project, the applicant shall include all proposed projects in a single loan application.

**405.6(4)** Authority staff will review applications for completeness, eligibility, and whether the proposed project meets the financial and technical requirements of the Iowa energy center. The board may engage an outside technical review panel to complete technical reviews of applications.

**405.6(5)** Authority staff will recommend applications to the loan committee. The Iowa energy center may request additional information from applicants to process the loan application. The loan committee will review the applications and staff recommendations and then make recommendations to the board. The board will approve, defer, or deny applications for loans. Authority staff may negotiate the amount, term, and other conditions of the loan prior to award.

**405.6(6)** The board will accept loan applications on a rolling basis. The board will make funding decisions at least once each quarter.

**405.6(7)** If, during any application period determined by the board, the demand for loans exceeds the funding available, the following competitive scoring criteria will be used:

- a. Applications for projects that employ novel, emerging or underutilized technology will be scored favorably.
- b. Applications for projects that increase geographic diversity for the loan program portfolio will be scored favorably.
- c. Applications for projects that provide a quicker return on investment and a shorter loan term will be scored favorably.
- d. Applications for projects that produce more renewable energy relative to the amount of the loan will be scored favorably.

**261—405.7(15) Administration.**

**405.7(1) Notice of approval.** The authority will notify successful applicants in writing of an approved request for funding. Such a notification may include the terms or conditions under which approval is granted.

## ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**405.7(2) Contract.** After notifying the borrower of an award, the authority will offer a contract to the borrower. The contract shall be between the Iowa energy center and the borrower. An award shall not constitute a binding contract.

**405.7(3) Transmittal.** The borrower must execute and return the contract to the authority within 45 days of the transmittal of the final contract from the authority. Failure to do so may be cause for the board to terminate the award.

**405.7(4) Disbursement of funds.** Borrowers shall submit requests for disbursement of funds on the forms provided by the authority.

**405.7(5) Amendment.** Any substantive change to a project shall require an amendment to the contract. A substantive change to a project includes but is not limited to a change in the loan amount, loan term, or scope of work. The borrower shall request the amendment in writing. No amendment shall be valid until approved by the board. The authority may execute nonsubstantive or corrective changes to the contract without board approval.

**405.7(6) Closeout.** Upon contract expiration or project completion, the authority shall initiate project closeout procedures.

**405.7(7) Record keeping and retention.** Borrowers shall retain all financial records, supporting documents and all other records pertinent to the loan for three years after the contract is closed or the loan is put in default and is not cured.

**405.7(8) Reporting and compliance.** A start-up report is due to the authority within 30 days of the date that the project is placed in service. The report shall include but is not limited to documentation of installed costs of the project, one or more photographs, a sample invoice, and a description of any unexpected problems encountered during construction or installation of the project. The authority reserves the right to conduct a site visit of all awarded projects to ensure the projects were built as proposed and to provide verification of ongoing operation. The authority will monitor all loans to ensure that loan proceeds have been spent as identified in the contract and that all other sources of financing have been committed to the project. Borrowers shall be required to notify the authority of any change in ownership. Any loan made pursuant to this program shall become due for payment upon sale of the project for which the loan was made.

**405.7(9) Default.**

*a.* At any time during the construction of a project or the repayment of the loan, the authority may find that a borrower is in default under the terms of the loan contract. The authority will take prompt, appropriate, and aggressive debt collection action to recover any funds misspent by borrowers.

*b.* If the authority determines that a borrower is in default, the authority may seek recovery of the loan plus interest or other penalties as authorized pursuant to Iowa Code section 476.46, negotiate alternative payment schedules, suspend or discontinue collection efforts and take action as the authority deems necessary.

*c.* The authority shall attempt to collect the amount owed. Any negotiated settlement, write-off, or discontinuance of collection efforts is subject to final review by and approval of the board.

*d.* If the authority refers a defaulted contract to outside counsel for collection, then the terms of the contract between the authority and the outside counsel regarding the scope of counsel's authorization to accept settlements shall apply.

These rules are intended to implement Iowa Code sections 15.120 and 476.46.

**ARC 4147C****EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action****Proposing rule making related to practitioner contractual obligations and providing an opportunity for public comment**

The Educational Examiners Board hereby proposes to amend Chapter 25, “Code of Professional Conduct and Ethics,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 272.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 272.2(1).

*Purpose and Summary*

The proposed amendment is intended to clarify the section of the Board’s Code of Professional Conduct and Ethics pertaining to violation of contractual obligations. If the amendment is adopted, the Board would not have a legal basis to sanction the license of a practitioner who provides notice requesting release from a contract prior to, in the vast majority of cases, June 30. The Board would also not have a legal basis to sanction an administrator who hires a practitioner under contract at another district or accredited nonpublic school as long as that practitioner provided the required notice within the timeline referred to above.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 282—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 4, 2019. Comments should be directed to:

Kimberly Cunningham  
Board of Educational Examiners  
Grimes State Office Building  
400 East 14th Street  
Des Moines, Iowa 50319-0147  
Fax: 515.281.7669  
Email: [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov)

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

*Public Hearing*

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

January 2, 2019  
1 p.m.

Room 3 Southwest  
Grimes State Office Building  
Des Moines, Iowa

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend subrule 25.3(5) as follows:

**25.3(5) Standard V—violations of contractual obligations.**

a. Violation of this standard includes:

~~(1) Signing a written professional employment contract while under contract with another school, school district, or area education agency.~~

~~(2) (1) Asking a practitioner to sign a written professional employment contract before the practitioner has been unconditionally released from a current contract, unless the practitioner provided notice to the practitioner's employing board as set forth in subparagraph 25.3(5) "b" (2). An administrator shall make a good faith effort to determine whether the practitioner has been released from the current contract.~~

~~(3) (2) Abandoning a written professional employment contract without prior unconditional release by the employer.~~

~~(4) (3) As an employer, executing a written professional employment contract with a practitioner, which requires the performance of duties that the practitioner is not legally qualified to perform.~~

~~(5) (4) As a practitioner, executing a written professional employment contract, which requires the performance of duties that the practitioner is not legally qualified to perform.~~

b. In addressing complaints based upon contractual obligations, the board shall consider factors beyond the practitioner's control. For purposes of enforcement of this standard, a practitioner will not be found to have abandoned an existing contract if:

(1) The practitioner obtained a release from the employing board before discontinuing services under the contract; or

(2) The practitioner provided notice to the employing board no later than the latest of the following dates:

1. The practitioner's last work day of the school year;
2. The date set for return of the contract as specified in statute; or
3. June 30.

ARC 4157C

**EDUCATION DEPARTMENT[281]****Notice of Intended Action****Proposing rule making related to school health services  
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 14, “School Health Services,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 256.7.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 279 and 2018 Iowa Acts, Senate File 2113.

*Purpose and Summary*

2018 Iowa Acts, Senate File 2113, established that the State Board shall adopt rules requiring school districts to adopt protocols for suicide prevention and postvention and the identification of adverse childhood experiences and strategies to mitigate toxic stress response. This proposed rule making implements Senate File 2113.

*Fiscal Impact*

The cost of training is yet to be determined.

*Jobs Impact*

There will be training requirements for schools, which will have a cost attached. The cost of this training is yet to be determined.

*Waivers*

An agencywide rule waiver is provided for in 281—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 8, 2019. Comments should be directed to:

Nicole Proesch  
Department of Education  
Grimes State Office Building, Second Floor  
Des Moines, Iowa 50319-0416  
Phone: 515.281.8661  
Email: [nicole.proesch@iowa.gov](mailto:nicole.proesch@iowa.gov)

*Public Hearing*

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

EDUCATION DEPARTMENT[281](cont'd)

January 8, 2019  
9 to 10 a.m.

State Board Room, Second Floor  
Grimes State Office Building  
East 14th Street and Grand Avenue  
Des Moines, Iowa

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Renumber rule **281—14.4(256,280)** as **281—14.5(256,280)**.

ITEM 2. Adopt the following new rule 281—14.4(279):

**281—14.4(279) Suicide prevention, identification of adverse childhood experiences, and strategies to mitigate toxic stress response.**

**14.4(1) Definitions.**

*“Adverse childhood experience”* means a potentially traumatic event occurring in childhood that can have negative, lasting effects on an individual's health and well-being.

*“Postvention”* means the provision of crisis intervention, support, and assistance for those affected by a suicide or suicide attempt to prevent further risk of suicide.

**14.4(2) Required protocols.** School districts shall adopt protocols for suicide prevention and postvention and the identification of adverse childhood experiences and strategies to mitigate toxic stress response. The protocols shall be based on nationally recognized best practices.

**14.4(3) Required training.**

*a.* By July 1, 2019, the board of directors of a school district shall require annual, evidence-based training at least one hour in length on suicide prevention and postvention for all school personnel who hold a license, certificate, authorization, or statement of recognition issued by the board of educational examiners and who have regular contact with students in kindergarten through grade 12. The content of the training shall be based on nationally recognized best practices.

*b.* By July 1, 2019, the board of directors of a school district shall require annual, evidence-based, evidence-supported training on the identification of adverse childhood experiences and strategies to mitigate toxic stress response for all school personnel who hold a license, certificate, authorization, or statement of recognition issued by the board of educational examiners and who have regular contact with students in kindergarten through grade 12. The content of the training shall be based on nationally recognized best practices.

**14.4(4) Resources for implementation.** The Iowa department of education will publicly provide resources and technical assistance to assist districts in compliance with this rule.

ITEM 3. Amend **281—Chapter 14**, implementation sentence, as follows:

These rules are intended to implement 2015 Iowa Acts, ~~Senate File 462~~ Iowa Code sections 135.185 and 280.16 and 2018 Iowa Acts, Senate File 2113.

**ARC 4158C****EDUCATION DEPARTMENT[281]****Notice of Intended Action****Proposing rule making related to online learning  
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 15, “Use of Online Learning and Telecommunications for Instruction by Schools,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 256.7(32).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 256.7(32) and 256.41 to 256.43 and 2018 Iowa Acts, Senate Files 475, 2131, and 2415.

*Purpose and Summary*

2018 Iowa Acts, Senate Files 475, 2131 and 2415, established that the State Board shall adopt rules for online learning in accordance with Iowa Code sections 256.41 to 256.43. Several changes to the current rules are incorporated in this proposed rule making, including removing the statewide cap on students enrolled in online schools, rearranging substantive requirements, adding a requirement that the Director maintain a list of private providers that meet the standards and a requirement that providers apply to the Department as required, and expanding Iowa learning online to include allowing students who receive private instruction under Iowa Code chapter 299A to participate. The amendments also allow school districts to provide coursework primarily online to open enrolled students. The proposed amendments implement 2018 Iowa Acts, Senate Files 475, 2131 and 2415.

*Fiscal Impact*

The fiscal impact of this rule making depends on which districts take advantage of the new opportunities to offer online learning.

*Jobs Impact*

This rule making may increase job opportunities in the area of online learning.

*Waivers*

An agencywide rule waiver is provided for in 281—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 8, 2019. Comments should be directed to:

Nicole Proesch  
Department of Education  
Grimes State Office Building, Second Floor  
Des Moines, Iowa 50319-0416  
Phone: 515.281.8661  
Email: [nicole.proesch@iowa.gov](mailto:nicole.proesch@iowa.gov)

EDUCATION DEPARTMENT[281](cont'd)

*Public Hearing*

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

January 8, 2019  
10 to 11 a.m.

State Board Room, Second Floor  
Grimes State Office Building  
East 14th Street and Grand Avenue  
Des Moines, Iowa

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 281—15.7(256) as follows:

**281—15.7(256) School district responsibilities.** ~~Subject to the prohibition in rule 281—15.8(256), any~~  
**15.7(1) General.** Any online coursework offered by a school district shall be offered ~~solely~~ to resident students of the school district, ~~or~~ students attending the school district through a sharing agreement with another school district, ~~or~~ students attending the school district pursuant to Iowa Code section 282.18. Online coursework shall be aligned with the Iowa core standards as applicable and shall be taught by a teacher appropriately licensed and endorsed for the educational level and content area being taught. The teacher may be employed directly by the school district or by a third-party provider of the online curricula used by the school district. Teachers employed by the school district shall be subject to the provisions of Iowa Code chapters 272, 279, and 284. Teachers employed by a third-party provider shall be subject to the provisions of Iowa Code chapter 272; these teachers must be given access to appropriate professional development by the school district, but otherwise are not subject to the provisions of Iowa Code chapters 279 and 284.

**15.7(2) Monitoring and supervision.** A school district providing educational instruction and course content delivered primarily over the Internet shall do all of the following with regard to such instruction and content:

- a. Monitor and verify full-time student enrollment, timely completion of graduation requirements, course credit accrual, and course completion.
- b. Monitor and verify student progress and performance in each course through a school-based assessment plan that includes submission of coursework and security and validity of testing components.
- c. Conduct parent-teacher conferences.
- d. Administer assessments required by the state to all students in a proctored setting and pursuant to state law.

ITEM 2. Rescind rule 281—15.8(256) and adopt the following **new** rule in lieu thereof:

**281—15.8(256) Data reporting.**

**15.8(1) District responsibilities.** A school district providing educational instruction and course content that are delivered primarily over the Internet pursuant to this division shall annually submit to

## EDUCATION DEPARTMENT[281](cont'd)

the department, in the manner prescribed by the department, data that includes but is not limited to the following:

- a. Student achievement and demographic characteristics.
- b. Retention rates.
- c. The percentage of enrolled students' active participation in extracurricular activities.
- d. Academic proficiency levels, consistent with requirements applicable to all school districts and accredited nonpublic schools in this state.
- e. Academic growth measures, which shall include either of the following:
  - (1) Entry and exit assessments in, at a minimum, math and English for elementary and middle school students, and additional subjects, including science, for high school students.
  - (2) State-required assessments that track year-over-year improvements in academic proficiency.
- f. Academic mobility. To facilitate the tracking of academic mobility, school districts shall request the following information from the parent or guardian of a student enrolled in educational instruction and course content that are delivered primarily over the Internet pursuant to this division:
  - (1) For a student newly enrolling, the reasons for choosing such enrollment.
  - (2) For a student terminating enrollment, the reasons for terminating such enrollment.
- g. Student progress toward graduation. Measurement of such progress shall account for specific characteristics of each enrolled student, including but not limited to age and course credit accrued prior to enrollment in educational instruction and course content that are delivered primarily over the Internet pursuant to this division, and shall be consistent with evidence-based best practices.

**15.8(2) *Department responsibilities.*** The department shall compile and review the data collected pursuant to this division and shall submit its findings and recommendations for the continued delivery of educational instruction and course content by school districts delivered primarily over the Internet, in a report to the general assembly by January 15 annually.

ITEM 3. Rescind rule 281—15.11(256) and adopt the following **new** rule in lieu thereof:

**281—15.11(256) Conditions under which ILO coursework may be used to satisfy general accreditation requirements.**

**15.11(1) *General.*** Subject to the exceptions contained in subrules 15.11(2) and 15.11(3), ILO coursework may not be used to meet the requirements of Iowa Code section 256.11(5), which require that specified subjects be offered and taught by a school district or accredited nonpublic school.

**15.11(2) *Use of ILO for up to two specified subjects.*** The requirements of subrule 15.11(1) shall not apply if a school district or school demonstrates either of the following conditions:

- a. The school district or school makes every reasonable and good faith effort to employ a teacher licensed under Iowa Code chapter 272 for the specified subject and is unable to employ such a teacher.
- b. Fewer than ten students typically register for instruction in the specified subject at the school district or school.

**15.11(3) *Waiver for additional specified subjects.*** The department may waive for one school year the applicability of Iowa Code section 256.11(5), at its discretion, to additional specified subjects for a school district or accredited nonpublic school that proves to the satisfaction of the department that the school district or school has made every reasonable effort but is unable to meet the requirements of Iowa Code section 256.11(5). A school district or accredited nonpublic school may apply for an annual waiver each year.

**15.11(4) *Use of private providers.*** Any specified subject course to which Iowa Code section 256.11(5) does not apply under either subrule 15.11(2) or 15.11(3) shall be provided by ILO if ILO offers the course, unless the course offered by ILO lacks the capacity to accommodate additional students. In that case, the specified subject course may instead be provided by the school district or accredited nonpublic school:

- a. Through an online learning platform if the course is developed by the school district or accredited nonpublic school itself, provided the course is taught by an Iowa licensed teacher with online learning experience and the course content is aligned with the Iowa content standards and satisfies the requirements of subrule 15.13(1).

## EDUCATION DEPARTMENT[281](cont'd)

b. Through a private provider utilized to provide the course that meets the standards of subrule 15.13(1) and is approved in accordance with rule 281—15.16(256).

**15.11(5) Definition.** For purposes of this rule, “good faith effort” means the same as defined in Iowa Code section 279.19A(9).

ITEM 4. Amend rule 281—15.12(256) as follows:

**281—15.12(256) School and school district responsibilities.** Each participating school district and accredited nonpublic school shall submit its online curricula, excluding coursework provided by ILO, to the department for review. Each participating school district and accredited nonpublic school shall include in its comprehensive school improvement plan submitted pursuant to Iowa Code section 256.7(21) a list and description of the online coursework offered by the school or school district, excluding coursework provided by ILO. Each participating school district and accredited nonpublic school is responsible for recording grades received for ILO coursework in a student’s permanent record and for awarding graduation credit for ILO coursework. Each participating school district and accredited nonpublic school shall identify a site coordinator to serve as a student advocate and as a liaison between the initiative staff and teachers and the school district or accredited nonpublic school. Each participating school district and school shall pay the fees prescribed by subrule 15.13(2). A school district may provide courses developed by private providers and delivered primarily over the Internet to pupils who are participating in open enrollment under Iowa Code section 282.18. However, if a student’s participation in open enrollment to receive educational instruction and course content delivered primarily over the Internet results in the termination of enrollment in the receiving district, the receiving district shall, within 30 days of the termination, notify the district of residence of the termination and the date of the termination. A rebate for tuition or fees paid or any other dividend or bonus moneys for enrollment of a child shall not be offered or provided directly or indirectly by a school district, school, or private provider to the parent or guardian of a pupil who enrolls in a school district or school to receive educational instruction and course content delivered primarily over the Internet.

ITEM 5. Amend rule 281—15.13(256) as follows:

**281—15.13(256) Department responsibilities.**

**15.13(1) Course quality.** The department shall annually evaluate the quality of courses offered under ILO to ensure that coursework is rigorous and of high quality and is aligned with Iowa’s core curriculum and core content requirements and standards as well as with national standards of quality for online courses issued by an internationally recognized association for elementary and secondary online learning. The department shall ensure that all ILO coursework is taught by a teacher who is appropriately licensed and endorsed for the educational level and content area being taught and who has completed an online-learning-for-Iowa-educators professional development course offered by an area education agency, a teacher preservice program, or comparable coursework. The director of the department shall maintain a list of approved online providers that meet the standards of this subrule and provide course content through an online learning platform taught by a teacher licensed under Iowa Code chapter 272 who has specialized training or experience in online learning. This list shall be maintained pursuant to subrule 15.16(2). Providers shall apply for approval annually or as determined by the department.

**15.13(2)** No change.

ITEM 6. Adopt the following **new** rule 281—15.16(256):

**281—15.16(256) Private providers of online coursework.**

**15.16(1) School district discretion.** At the discretion of a school board or authorities in charge of an accredited nonpublic school, after consideration of circumstances created by necessity, convenience, and cost-effectiveness, courses developed by private providers may be utilized by a school district or school in implementing a high-quality online learning program. Courses obtained from private providers shall be taught by teachers licensed under Iowa Code chapter 272.

## EDUCATION DEPARTMENT[281](cont'd)

**15.16(2) Department approval of private providers.** Private providers utilized to provide courses by a school district or accredited nonpublic school in accordance with this chapter shall meet the standards of subrule 15.13(1) and be approved in accordance with this subrule. The department shall establish an application process and review process for courses developed by private providers, including establishing a schedule of opportunities for new course approval applications, which shall be available at least annually, and a review cycle of courses previously approved.

ITEM 7. Amend **281—Chapter 15**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 256.2, 256.7, 256.9, and ~~256.42~~ 256.41 to 256.43.

**ARC 4159C**

**EDUCATION DEPARTMENT[281]**

**Notice of Intended Action**

**Proposing rule making related to open enrollment  
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 17, “Open Enrollment,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 256.7.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 282.18.

*Purpose and Summary*

2018 Iowa Acts, Senate Files 475 and 2415, made changes to Iowa Code section 282.18 allowing individual pupils who participate in open enrollment to online education to participate in up to two cocurricular or extracurricular activities at their resident districts. The changes also allow districts to deduct up to \$200 per activity off of the open enrollment tuition out. The proposed amendments implement Senate Files 475 and 2415.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

An agencywide rule waiver is provided for in 281—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 8, 2019. Comments should be directed to:

EDUCATION DEPARTMENT[281](cont'd)

Nicole Proesch  
Department of Education  
Grimes State Office Building, Second Floor  
Des Moines, Iowa 50319-0416  
Phone: 515.281.8661  
Email: [nicole.proesch@iowa.gov](mailto:nicole.proesch@iowa.gov)

*Public Hearing*

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

January 8, 2019  
11 a.m. to 12 noon

State Board Room, Second Floor  
Grimes State Office Building  
East 14th Street and Grand Avenue  
Des Moines, Iowa

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 17.8(2), introductory paragraph, as follows:

**17.8(2)** *Restrictions on participation in interscholastic athletic contests and competitions.* A Subject to rule 281—17.15(282), a pupil who changes school districts under open enrollment in any of the grades 9 through 12 shall not be eligible to participate in varsity interscholastic athletic contests and competitions during the first 90 school days of enrollment. This restriction also shall apply to enrollments resulting from an approved petition filed by a parent/guardian to open enroll to an alternative receiving district and when the pupil returns to the district of residence using the process outlined in subrule 17.8(4). This 90-school-day restriction does not prohibit the pupil from practicing with an athletic team during the 90 school days of ineligibility. This 90-school-day restriction is not applicable to a pupil who:

ITEM 2. Adopt the following **new** subrule 17.10(9):

**17.10(9)** *Open enrollment pursuant to rule 281—17.15(282).* If a pupil participates in cocurricular or extracurricular activities in accordance with subrule 17.15(2), the district of residence may deduct up to \$200 per activity, for up to two activities, from the amount calculated in this rule. For a cocurricular activity, one semester shall equal one activity. Extracurricular activities for which such a resident district may charge up to \$200 per activity for up to two activities under this subrule include interscholastic athletics, music, drama, and any other activity with a general fund expenditure exceeding \$5,000 annually. A pupil may participate in additional extracurricular activities at the discretion of the resident district. The school district of residence may charge the pupil a fee for participation in such cocurricular or extracurricular activities equivalent to the fee charged to and paid in the same manner by other resident pupils.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 3. Adopt the following **new** rule 281—17.15(282):

**281—17.15(282) Open enrollment and online coursework.**

**17.15(1) General.** A school district may provide courses developed by private providers and delivered primarily over the Internet to pupils who are participating in open enrollment under Iowa Code section 282.18. However, if a student's participation in open enrollment to receive educational instruction and course content delivered primarily over the Internet results in the termination of enrollment in the receiving district, the receiving district shall, within 30 days of the termination, notify the district of residence of the termination and the date of the termination.

**17.15(2) Participation in activities in resident district.** A pupil participating in open enrollment for purposes of receiving educational instruction and course content primarily over the Internet in accordance with Iowa Code section 256.7(32) may participate in any cocurricular or extracurricular activities offered to children in the pupil's grade or group and sponsored by the district of residence under the same conditions and requirements as the pupils enrolled in the district of residence. The pupil may participate in not more than two cocurricular or extracurricular activities during a school year unless the resident district approves the student's participation in additional activities. The student shall comply with the eligibility, conduct, and other requirements relating to the activity that are established by the district of residence for any student who applies to participate or who is participating in the activity.

ITEM 4. Amend **281—Chapter 17**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ section 282.18.

**ARC 4155C**

**EDUCATION DEPARTMENT[281]**

**Notice of Intended Action**

**Proposing rule making related to summer college credit program and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 22, "Senior Year Plus Program," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2017 Iowa Acts, chapter 172, section 50, paragraph 12C, as enacted by 2018 Iowa Acts, Senate File 2415, section 4.

*Purpose and Summary*

Proposed rule 281—22.33(261E) implements 2017 Iowa Acts, chapter 172, section 50, paragraph 12C, as enacted by 2018 Iowa Acts, Senate File 2415, section 4, which appropriates \$600,000 in the current fiscal year for the Department to create a summer college credit program to be made available to eligible high school students in grades 9 through 12 during the summer months under the Future Ready Iowa Initiative. Rule 281—22.33(261E) establishes a policy framework for these programs, including minimum components for a program; a department review process; a funding mechanism; and student, course, and institution eligibility criteria. The rule is also consistent with the requirements of Iowa Code section 261E.8(7A) as enacted by 2018 Iowa Acts, House File 2458, section 14, which will become effective on July 1, 2019.

EDUCATION DEPARTMENT[281](cont'd)

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

An agencywide waiver provision is provided in 281—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 8, 2019. Comments should be directed to:

Nicole Proesch  
Department of Education  
Grimes State Office Building, Second Floor  
Des Moines, Iowa 50319-0146  
Phone: 515.281.8661  
Email: [nicole.proesch@iowa.gov](mailto:nicole.proesch@iowa.gov)

*Public Hearing*

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

January 8, 2019  
3 to 4 p.m.

State Board Room, Second Floor  
Grimes State Office Building  
East 14th Street and Grand Avenue  
Des Moines, Iowa

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Adopt the following **new** rule 281—22.33(261E):

**281—22.33(261E) Summer college credit program.**

**22.33(1) Program established.** A summer college credit program is established to expand access for high school students to high-quality career and technical education experiences aligned with career pathways leading to postsecondary credentials and high-demand jobs. Programs approved under subrule 22.33(3) shall be offered during the summer term of an eligible postsecondary institution.

## EDUCATION DEPARTMENT[281](cont'd)

**22.33(2) *Type of coursework offered.*** The following provisions apply to coursework delivered through an approved program under this rule.

*a.* Coursework eligible to be offered through an approved program under this rule shall be technical core coursework within and prerequisite coursework for a career and technical education program approved under 281—subrule 21.4(3).

*b.* The career and technical education program shall be aligned to in-demand occupations identified by the state workforce development board and community colleges pursuant to Iowa Code section 84A.1B(13A) as enacted by 2018 Iowa Acts, House File 2458.

*c.* Coursework delivered under this rule shall comply with the course requirements established under Iowa Code section 257.11(3). The course shall be ineligible for supplementary weighting under that section.

*d.* The credit earned by a student who successfully completes a course under this rule shall not apply toward full-time enrollment defined under rule 281—22.6(261E).

**22.33(3) *Program proposals.*** The department shall establish an annual process for the submission and review of proposals for summer college credit programs. A postsecondary institution eligible to offer programming under division IV of this chapter may submit program proposals to the department.

*a. Minimum components.* The proposal shall detail the following components.

(1) A program description, including the course or courses to be made available through the program; total number of credit hours; additional cocurricular experiences and activities including project-, problem-, and work-based learning opportunities; additional support services to be made available through the program; and any other pertinent program information.

(2) All minimum and required costs associated with offering the program, including, but not limited to, instructor salary, materials and supplies, and overhead costs.

(3) The total number of students that the program is capable of serving.

(4) Any additional components and expenses built into the program, including but not limited to student transportation, academic supports, and extracurricular experiences.

(5) The start date and duration of the program. Programs approved under this rule shall have a start date no later than the second Friday in June of each year.

*b. Enrollment threshold.* The postsecondary institution will propose, and the department will approve, a minimum program enrollment threshold. Programs that surpass the minimum enrollment threshold shall be eligible for funding under paragraph 22.33(4)“*b.*”

*c. Review of proposals.* The department shall establish a review process to evaluate all program proposals. In reviewing proposals, the department shall give priority consideration to program proposals that will ensure equitable geographic disbursement of approved programs. The department shall also give consideration to additional criteria including number of students served; cost per credit hour offered; alignment to in-demand occupations; the inclusion of extracurricular experiences with an emphasis on project-, problem-, and work-based learning opportunities; and the inclusion of provisions that address and remove barriers to participation for nontraditional students, underrepresented minority students, and low-income students.

*d. Funding of proposals.* A program proposal approved under this rule shall be funded under paragraph 22.33(4)“*a*” for the amount described under paragraph 22.33(3)“*a.*”

**22.33(4) *Disbursement of funds.*** Subject to the appropriation of funds, the department shall disburse funds to a postsecondary institution offering an approved program in the following manner. All funds received under this rule shall be used to support and sustain the approved program.

*a. Base funding.* Not more than one-half of the total allocation shall be made available to fund proposals approved under subrule 22.33(3).

*b. Enrollment.* Any funds not distributed under paragraph 22.33(4)“*a*” shall be distributed to postsecondary institutions offering an approved program with student enrollment greater than the minimum enrollment threshold.

(1) An approved program shall gather a count of students enrolled in the program on the third day following the start date of the program. The count of students enrolled in the program shall be submitted to the department in a manner prescribed by the department.

## EDUCATION DEPARTMENT[281](cont'd)

(2) Enrollment funding shall be calculated by the department for each program with enrollment greater than the minimum enrollment threshold. For purposes of this rule, the portion of enrollment funding to be received by a postsecondary institution offering an approved program shall be equal to the total number of credits for all student enrollment in the approved program divided by the total number of credits for all student enrollments statewide.

*c. Subsequent years.* In each of the subsequent three years following the implementation year, the portion of the allocation distributed based on enrollment shall increase by 10 percent each year until the minimum amount awarded based on enrollment is equal to 80 percent of the total allocation.

**22.33(5) Availability.** A postsecondary institution offering an approved program shall enter into a contract with a school district interested in making the program available to eligible students of the school district. The program shall be made available to any eligible student from a participating school district. An institution offering programming to a student under this rule shall comply with the requirements of division IV of this chapter.

*a. Student eligibility.* To participate in an approved program, a student shall comply with the criteria established under rule 281—22.2(261E).

*b. Teacher eligibility.* A teacher assigned to provide instruction under this rule shall comply with the criteria established under rule 281—22.3(261E) and be a community college-employed instructor.

*c. Institutional eligibility.* Institutions offering an approved program under this rule shall comply with the criteria established under rule 281—22.4(261E).

ARC 4156C

**EDUCATION DEPARTMENT[281]****Notice of Intended Action****Proposing rule making related to supplementary weighting  
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 97, “Supplementary Weighting,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 256.7.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2018 Iowa Acts, Senate File 475 and House File 633.

*Purpose and Summary*

Chapter 97 outlines supplementary weighting. The proposed amendments to Chapter 97 reflect legislative changes to supplementary weighting for Iowa school districts brought about during the 2018 Legislative Session. Those changes include an addition to the shared operational functions eligible for supplementary weighting and expansion of the eligibility period for this weighting and a new type of district eligibility for additional weighting under concurrent enrollment for certain career and technical education courses.

*Fiscal Impact*

This rule making may impact jobs that have shared operational functions, and it may impact local districts’ budgets.

EDUCATION DEPARTMENT[281](cont'd)

*Jobs Impact*

This rule making may impact jobs that have shared operational functions.

*Waivers*

An agencywide waiver provision is provided in 281—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 8, 2019. Comments should be directed to:

Nicole Proesch  
Department of Education  
Grimes State Office Building, Second Floor  
Des Moines, Iowa 50319-0416  
Phone: 515.281.8661  
Email: [nicole.proesch@iowa.gov](mailto:nicole.proesch@iowa.gov)

*Public Hearing*

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

January 8, 2019  
1 to 2 p.m.

State Board Room, Second Floor  
Grimes State Office Building  
East 14th Street and Grand Avenue  
Des Moines, Iowa

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Rescind the definitions of “Fraction of a school year at the elementary level” and “Fraction of a school year at the secondary level” in rule **281—97.1(257)**.

ITEM 2. Adopt the following **new** definition of “Fraction of a school year” in rule **281—97.1(257)**:  
“*Fraction of a school year*” shall mean the product of the minutes per day of class multiplied by the number of days per year the class meets divided by the product of the total number of minutes in a school day multiplied by the total number of days in a school year. All minutes available in a normal day shall be used in the calculation.

## EDUCATION DEPARTMENT[281](cont'd)

ITEM 3. Amend rule **281—97.1(257)**, definition of “Supplementary weighting plan for at-risk students,” as follows:

“*Supplementary weighting plan for at-risk students*” shall mean a plan as defined in this chapter to add a weighting for each resident student enrolled in the district and a weighting for ~~each resident student~~ the percentage of pupils enrolled in grades one through six, as reported by the school district on the basic educational data survey for the base year, who is are eligible for free and reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. Sections 1751-1785 1751-1769j, multiplied by the budget enrollment in the school district to generate funding to be used to develop or maintain at-risk programs, which may include alternative school programs alternative programs and alternative school programs, and returning dropout and dropout prevention programs approved pursuant to Iowa Code section 257.40.

ITEM 4. Amend subparagraph **97.2(5)“a”(2)** as follows:

(2) The course must not be used by the school district in order to meet the minimum accreditation standards in Iowa Code section ~~256.11. 256.11(5)“a” to “j,”~~ with an exception to the career and technical limitation applicable to Iowa Code section 256.11(5)“h.”

ITEM 5. Adopt the following new subparagraph **97.2(5)“a”(3)**:

(3) A school district with total basic educational data survey enrollment of not more than 600 that contracts with a community college to provide any of the three required sequential units in any of the four career and technical education service areas identified as the district’s career and technical program required in Iowa Code section 256.11(5)“h” may request supplementary weighting for any community college course within one of the four service areas if the district’s course enrollment exceeds five.

ITEM 6. Amend paragraph **97.3(2)“b”** as follows:

*b.* Adding a weighting of forty-eight ten-thousandths ~~for each resident student~~ multiplied by the percentage of pupils in the district enrolled in grades one through six, as reported by the school district on the basic educational data survey for the base year, who is are eligible for free and reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. Sections 1751-1785 1751-1769j, multiplied by the district’s budget enrollment.

ITEM 7. Amend subrule 97.7(2), introductory paragraph, as follows:

**97.7(2) Operational function area eligibility.** “Operational function sharing” means sharing of managerial personnel in the discrete operational function areas of superintendent management, business management, human resources management, student transportation management, facility operation or maintenance management, curriculum director, master social worker, independent social worker, or school counselor. “Operational function sharing” does not mean sharing of clerical personnel or school principals. The operational function sharing arrangement does not need to be a newly implemented sharing arrangement in order to be eligible for supplementary weighting.

ITEM 8. Rescind subparagraph **97.7(2)“a”(2)**.

ITEM 9. Renumber subparagraphs **97.7(2)“a”(3)** and **(4)** as **97.7(2)“a”(2)** and **(3)**.

ITEM 10. Amend subparagraph **97.7(2)“b”(1)** as follows:

(1) Shared personnel must perform the services of managing the business operations. Managing business operations would include personnel performing the duties of a business manager or school business official, or personnel performing ~~the duties listed in the Iowa Code for a board secretary including, but not limited to, board secretary duties listed in Iowa Code chapter 291, or personnel performing the duties listed in the Iowa Code for a board treasurer including, but not limited to, those listed in Iowa Code chapter 291 for a board secretary or board treasurer duties listed in Iowa Code chapter 291.~~

ITEM 11. Amend subparagraph **97.7(2)“f”(1)** as follows:

(1) Shared personnel must perform the services of a curriculum director. ~~An individual performing the function of a curriculum director must be properly licensed for that position.~~

EDUCATION DEPARTMENT[281](cont'd)

ITEM 12. Adopt the following new paragraph **97.7(2)“h”**:

*h. School social worker.*

(1) Shared personnel must perform the services of a school social worker. An individual performing the function of a school social worker must be properly licensed for that position.

(2) Social workers providing services required to be provided by an area education agency shall not be considered a shared school social worker under this subrule.

(3) Shared school social worker services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

ITEM 13. Amend subrule 97.7(3), introductory paragraph, as follows:

**97.7(3) *Years of eligibility Eligibility.*** ~~A school district participating in an operational function sharing arrangement shall be eligible for supplementary weighting under this rule for a maximum of five years. The five years of eligibility shall include each year in which any shared operational function is included for supplementary weighting.~~ The supplementary weighting for eligible shared operational functions may be included beginning on October 1, 2013.

ITEM 14. Amend subrules 97.7(5) to 97.7(7) as follows:

**97.7(5) *Consecutive years.*** A school district that is eligible to add a supplementary weighting for ~~resident students~~ for a shared operational function is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose shall not be later than the school year that begins July 1, 2018, ~~and the total of all years in which a supplementary weighting may be added on October 1 for this purpose shall not exceed five years~~ July 1, 2023.

**97.7(6) *Change in sharing partners.*** A school district that is eligible to add a supplementary weighting for ~~resident students~~ for a shared operational function may enter into an operational function sharing arrangement with one or more different sharing partners for its second, third, fourth or fifth year of eligible weighting. ~~Establishing a new operational function sharing arrangement in a substantially similar function does not extend the maximum number of years for which a school district is eligible.~~

**97.7(7) *Change in shared personnel.*** A school district that is eligible to add a supplementary weighting for ~~resident students~~ for a shared operational function may enter into an operational function arrangement for a different individual in a substantially similar position. ~~Implementing a change of the individual or individuals shared does not extend the maximum number of years for which a school district is eligible.~~

ITEM 15. Amend subrules 97.7(9) to 97.7(11) as follows:

**97.7(9) *Multiple shared individuals in within an operational function.*** A school district that implements more than one sharing arrangement within any discrete operational function area, as both the contract holder and the purchaser of services, shall not be eligible for supplementary weighting if ~~more than one shared individual is licensed and qualified for the same position. If the school district had utilized its own employees, the sharing arrangement or arrangements would not have been necessary had the district utilized its own properly licensed and qualified employee(s).~~

**97.7(10) *Weighting.*** A school district that shares an operational function in the area of superintendent management shall be assigned a supplementary weighting of eight pupils for the function. A school district that shares an operational function in the area of business management, human resources management, transportation management, or operation and maintenance management shall be assigned a supplementary weighting of five pupils for the function. A school district that shares the operational functions of a curriculum director, master social worker, independent social worker, or a school counselor shall be assigned a supplementary weighting of three pupils for the function. The supplementary weighting shall be assigned to each discrete operational function shared. ~~The maximum number of years for which a supplementary weighting shall be assigned for all operational functions shared is five years.~~ The department shall reserve the authority to determine if an operational sharing arrangement constitutes a discrete arrangement or qualifying operational sharing arrangement if the circumstances have not been clearly described in the Iowa Code or the Iowa Administrative Code.

**97.7(11) *Sharing arrangement duties.*** A school district may receive the additional weighting for the sharing of services of an individual with a political subdivision that is not a school corporation even if the

## EDUCATION DEPARTMENT[281](cont'd)

type of operational function performed by the individual for the school district and the type of operational function performed by the individual for the political subdivision are not the same operational function, so long as both operational functions are eligible for weighting. In such case, the school district shall be assigned the additional weighting for the type of operational function that the individual performs for the school district, and the school district shall not receive additional weighting for any other function performed by the individual.

ITEM 16. Amend **281—Chapter 97**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 257.6, 257.11 as amended by 2014 Iowa Acts, Senate File 2056 and House File 2271, and 257.12 and Iowa Code chapter 261E.

**ARC 4160C**

**EDUCATION DEPARTMENT[281]**

**Notice of Intended Action**

**Proposing rule making related to financial management of categorical funding  
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 98, “Financial Management of Categorical Funding,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 256.7.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 257.41, 297.22, 298A.8 and 298A.12 and 2018 Iowa Acts, House Files 2441 and 2467.

*Purpose and Summary*

Chapter 98 outlines the financial management of categorical funding. The proposed amendments to Chapter 98 reflect significant legislative changes to categorical funding for Iowa school districts brought about during the 2018 Legislative Session. Those changes include clarification of allowed school district use of materials purchased for a home school assistance program; additional allowed uses of at-risk, returning dropout, and dropout prevention funds; major process changes regarding school district applications to the School Budget Review Committee for a modified supplemental amount for at-risk, returning dropout, and dropout prevention programs; a substantial change in allowed use of early intervention supplement funds, which is now any General Fund-appropriate use; allowing a school district to transfer from the General Fund to the school district’s student activity account an amount necessary for reconditioning of protective and safety equipment; allowing a school district to establish an unpaid student meals account within the nutrition fund and deposit moneys from the flexibility account within the General Fund to this account; and allowing school districts with a balance in the child care fund which exceeds the amount necessary to operate the before- and after-school program to transfer this excess to the General Fund by resolution of the board of directors following a public hearing. A more detailed explanation of these amendments follows:

Item 1: 2018 Iowa Acts, House File 2441, amends Iowa Code section 299A.12 to allow a school district to use items and materials purchased for the Home School Assistance Program for other purposes so long as those purposes do not prevent or interfere with the material’s use by parents or students utilizing the program. The amendment to rule 281—98.12(257,299A) implements that policy change.

Items 2 and 3: Over the last few legislative sessions, changes in allowed uses of funds generated through the at-risk formula under Iowa Code section 257.11(4) and funds generated through a modified supplemental amount under Iowa Code section 257.38 have resulted in these uses being identical. New subrules 98.18(1) and 98.18(2) reflect these changes.

## EDUCATION DEPARTMENT[281](cont'd)

Item 4: 2018 Iowa Acts, House File 2441, amends Iowa Code section 257.41(2), regarding appropriate uses of categorical funding for at-risk students, alternative programs and alternative schools, and returning dropout and dropout prevention programs. The amendment to subrules 98.21(1) to 98.21(3) implements those changes.

Item 5: 2018 Iowa Acts, House File 2441, amends Iowa Code section 257.10(11)“d,” pertaining to the allowed use of early intervention supplement funds due to the repeal of Iowa Code chapter 256D. New rule 281—98.23(257) reflects that change in allowed use.

Item 6: This item reletters a paragraph under subrule 98.22(3).

Item 7: 2018 Iowa Acts, House File 2467, creates new Iowa Code section 283A.11, which allows a school district to establish an unpaid student meals account in its school nutrition fund, and adds Iowa Code section 298A.2(2)“c”(06), allowing funds transferred to the flexibility account under Iowa Code section 298A.2 to be deposited in the unpaid student meals account for purposes of paying student meal debt. New paragraph 98.27(3)“g” implements that change.

Item 8: This amendment to subrule 98.44(1) clarifies how a school district is to address textbooks previously purchased for a nonpublic school with funds appropriated for this purpose and how to account for unexpended funds provided for the purchase of textbooks for a nonpublic school in the event the nonpublic school ceases operation.

Item 9: 2018 Iowa Acts, House File 2441, amends Iowa Code section 298A.8(2) to allow an amount necessary for reconditioning of protective and safety equipment to be transferred from the General Fund to the school district’s student activity account. The amendment to paragraph 98.61(2)“s” implements this change.

Item 10: 2018 Iowa Acts, House File 2467, creates new Iowa Code section 283A.11, under which a school district is allowed to establish an unpaid student meals account in the school nutrition fund. New subrule 98.74(4) implements that change.

Item 11: 2018 Iowa Acts, House File 2441, amends Iowa Code section 298A.12, allowing school districts with a balance in the child care fund which exceeds the amount necessary to operate the before-and after-school program to transfer the excess amount to the General Fund by resolution of the board of directors following a public hearing as prescribed in Iowa Code section 298A.12. The amendment to subrule 98.75(2) implements this policy change.

*Fiscal Impact*

The fiscal impact of this rule making is unknown.

*Jobs Impact*

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

*Waivers*

An agencywide waiver provision is provided in 281—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 8, 2019. Comments should be directed to:

Nicole Proesch  
Department of Education  
Grimes State Office Building, Second Floor  
Des Moines, Iowa 50319-0146  
Phone: 515.281.8661  
Email: [nicole.proesch@iowa.gov](mailto:nicole.proesch@iowa.gov)

EDUCATION DEPARTMENT[281](cont'd)

*Public Hearing*

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

January 8, 2019  
2 to 3 p.m.

State Board Room, Second Floor  
Grimes State Office Building  
East 14th Street and Grand Avenue  
Des Moines, Iowa

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 281—98.12(257,299A), introductory paragraph, as follows:

**281—98.12(257,299A) Home school assistance program.** The home school assistance program (HSAP) is a program for a specific category of students and is provided outside the basic educational program provided to regularly enrolled students by the school district. If a district offers a home school assistance program, the state foundation aid that the district receives pursuant to Iowa Code section 257.6(1)“a”(5), and any amount designated for this purpose from the flexibility account as described in rule 281—98.27(257,298A), shall be expended for purposes of providing the home school assistance program. However, a district may use items and materials purchased for the home school assistance program for other purposes so long as this use does not prevent or interfere with the item's or material's use by parents or students utilizing the program.

ITEM 2. Rescind subrule 98.18(1) and adopt the following **new** subrule in lieu thereof:

**98.18(1) Appropriate uses of categorical funding.** Appropriate uses of at-risk formula supplementary weighting funding include costs to develop or maintain programs for at-risk pupils, alternative programs and alternative schools for secondary students, and returning dropout and dropout prevention programs. Appropriate uses include those identified in subrule 98.21(2).

ITEM 3. Rescind subrule 98.18(2) and adopt the following **new** subrule in lieu thereof:

**98.18(2) Inappropriate uses of categorical funding.** Inappropriate uses of at-risk formula supplementary weighting program funding include those identified in subrule 98.21(3).

ITEM 4. Amend subrules 98.21(1) to 98.21(3) as follows:

**98.21(1) Purpose of categorical funding.** The purpose of the modified supplemental amount is to provide funding to meet the needs of identified students for costs in excess of the amount received under rule 281—98.18(257) pursuant to Iowa Code section 257.11(4). The funding shall be used only for expenditures that are directly related to the district's ~~approved~~ board-adopted program plan established pursuant to Iowa Code sections 257.38 through 257.41.

*a.* and *b.* No change.

**98.21(2) Appropriate uses of categorical funding.** Appropriate uses of the funding for ~~an approved~~ a board-adopted program include, but are not limited to:

## EDUCATION DEPARTMENT[281](cont'd)

*a.* Salary and benefits for staff, including but not limited to instructional staff, instructional support staff, administrative staff, and guidance counselors, ~~and;~~ salary and benefits or contract payments for psychologists licensed under Iowa Code chapter 154B, licensed independent social workers or master social workers under Iowa Code chapter 154C, licensed mental health counselors under Iowa Code chapter 154D; and salaries and benefits for school-based youth services staff dedicated to providing services directly and exclusively to the identified students participating in the approved adopted program beyond the services provided by the school district to students who are not identified as at risk or as potential or returning dropouts. However, if the staff person ~~or guidance counselor~~ works part-time or on a contract basis with students who are participating in the approved program and has another unrelated staff assignment, only the portion of the ~~staff person's or guidance counselor's~~ time that is related to the program or with such students may be charged to the program funding. The school district shall have the authority to designate ~~and submit in the~~ in its adopted program plan the portion of the ~~staff member's or guidance counselor's person's~~ person's time and related salary and benefits or contract payment amount dedicated to this purpose.

For purposes of this paragraph, an alternative setting may be necessary to provide for a program which is offered at a location off school grounds and which is intended to serve student needs by improving relationships and connections to school, decreasing truancy and tardiness, providing opportunities for course credit recovery, or helping students identified as at risk to accelerate through multiple grade levels of achievement within a shortened time frame.

*b.* Professional development for all ~~teachers, guidance counselors, and~~ staff identified in paragraph 98.21(2) "a" working with identified students under an approved adopted program.

*c.* Research-based resources, materials, software, supplies, equipment, and purchased services that meet all of the following criteria:

- (1) Meet the needs of K through grade 12 identified students,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed in the school district's approved adopted at-risk or returning dropout and dropout prevention program plan, and
- (4) Will remain with the K through grade 12 at-risk program, alternative program or alternative school, or returning dropout and dropout prevention program.

*d.* Transportation provided by the school district exclusively to transport identified students to an alternative school or alternative program located in and provided by another Iowa school district or an extended school year program.

*e.* The portion of the maximum tuition allowed by Iowa Code section 282.24 that corresponds to the portion exclusively providing direct additional instruction and services to an identified group of students above the costs of instruction of pupils in a regular curriculum.

~~*f.* School-level administrator assigned exclusively to an off-site alternative school or alternative program within the district. If the principal is administering the school or program part-time, the portion of time that is exclusively and directly related to the program may be charged to the program funding, but the portion of time that is related to other purposes shall not.~~

~~*g.*~~ *f.* Instructional costs necessary to address the behavior of a child during instructional time when those services are not otherwise provided to students who do not require special education and when the costs exceed the costs of instruction of pupils in a regular curriculum, the costs exceed the maximum tuition rate prescribed in Iowa Code section 282.24, the child has not been placed in a facility operated by the state, and all of the following apply:

- (1) The child does not require special education.
- (2) The child is not placed by the department of human services or a court in a residential or day treatment program where the treatment necessary to address the student's behavior was included in the contract with the placement agency.
- (3) The child is not placed in a hospital unit, health care facility, psychiatric medical institution for children or other treatment facility where the cost of treatment necessary to address the student's behavior is covered by insurance or Medicaid.

## EDUCATION DEPARTMENT[281](cont'd)

(4) The board of directors of the district of residence has determined that the child is likely to inflict self-harm or likely to harm another student.

~~h. g.~~ Costs incurred for a program intended to address high rates of absenteeism, truancy, or frequent tardiness.

~~i. h.~~ Amounts that a school district receives as formula supplementary weighting pursuant to Iowa Code section 257.11(4)“a” or as a modified supplemental amount received under Iowa Code section 257.41 may be used in the budget year for purposes of providing districtwide, buildingwide, or grade-specific at-risk and dropout prevention programming targeted to nonidentified students.

~~i.~~ School security personnel costs.

~~j.~~ Any purpose determined by the board of directors that directly benefits students participating in the adopted program.

**98.21(3) *Inappropriate uses of categorical funding.*** Inappropriate uses of the modified supplemental amount program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation other than as allowed in subrule 98.21(2), ~~administrative costs other than those allowed in subrule 98.21(2),~~ expenses related to the routine duties of a school nurse, general support for a school guidance counselor including any and activities performed by a staff member under paragraph 98.21(2)“a” with identified students that are also provided to all students, or any other expenditures not directly related to providing the approved board-adopted program beyond the scope of the regular classroom.

ITEM 5. Rescind rule 281—98.23(256D,257) and adopt the following **new** rule in lieu thereof:

**281—98.23(257) Early intervention supplement.**

**98.23(1) *Appropriate uses of categorical funding.*** Appropriate uses of the early intervention-supplement funding include any general fund-appropriate use described in rule 281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670).

**98.23(2) *Inappropriate uses of categorical funding.*** Inappropriate uses of the early intervention-supplement funding include those which are inappropriate to the general fund as described in rule 281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670).

**98.23(3) *Deference.*** Deference shall be given to the decisions of school districts’ boards of directors in accordance with Iowa Code section 257.10.

This rule is intended to implement Iowa Code section 257.9(8).

ITEM 6. Reletter paragraph **98.27(3)“g”** as **98.27(3)“h.”**

ITEM 7. Adopt the following **new** paragraph **98.27(3)“g”**:

g. Deposit into the unpaid student meals account as described in subrule 98.74(4).

ITEM 8. Amend subrule 98.44(1) as follows:

**98.44(1) *Appropriate uses of categorical funding.*** The appropriate use of the nonpublic textbook services funding shall be for the public school district to purchase nonsectarian textbooks for the use of pupils attending accredited nonpublic schools located within the boundaries of the public school district. “Textbook” “Textbooks” means books and loose-leaf or bound manuals, systems of reusable instructional materials or combinations of books and supplementary instructional materials which convey information to the student or otherwise contribute to the learning process, or electronic textbooks, including but not limited to computer software, applications using computer-assisted instruction, interactive videodisc, other computer courseware and magnetic media, and laptop computers or other portable personal computing devices which are used for nonreligious instructional use only.

In the event that a participating accredited nonpublic school physically relocates to another school district, textbooks purchased for the nonpublic school with funds appropriated for that purpose in accordance with the Iowa Code shall be transferred to the school district in which the accredited nonpublic school has relocated and may be made available to the accredited nonpublic school by the school district in which the nonpublic school has relocated. Funds distributed to a former school district for purposes of purchasing textbooks and that are unexpended shall also be transferred from the former school district to the school district in which the accredited nonpublic school has relocated.

EDUCATION DEPARTMENT[281](cont'd)

In the event that a participating accredited nonpublic school ceases operation, textbooks purchased for the nonpublic school with funds appropriated for that purpose in accordance with the Iowa Code shall be returned to the public school district in which the nonpublic school was located. Funds provided for the purpose of purchasing textbooks for the nonpublic school that are unexpended shall be reverted to the department of education.

ITEM 9. Amend paragraph **98.61(2)“s”** as follows:

s. Beginning with the budget year beginning July 1, 2016, transferring, by board resolution, to the student activity fund an amount necessary to purchase or, beginning with the budget year beginning July 1, 2018, recondition protective and safety equipment required for any extracurricular interscholastic athletic contest or competition that is sponsored or administered by an organization as defined in Iowa Code section 280.13, as allowed under Iowa Code section 298A.2 pursuant to Iowa Code section 298A.8(2).

ITEM 10. Adopt the following **new** subrule 98.74(4):

**98.74(4) Unpaid student meals account.** Beginning with the budget year beginning July 1, 2018, in accordance with Iowa Code section 283A.11, a school district may establish an unpaid student meals account in the school nutrition fund and may deposit in the account moneys received from private sources for purposes of paying student meal debt accrued by individual students as well as amounts designated for the account from the school district's flexibility account as described in rule 281—98.27(257,298A). Moneys deposited in the unpaid student meals account shall be used by the school district only to pay individual student meal debt. The school district shall set fair and equitable procedures for such expenditures.

ITEM 11. Amend subrule 98.75(2) as follows:

**98.75(2) Appropriate uses of the child care fund.** Appropriate expenditures in the child care fund include salaries and benefits for employees necessary to operate the child care program or before- and after-school program, purchased services, supplies, and equipment.

Effective with the budget year beginning July 1, 2018, if the balance in the before- and after-school program exceeds the amount necessary to operate the before- and after-school program, the excess amount may, following a public hearing, be transferred to the general fund by a resolution of the board of directors of the school corporation which meets all requirements stipulated in Iowa Code section 298A.12. A transfer under this subrule does not increase a school district's authorized expenditures as defined in Iowa Code section 257.7.

ITEM 12. Amend **281—Chapter 98**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 24, 29C, 76, 143, 256, 256B, 257, 274, 275, 276, 279, 280, 282, 283A, 284, 284A, 285, 291, 294A, 296, 298, 298A, 299A, 300, 301, 423E, 423F, 565, and 670; and Iowa Code sections 11.6(1)“a”(1), 256C.4(1)“c,” 256D.4(3) and 284.13; and 2011 Iowa Code Supplement chapters 298 and 299A.

**ARC 4162C**

## **INSPECTIONS AND APPEALS DEPARTMENT[481]**

### **Notice of Intended Action**

#### **Proposing rule making related to design and construction standards for nursing facilities and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 61, “Minimum Physical Standards for Nursing Facilities,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 10A.104(5) and 135C.14.

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 10A.104(5) and 135C.14.

*Purpose and Summary*

The proposed amendments adopt the 2018 Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, published by the Facility Guidelines Institute (FGI) as the minimum design and construction standards for nursing facilities licensed under Iowa Code chapter 135C. The design requirements and recommendations presented in the guidelines have moved away from institutional models to foster development of facilities offering person-centered living environments that support a variety of care models and add to the quality of life for residents. The guidelines help organizations and designers create homelike physical environments that support positive resident outcomes.

Currently, Chapter 61 refers to the 2010 edition of the guidelines for nursing facilities. Adoption of this rule making would provide consistency in the design and construction for nursing facilities licensed pursuant to Iowa Code chapter 135C. Additionally, most architects and engineers use the most current edition of the FGI Guidelines when designing new facilities.

The Facility Guidelines Institute is an independent, not-for-profit organization dedicated to developing guidance for the planning, design, and construction of hospitals, outpatient facilities, and residential health, care, and support facilities. The FGI updates its guidelines every four years to reflect the changing needs of residents being cared for in nursing facilities.

The proposed amendments were reviewed by the State Board of Health at its November 14, 2018, meeting.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity, body, or individual.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 26, 2018. Comments should be directed to:

Deborah Svec-Carstens  
Iowa Department of Inspections and Appeals  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319-0083  
Fax: 515.242.6863  
Email: [deborah.svec-carstens@dia.iowa.gov](mailto:deborah.svec-carstens@dia.iowa.gov)

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 61.2(3) as follows:

**61.2(3)** Construction shall be in accordance with the standards set forth in ~~Part 4.2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition~~ the Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2018 edition, published by the Facility Guidelines Institute.

ITEM 2. Amend paragraph **61.6(1)“c”** as follows:

c. Projects shall be constructed in compliance with the standards set forth in ~~Part 4.2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition~~ the Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2018 edition, published by the Facility Guidelines Institute.

ITEM 3. Amend subrule 61.6(6) as follows:

**61.6(6) Lighting requirements.** Light shall be provided in the areas of the building as required in ~~Table 4.1-3 of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition~~ the Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2018 edition, published by the Facilities Guidelines Institute.

ITEM 4. Amend rule 481—61.9(135C), introductory paragraph, as follows:

**481—61.9(135C) Specialized unit or facility for persons with chronic confusion or a dementing illness (CCDI unit or facility).** A CCDI unit or facility shall be designed in accordance with ~~Section 4.2-2.2.3.2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition~~ the standards set forth in the Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, 2018 edition, ~~produced by~~ published by the Facility Guidelines Institute. The following provisions shall also apply:

## REVENUE DEPARTMENT

### Notice of Electric and Natural Gas Delivery Tax Rates and Municipal Electric and Natural Gas Transfer Replacement Tax Rates for Each Competitive Service Area

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the electric delivery tax rate, the municipal electric transfer replacement tax rate, the natural gas delivery tax rate, and the municipal natural gas transfer replacement tax rate for each competitive service area in the state. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2018 by each taxpayer to determine the tax due for each taxpayer in the 2019-2020 fiscal year.

## REVENUE DEPARTMENT(cont'd)

**2018 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA**

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3226	Akron Municipal Utilities	0.00005331
3201	Algona Municipal Utilities	0.00025144
3205	Alta Municipal Power Plant	0.00008290
3069	Alta Vista Municipal Utilities	0.00000000
3070	Alton Municipal Light & Power	0.00000000
3207	Ames Municipal Electric System	0.00000094
3071	Anita Municipal Utilities	0.00000000
3227	Anthon Municipal Electric Utility	0.00010389
3209	Atlantic Municipal Utilities	0.00024840
3073	Auburn Municipal Utility	0.00000000
3074	Aurelia Mun. Electric Utility	0.00008331
3211	Bancroft Municipal Utilities	0.00087760
3213	Bellevue Municipal Utilities	0.00008788
3228	Bigelow Municipal Electric Utility	0.00243936
3229	Bloomfield Municipal Electric Utility	0.00003607
3075	Breda Mun. Electric System	0.00000000
3076	Brooklyn Municipal Utilities	0.00132929
3216	Buffalo Municipal Electric System	0.00000211
3217	Burt Municipal Electric Utility	0.00000199
3077	Callender Electric	0.00000000
3078	Carlisle Municipal Utilities	0.00000000
3079	Cascade Municipal Utilities	0.00139918
3221	Cedar Falls Municipal Elec. Utility	0.00030357
3068	City of Afton	0.00000000
3072	City of Aplington	0.00000000
3082	City of Dike	0.00000000
3088	City of Estherville	0.00000000
3089	City of Fairbank	0.00000000
3090	City of Farnhamville	0.00000000
3230	City of Fredericksburg	0.00000539
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00000000
3108	City of Lehigh	0.00000000
3113	City of Marathon	0.00000000
3311	City of Pella	0.00007414
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	0.00000000
3139	City of Westfield	0.00000000
3143	City of Woolstock	0.00000000
3236	Coggon Municipal Light Plant	0.00005044
3237	Coon Rapids Municipal Utilities	0.00052157
3242	Corning Municipal Utilities	0.00031761

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3080	Corwith Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	0.00000384
3081	Dayton Light & Power	0.00000000
3244	Denison Municipal Utilities	0.00001027
3245	Denver Municipal Electric Utility	0.00006206
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.00000000
3085	Earlville Municipal Utilities	0.00130143
3087	Ellsworth Municipal Utilities	0.00000000
3091	Fonda Municipal Electric	0.00000000
3252	Fontanelle Municipal Utilities	0.00033407
3092	Forest City Municipal Utilities	0.00000000
3231	Glidden Municipal Electric Utility	0.00000214
3093	Gowrie Municipal Utilities	0.00148389
3256	Graettinger Municipal Light Plant	0.00028010
3094	Grafton Municipal Utilities	0.00000000
3258	Grand Junction Municipal Utilities	0.00000456
3095	Greenfield Municipal Utilities	0.00110806
3096	Grundy Center Light & Power	0.00022173
3232	Guttenberg Municipal Electric	0.00002873
3263	Harlan Municipal Utilities	0.00137185
3097	Hartley Municipal Utilities	0.00000000
3098	Hawarden Municipal Utility	0.00000000
3099	Hinton Municipal Electric/Water	0.00006822
3267	Hopkinton Municipal Utilities	0.00000824
3100	Hudson Municipal Utilities	0.00000000
3101	Independence Light & Power	0.00000000
3271	Indianola Municipal Utilities	0.00000742
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	0.00000000
3104	Lake Mills Municipal Utilities	0.00000000
3105	Lake Park Municipal Utilities	0.00000000
3233	Lake View Municipal Utilities	0.00015764
3274	Lamoni Municipal Utilities	0.00135315
3276	LaPorte City Utilities	0.00000998
3277	Laurens Municipal Utilities	0.00029015
3109	Lenox Mun. Light & Power	0.00043024
3110	Livermore Municipal Utilities	0.00000000
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00011092
3112	Manning Municipal Electric	0.00025521
3284	Mapleton Municipal Utilities	0.00008732
3285	Maquoketa Municipal Electric	0.00004721
3288	McGregor Municipal Utilities	0.00000695

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3291	Milford Municipal Utilities	0.00018034
3114	Montezuma Municipal Light & Power	0.00000000
3115	Mount Pleasant Municipal Utilities	0.00000000
3293	Muscatine Municipal Utilities	0.00009555
3116	Neola Light & Water System	0.00000000
3297	New Hampton Municipal Light Plant	0.00009962
3298	New London Municipal Utility	0.00052973
3304	Ogden Municipal Utilities	0.00006019
3234	Onawa Municipal Utilities	0.00009815
3117	Orange City Municipal Utilities	0.00000000
3118	Orient Municipal Utilities	0.00000000
3307	Osage Municipal Utilities	0.00004946
3309	Panora Municipal Electric Utility	0.00006921
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	0.00000000
3121	Pocahontas Municipal Utilities	0.00000000
3122	Preston Municipal Utilities	0.00000000
3315	Primghar Municipal Light Plant	0.00001643
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	0.00000000
3318	Rock Rapids Municipal Utilities	0.00000479
3126	Rockford Municipal Light Plant	0.00000000
3127	Sabula Municipal Utilities	0.00000000
3128	Sanborn Municipal Light Plant	0.00000000
3130	Shelby Municipal Utilities	0.00000000
3131	Sibley Municipal Utilities	0.00000000
3321	Sioux Center Municipal Utilities	0.00000087
3323	Southern Minnesota Mun. Power	0.00000000
3324	Spencer Municipal Utilities	0.00013490
3132	Stanhope Municipal Utilities	0.00000000
3360	Stanton Municipal Utilities	0.00000000
3326	State Center Municipal Light Plant	0.00029879
3327	Story City Municipal Electric Utility	0.00010992
3134	Stratford Municipal Utilities	0.00000000
3135	Strawberry Point Electric Utility	0.00000000
3136	Stuart Municipal Utilities	0.00128625
3328	Sumner Municipal Light Plant	0.00020357
3330	Tipton Municipal Utilities	0.00143611
3332	Traer Municipal Utilities	0.00066520
3337	Villisca Municipal Power Plant	0.00022186
3137	Vinton Municipal Utilities	0.00000000
3138	Wall Lake Municipal Utilities	0.00000000
3338	Waverly Light & Power	0.00072786
3342	Webster City Municipal Utilities	0.00043808

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3345	West Bend Municipal Power Plant	0.00082391
3346	West Liberty Municipal Electric Util.	0.00000641
3347	West Point Municipal Utility System	0.00011870
3140	Whittemore Municipal Utilities	0.00000000
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	0.00133211
3142	Woodbine Municipal Utilities	0.00000000

<b>CO. #</b>	<b>IOU's — ELECTRIC</b>	<b>DELIVERY TAX RATE</b>
7206	Amana Society Service Co.	0.00053715
7248	Eldridge Electric & Water Utilities	0.00054889
7354	Geneseo Municipal Utilities	0.00000000
7270	IES Utilities	0.00237888
7272	Interstate Power	0.00103630
7289	MidAmerican Energy	0.00264702
7296	Nebraska Public Power District	0.00000000
7302	Northwestern Corporation	0.00000000
7305	Omaha Public Power District	0.00133761
7334	Union Electric	0.00000000

<b>CO. #</b>	<b>REC's</b>	<b>DELIVERY TAX RATE</b>
4319	Access Energy Coop	0.00042683
4203	Allamakee Clayton Electric Coop	0.00093586
4208	Atchison-Holt Electric Coop	0.00085628
4214	Boone Valley Electric Coop	0.00085075
4218	Butler County REC	0.00068865
4219	Calhoun County Electric Coop	0.00114710
4220	Cass Electric Coop	0.00004057
4224	Central Iowa Power Coop	0.00000000
4225	Chariton Valley Electric Coop	0.00102029
4235	Clarke Electric Coop	0.00252219
4287	Consumers Energy	0.00170291
4240	Corn Belt Power Coop	0.00000000
4246	East-Central Iowa REC	0.00193233
4247	Eastern Iowa Light & Power	0.00068026
4250	Farmers Electric Coop - Greenfield	0.00280321
4249	Farmers Electric Coop - Kalona	0.00047680
4251	Federated Rural Electric	0.00032175
4253	Franklin Rural Electric Coop	0.00081291
4254	Freeborn-Mower Cooperative	0.00135477

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>REC's</b>	<b>DELIVERY TAX RATE</b>
4255	Glidden Rural Electric Coop	0.00055807
4259	Grundy County REC	0.00086958
4260	Grundy Electric Cooperative	0.00052083
4261	Guthrie County REC	0.00121604
4262	Hancock Co. REC	0.00103984
4265	Harrison County REC	0.00072127
4266	Hawkeye REC	0.00051726
4223	Heartland Power Coop	0.00034506
4268	Humboldt County REC	0.00096090
4273	Iowa Lakes Electric Coop	0.00061700
4279	Linn County REC	0.00142321
4280	Lyon Rural Electric Coop	0.00053384
4286	Maquoketa Valley Electric Coop	0.00221262
4290	Midland Power Cooperative	0.00116065
4299	Nishnabotna Valley REC	0.00059726
4300	North West Rural Electric Coop	0.00034671
4301	Northwest Iowa Power Coop	0.00000000
4308	Osceola Electric Coop	0.00029436
4310	Pella Cooperative Electric	0.00194961
4313	Pleasant Hill Community Line	0.00023453
4316	Rideta Electric Coop	0.00274284
4320	Sac County Rural Electric Coop	0.00069402
4322	Southern Iowa Electric Coop	0.00134566
4379	Southwest Iowa Service Coop	0.00284449
4329	T.I.P. Rural Electric Coop	0.00203782
4333	Tri-County Electric Coop	0.00107251
4336	United Electric Coop	0.00112324
4348	Western Iowa Power Coop	0.00108160
4352	Woodbury County REC	0.00104762
4353	Wright County REC	0.00048449

**2018 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA**

<b>CO. #</b>	<b>MUNICIPAL GAS</b>	<b>DELIVERY TAX RATE</b>
5021	Bedford Municipal Gas	0.00000000
5215	Brighton Gas	0.00699385
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.00000000
5022	City of Bloomfield	0.00000000
5026	City of Clearfield	0.00000000
5028	City of Everly	0.00000000

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>MUNICIPAL GAS</b>	<b>DELIVERY TAX RATE</b>
5029	City of Fairbank	0.00000000
5238	Coon Rapids Municipal Gas	0.00004696
5241	Corning Municipal Gas	0.00000621
5027	Emmetsburg Municipal Gas	0.00000000
5030	Gilmore City Municipal Gas	0.00000000
5031	Graettinger Municipal Gas	0.00000000
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.00000000
5034	Hartley Municipal Gas	0.00000000
5035	Hawarden Municipal Gas	0.00000000
5036	Lake Park Municipal Gas	0.00000000
5275	Lamoni Municipal Gas	0.00082594
5037	Lenox Municipal Gas	0.00000000
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00000000
5281	Manilla Municipal Gas	0.00047694
5283	Manning Municipal Gas	0.00015655
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.00000000
5306	Osage Municipal Gas	0.00003126
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	0.00000000
5317	Rock Rapids Municipal Gas	0.00013552
5056	Rolfe Municipal Gas	0.00000000
5057	Sabula Municipal Gas	0.00000000
5058	Sac City Municipal Gas	0.00000000
5059	Sanborn Municipal Gas	0.00000000
5060	Sioux Center Municipal Gas	0.00000000
5061	Tipton Municipal Gas	0.00000000
5063	Waukee Municipal Gas	0.00000000
5340	Wayland Municipal Gas	0.00025660
5064	Wellman Municipal Gas	0.00000000
5344	West Bend Municipal Gas	0.00002007
5065	Whittemore Municipal Gas	0.00000000
5349	Winfield Municipal Gas	0.00063299
5066	Woodbine Gas	0.00000000

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>IOU's — GAS</b>	<b>DELIVERY TAX RATE</b>
5204	Allerton Gas	0.02359319
5270	IES Utilities-Gas	0.00677129
5272	Interstate Power-Gas	0.00250175
5289	MidAmerican Energy-Gas	0.00661831
5312	Peoples Natural Gas	0.00640722
5335	United Cities Gas	0.00850303

**2018 MUNICIPAL ELECTRIC TRANSFER REPLACEMENT TAX RATES**

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3226	Akron Municipal Utilities	0.01896424
3201	Algona Municipal Utilities	0.00334761
3205	Alta Municipal Power Plant	0.00288320
3069	Alta Vista Municipal Utilities	*
3070	Alton Municipal Light & Power	0.00204911
3207	Ames Municipal Electric System	*
3071	Anita Municipal Utilities	0.00488547
3227	Anthon Municipal Electric Utility	0.00123826
3209	Atlantic Municipal Utilities	0.00393560
3073	Auburn Municipal Utility	0.00751019
3074	Aurelia Municipal Electric Utility	0.00133611
3211	Bancroft Municipal Utilities	*
3213	Bellevue Municipal Utilities	0.02204281
3228	Bigelow Municipal Utilities	*
3229	Bloomfield Municipal Electric Utility	0.02444629
3075	Breda Municipal Electric System	*
3076	Brooklyn Municipal Utilities	0.00000000
3216	Buffalo Municipal Electric System	0.00000000
3217	Burt Municipal Electric Utility	*
3077	Callender Electric	0.01285563
3078	Carlisle Municipal Utilities	*
3079	Cascade Municipal Utilities	0.00000000
3221	Cedar Falls Mun. Electric Utility	0.00517950
3068	City of Afton	0.00463331
3072	City of Aplington	0.00876024
3082	City of Dike	*
3088	City of Estherville	0.01978706
3089	City of Fairbank	*
3090	City of Farnhamville	*
3230	City of Fredericksburg	*
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00102733

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3108	City of Lehigh	*
3113	City of Marathon	*
3311	City of Pella	0.00361817
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	*
3139	City of Westfield	0.00000000
3143	City of Woolstock	*
3236	Coggon Municipal Light Plant	*
3237	Coon Rapids Municipal Utilities	0.00473029
3242	Corning Municipal Utilities	0.00000000
3080	Corwith Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	0.00122575
3081	Dayton Light & Power	0.00194316
3244	Denison Municipal Utilities	0.00170353
3245	Denver Municipal Electric Utility	*
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.02447590
3085	Earlville Municipal Utilities	*
3086	Eldridge Electric & Water Utility	*
3087	Ellsworth Municipal Utilities	0.00577830
3091	Fonda Municipal Electric	*
3252	Fontanelle Municipal Utilities	0.00000000
3092	Forest City Municipal Utilities	*
3231	Glidden Municipal Electric Utility	0.01619812
3093	Gowrie Municipal Utilities	0.00491945
3256	Graettinger Municipal Light Plant	0.00225123
3094	Grafton Municipal Utilities	0.01222235
3258	Grand Junction Municipal Utilities	0.00217752
3095	Greenfield Municipal Utilities	0.00250847
3096	Grundy Center Light & Power	0.00127808
3232	Guttenberg Municipal Electric	*
3263	Harlan Municipal Utilities	0.00260720
3097	Hartley Municipal Utilities	0.01888663
3098	Hawarden Municipal Utility	*
3099	Hinton Municipal Electric/Water	*
3267	Hopkinton Municipal Utilities	*
3100	Hudson Municipal Utilities	*
3101	Independence Light & Power	*
3271	Indianola Municipal Utilities	0.00545402
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	*
3104	Lake Mills Municipal Utilities	0.01014260
3105	Lake Park Municipal Utilities	0.00345472
3233	Lake View Municipal Utilities	0.00969836

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3274	Lamoni Municipal Utilities	0.00279239
3276	LaPorte City Utilities	0.00284323
3277	Laurens Municipal Utilities	0.00375565
3109	Lenox Municipal Light & Power	0.00000000
3110	Livermore Municipal Utilities	0.01479881
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00308683
3112	Manning Municipal Electric	*
3284	Mapleton Municipal Utilities	*
3285	Maquoketa Municipal Electric	0.00252536
3288	McGregor Municipal Utilities	0.00222600
3291	Milford Municipal Utilities	0.00000000
3114	Montezuma Municipal Light & Power	0.00226811
3115	Mount Pleasant Municipal Utilities	0.00144120
3293	Muscatine Municipal Utilities	0.00000000
3116	Neola Light & Water System	*
3297	New Hampton Municipal Light Plant	0.00291183
3298	New London Municipal Utility	0.00539908
3304	Ogden Municipal Utilities	*
3234	Onawa Municipal Utilities	*
3117	Orange City Municipal Utilities	0.00287537
3118	Orient Municipal Utilities	*
3307	Osage Municipal Utilities	0.00272621
3309	Panora Municipal Electric Utility	*
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	0.01671202
3121	Pocahontas Municipal Utilities	*
3122	Preston Municipal Utilities	*
3315	Primghar Municipal Light Plant	0.00000000
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	*
3318	Rock Rapids Municipal Utilities	0.00450858
3126	Rockford Municipal Light Plant	*
3127	Sabula Municipal Utilities	0.01147072
3128	Sanborn Municipal Light & Plant	*
3130	Shelby Municipal Utilities	*
3131	Sibley Municipal Utilities	0.02926352
3321	Sioux Center Municipal Utilities	0.00400291
3324	Spencer Municipal Utilities	0.00442415
3132	Stanhope Municipal Utilities	0.01026317
3360	Stanton Municipal Utilities	0.00445497
3326	State Center Municipal Light Plant	0.00957075
3327	Story City Municipal Electric Utility	*
3134	Stratford Municipal Utilities	0.03068050

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3135	Strawberry Point Electric Utility	*
3136	Stuart Municipal Utilities	0.00643087
3328	Sumner Municipal Light Plant	0.00298144
3330	Tipton Municipal Utilities	0.03328125
3332	Traer Municipal Utilities	*
3337	Villisca Municipal Power Plant	0.00000000
3137	Vinton Municipal Utilities	0.00198896
3138	Wall Lake Municipal Utilities	0.00182386
3338	Waverly Light & Power	0.00568859
3342	Webster City Municipal Utilities	0.00579779
3345	West Bend Municipal Power Plant	0.00199116
3346	West Liberty Municipal Electric Util.	*
3347	West Point Municipal Utility System	0.00469008
3140	Whittemore Municipal Utilities	*
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	0.00428248
3142	Woodbine Municipal Utilities	0.00341289
3143	Woolstock Municipal Utilities	0.00000000

\*No rate provided to the Department by the Municipal

**2018 MUNICIPAL NATURAL GAS TRANSFER REPLACEMENT TAX RATES**

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
5401	Alton Municipal Gas	0.00000000
5021	Bedford Municipal Gas	0.51805142
5215	Brighton Gas	0.00000000
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.01304722
5022	City of Bloomfield	0.19181037
5026	City of Clearfield	*
5028	City of Everly	*
5029	City of Fairbank	*
5238	Coon Rapids Municipal Gas	0.00425335
5241	Corning Municipal Gas	0.00000000
5027	Emmetsburg Municipal Gas	*
5030	Gilmore City Municipal Gas	*
5031	Graettinger Municipal Gas	*
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.80078326
5034	Hartley Municipal Gas	0.06798596
5035	Hawarden Municipal Gas	*

## REVENUE DEPARTMENT(cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
5036	Lake Park Municipal Gas	0.00815339
5275	Lamoni Municipal Gas	0.01716222
5037	Lenox Municipal Gas	*
5038	Lineville City Natural Gas	*
5039	Lorimor Municipal Gas	0.00000000
5281	Manilla Municipal Gas	0.15029777
5283	Manning Municipal Gas	0.06461021
5402	Mapleton Municipal Gas	*
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	*
5042	Moulton Municipal Gas	0.00000000
5369	Orange City Municipal Gas	0.01734810
5306	Osage Municipal Gas	0.00723638
5043	Prescott Municipal Gas	*
5044	Preston Municipal Gas	*
5055	Remsen Municipal Gas	*
5317	Rock Rapids Municipal Gas	0.01575416
5056	Rolfe Municipal Gas	*
5057	Sabula Municipal Gas	0.00168605
5058	Sac City Municipal Gas	0.02017971
5059	Sanborn Municipal Gas	*
5060	Sioux Center Municipal Gas	0.00934340
5061	Tipton Municipal Gas	*
5067	Wall Lake Municipal Gas	0.06100329
5063	Waukee Municipal Gas	*
5340	Wayland Municipal Gas	0.04268700
5064	Wellman Municipal Gas	*
5344	West Bend Municipal Gas	0.03249283
5065	Whittemore Municipal Gas	*
5349	Winfield Municipal Gas	0.00000000
5066	Woodbine Gas	*

\*No rate provided to the Department by the Municipal

### Notice of Rate-Regulated Water Utilities Delivery Tax Rate

Pursuant to the authority of Iowa Code section 437B.3, the Director of Revenue hereby gives notice of the rate-regulated water utility delivery tax rate. This rate will be used in conjunction with the total gallons of water delivered to consumers in calendar year 2018 by each taxpayer for replacement taxes payable in the 2019-2020 fiscal year.

### 2018 RATE-REGULATED WATER UTILITIES DELIVERY TAX RATE BY SERVICE AREA

CO. #	RATE-REGULATED WATER	DELIVERY TAX RATE
6020	Iowa American Water	0.00057387

**ARC 4161C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action****Proposing rule making related to minors' school licenses and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 602, "Classes of Driver's Licenses," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.194.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 321.194 as amended by 2018 Iowa Acts, House File 2494, sections 5 to 7.

*Purpose and Summary*

This rule making updates Chapter 602 to incorporate amendments that align with existing legal authority and Department practice. The proposed amendments conform the rules with 2018 Iowa Acts, House File 2494, sections 5 to 7, which amend Iowa Code section 321.194 and concern the requirements for obtaining a minor's school license, most notably for students who attend an accredited nonpublic school (i.e., private school).

Prior to July 1, 2018, Iowa Code section 321.194, which governs minors' school licenses, was directed toward students attending public schools and did not address minors' school license issuance for students attending private schools. Specifically, the language that previously existed in Iowa Code section 321.194 tied the distance a student using a minor's school license could drive to school district boundaries and required approval for the license by certain public school officials. Because private schools do not have a traditional school district like public schools and do not necessarily have the same types of school officials as public schools (for example, a private school may employ a school president rather than a principal), the 2018 legislative changes were made to address these disparities by establishing a geographic boundary that applies to private school students and accounting for private school officials that differ from public school officials. The legislative changes provide that a student attending a private school is limited to driving no more than a 25-mile driving distance between the student's residence and school and that the appropriate private school official has the responsibility to sign the certificate of necessity for the minor's school license, and the proposed amendments reflect the statutory requirements.

Iowa Code section 321.194 provides that a student must take and complete an approved driver's education course before obtaining a minor's school license, unless the student qualifies for a hardship exemption, and authorizes the Department to establish rules specifically defining hardship and establishing procedures for demonstrating hardship. The hardship exemption is found in subrule 602.26(3), and the proposed amendment allows the exemption to be signed by an appropriate school official of the school district of residence or of the applicant's school, depending on whether the applicant attends a public school or an accredited nonpublic school. Subrule 602.26(3) has always applied to both public and private school students; however, prior to this proposed amendment, only a public school official could sign the hardship exemption. This process created an extra step for private school students by causing the student to have to request assistance from a school which was not necessarily familiar with the student.

The proposed amendments also incorporate the 25-mile driving distance restriction for a private school student who drives from multiple residences if the student's parents are divorced or separated. Public school students may drive from multiple residences only if the primary and secondary residences

## TRANSPORTATION DEPARTMENT[761](cont'd)

are located within the public school district of enrollment or a contiguous public school district. The proposed amendments similarly allow a private school student to drive from multiple residences provided the student's primary and secondary residences are no more than a 25-mile driving distance from the school of enrollment.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 26, 2018. Comments should be directed to:

Tracy George  
Department of Transportation  
DOT Rules Administrator, Strategic Communications and Policy  
800 Lincoln Way  
Ames, Iowa 50010  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

*Public Hearing*

A public hearing to hear requested oral presentations will be held as follows:

December 28, 2018  
10 a.m.

Department of Transportation  
Motor Vehicle Division  
6310 SE Convenience Boulevard  
Ankeny, Iowa

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

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

The public hearing will be canceled without further notice if no oral presentation is requested.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

## TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 1. Amend rule 761—602.2(321) as follows:

**761—602.2(321) Information and forms.** Applications, forms and information about driver's licensing are available at any driver's license ~~examination station or on the department's Web site at [www.iowadot.gov](http://www.iowadot.gov)~~ service center. Assistance is also available ~~at the address in rule 761—600.2(17A)~~ by mail from Driver and Identification Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)244-8725; by facsimile at (515)239-1837; or on the department's website at [www.iowadot.gov](http://www.iowadot.gov).

**602.2(1) Certificate of completion.** Form 430036 shall be used to submit proof of successful completion of an Iowa-approved course in driver education, motorcycle rider education or motorized bicycle education, ~~except that proof of successful completion of an Iowa-approved course in driver education may instead be submitted through an online reporting system used by participating Iowa-approved driver education schools.~~

*a.* If a student completed a course in another state, a public or licensed commercial or private provider of the Iowa-approved course may issue the form ~~or online completion, if applicable,~~ for the student if the provider determines that the out-of-state course is comparable to the Iowa-approved course.

*b.* If the out-of-state course is comparable but lacks certain components of the Iowa-approved course, the provider may issue the form ~~or online completion, if applicable,~~ after the student completes the missing components.

**602.2(2)** No change.

**602.2(3) Waiver of accompanying driver for intermediate licensee.** Form 431170 is the waiver described in Iowa Code subsection 321.180B(2). This form allows an intermediate licensee to drive unaccompanied between the hours of 12:30 a.m. and 5 a.m. and must be in the licensee's possession when the licensee is driving during the hours to which the waiver applies.

*a.* No change.

*b.* ~~If the licensee attends a public school and the waiver is for school-related extracurricular activities, the form must be signed by the chairperson of the school board, the superintendent of the school, or the principal of the school if authorized by the superintendent. If the licensee attends an accredited nonpublic school and the waiver is for school-related extracurricular activities, the form must be signed by an authority in charge of the accredited nonpublic school or a duly authorized representative of the authority.~~

*c.* No change.

**602.2(4)** No change.

This rule is intended to implement Iowa Code sections 321.8, 321.178, 321.180B, 321.184, 321.189, and 321.194.

ITEM 2. Amend rule **761—602.14(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 321.196 ~~and 2013 Iowa Acts, chapter 104, section 2.~~

ITEM 3. Amend rule 761—602.26(321) as follows:

**761—602.26(321) Minor's school license.**

**602.26(1) Validity and issuance.**

*a.* No change.

*b.* The license is valid during the times and for the purposes set forth in Iowa Code ~~subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, section 321.194~~ and at any time when the licensee is accompanied in accordance with Iowa Code ~~subsection~~ section 321.180B(1).

*c.* and *d.* No change.

**602.26(2) Requirements.**

*a.* No change.

*b.* An applicant who attends a public school shall submit a statement of necessity signed by the chairperson of the school board, the superintendent of the school, or the principal of the school if

## TRANSPORTATION DEPARTMENT[761](cont'd)

authorized by the superintendent. An applicant who attends an accredited nonpublic school shall submit a statement of necessity signed by an authority in charge of the accredited nonpublic school or a duly authorized representative of the authority. The statement shall be on Form 430021.

*c. and d.* No change.

**602.26(3) Exemption.**

*a.* An applicant is not required to have completed an approved driver education course if the applicant demonstrates to the satisfaction of the department that completion of the course would impose a hardship upon the applicant; however, the applicant must meet all other requirements for a school license. "Hardship" means:

(1) to (3) No change.

(4) That the applicant is ~~permanently handicapped~~ a person with a disability. In this rule, "~~handicapped~~" "person with a disability" means that, because of a disability or impairment, the applicant is unable to walk in excess of 200 feet unassisted or cannot walk without causing serious detriment or injury to the applicant's health.

*b.* "Demonstrates to the satisfaction of the department" means that the department has received written proof that a hardship exists. An applicant who attends a public school shall submit written proof of hardship signed by the applicant's parent, custodian or guardian and by the superintendent of the applicant's school, the chairperson of the school board, or the principal, of the applicant's school if authorized by the superintendent, of the applicant's school or school district of residence. An applicant who attends an accredited nonpublic school shall submit written proof of hardship signed by the applicant's parent, custodian or guardian and by either an authority in charge of the accredited nonpublic school or a duly authorized representative of the authority, or by the superintendent, the chairperson of the school board, or the principal, if authorized by the superintendent, of the applicant's school district of residence.

**602.26(4) Multiple residences.**

*a.* An applicant whose parents are divorced or separated and who as a result of shared custody maintains more than one residence may be authorized to operate a motor vehicle from either residence during the times and for the purposes set forth in Iowa Code ~~subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, provided that~~ section 321.194 if one of the following applies:

(1) If the applicant attends a public school, the statement of necessity provided to the department certifies that a need exists to drive from each residence, that the school of enrollment identified in the statement of necessity meets the geographic requirements for an applicant attending a public school set forth in Iowa Code subsection 321.194(3) as amended by 2016 Iowa Acts, House File 2437, section 33, section 321.194 as determined by the primary residence identified in the statement of necessity, and that the secondary residence identified in the statement of necessity is either within the school district that includes the applicant's school of enrollment or is within an Iowa school district contiguous to the applicant's school of enrollment.

(2) If the applicant attends an accredited nonpublic school, the statement of necessity provided to the department certifies that a need exists to drive from each residence, that the school of enrollment identified in the statement of necessity meets the geographic requirements for an applicant attending an accredited nonpublic school set forth in Iowa Code section 321.194 as determined by the primary residence identified in the statement of necessity, and that the secondary residence identified in the statement of necessity is no more than 25 miles driving distance from the school of enrollment.

*b.* The fact that either residence is less than one mile from the applicant's school of enrollment shall not preclude travel to and from each residence at the times and for the purposes set forth in Iowa Code ~~subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, section 321.194~~ provided that need is otherwise demonstrated.

~~*b. c.*~~ *c.* A minor's school license approved for travel to and from two residences for the purposes set forth in Iowa Code ~~subsection 321.194(2) as amended by 2016 Iowa Acts, House File 2437, section 33, section 321.194~~ shall not be valid for travel directly between each residence unless the licensee is accompanied in accordance with Iowa Code ~~subsection~~ section 321.180B(1).

## TRANSPORTATION DEPARTMENT[761](cont'd)

*e. d.* The primary residential address listed in the statement of necessity shall appear on the face of the license. A minor's school license approved for travel to and from two residences shall include a "J" restriction on the face of the license, and the secondary address listed in the statement of necessity shall be listed on the reverse side of the license as part of the "J" restriction, with the following notation: "Also valid to drive to and from [secondary residential address] in compliance with 321.194."

This rule is intended to implement Iowa Code sections 321.177, 321.180B, 321.189, 321.194 and 321.196.

## ARC 4152C

## CORRECTIONS DEPARTMENT[201]

## Adopted and Filed Emergency

## Rule making related to organization, policies, and procedures

The Corrections Department hereby amends Chapter 1, “Departmental Organization and Procedures,” Chapter 38, “Sex Offender Management and Treatment,” Chapter 42, “Probation Services,” Chapter 43, “Residential Facilities,” Chapter 44, “Work Release,” and Chapter 45, “Parole,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 904.108.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 17A.3 and 905.7.

*Purpose and Summary*

Amendments to Chapters 1, 38, 42, 43, 44 and 45, as well as to other chapters of the Department’s rules, were Adopted and Filed and published in the August 1, 2018, Iowa Administrative Bulletin as **ARC 3929C**. On August 14, 2018, the Administrative Rules Review Committee expressed concern regarding the changes to the rules pertaining to the judicial districts. Pursuant to Iowa Code section 17A.4, the Committee voted to delay the effective date of **ARC 3929C** for 70 days, allowing time for further discussion for the Department and the judicial districts to finalize changes. At its November 13, 2018, meeting, the Administrative Rules Review Committee reviewed language proposed by Corrections Department staff and, pursuant to Iowa Code section 17A.3, approved the emergency adoption of these amendments.

*Reason for Adoption of Rule Making Without  
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because the emergency adoption was approved by the Administrative Rules Review Committee.

In compliance with Iowa Code section 17A.3(3)“a,” the Administrative Rules Review Committee at its November 13, 2018, meeting reviewed the Department’s determination and this rule making and approved the emergency adoption.

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on November 14, 2018, so that the effective date of the emergency rule making aligns with the expiration date of the 70-day delay.

*Adoption of Rule Making*

This rule making was adopted by the Department on November 14, 2018.

CORRECTIONS DEPARTMENT[201](cont'd)

*Concurrent Publication of Notice of Intended Action*

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 4153C** to allow for public comment.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 201—Chapter 7.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making became effective on November 14, 2018.

The following rule-making actions are adopted:

ITEM 1. Rescind the definition of “Deputy director” in rule **201—1.1(904)**.

ITEM 2. Amend rule 201—1.2(904) as follows:

**201—1.2(904) Mission and function.** The department of corrections is mandated by Iowa Code chapter 904 and consists of a policy board, a director and ~~four operational divisions~~ areas of responsibility.

The mission of the department of corrections is creating opportunities for safer communities.

~~The department is charged with the operation of the state's penal institutions, judicial district department of corrections programs, prison industries, corrections administration, and contracting with the judicial district departments of correctional services for community correctional services. It is further charged with accreditation and funding of community-based corrections programs, including but not limited to pretrial release, presentence investigation, probation, parole, residential facilities, work release centers and other duties provided for by law.~~

ITEM 3. Amend rule 201—1.7(904) as follows:

**201—1.7(904) Director.** The governor appoints the director of the department of corrections. The director is responsible for the daily administration of the department. ~~The operations are performed by four divisions consisting of institutional operations, community based corrections (CBC), administration, and prison industries. The deputy directors of these divisions report to the director of the department. as follows:~~

~~In addition to the deputy directors, the general counsel/inspector general, the director of media and public relations, the director of research/recidivism reduction, and the medical services director report to the director of the department.~~

## CORRECTIONS DEPARTMENT[201](cont'd)

**1.7(1) to 1.7(3)** No change.

ITEM 4. Amend subrules 1.8(1) and 1.8(2) as follows:

**1.8(1)** The deputy director of institutional operations is responsible for all institutions and facilities. These descriptions are in no way binding on the director's authority to transfer incarcerated individuals between institutions.

~~a. Deputy~~ The deputy director of institutional operations is responsible for:

(1) to (9) No change.

~~b. Reserved.~~ The deputy director of institutional operations is also responsible for the following:

(1) Classification.

(2) Education.

(3) Safety officers.

(4) Records.

(5) Transfers.

**1.8(2)** The deputy director of ~~CBC~~ community-based corrections:

~~a. Is responsible for supervising and the~~ coordinating of Code of Iowa requirements as they apply to the judicial district department of correctional services for all eight judicial districts to include:

(1) to (8) No change.

~~b. Is responsible for providing assistance and support to the judicial district departments of correctional services and for periodic review and accreditation of these programs. The following services shall be provided in addition to parole and work release:~~ Is to act as liaison with and assist community-based corrections through the purchase of service agreement and periodic review and accreditation of these programs:

(1) Pretrial interviews.

(2) Pretrial supervision.

(3) Presentence investigation.

(4) Probation.

(5) Residential services.

(6) Community service sentencing.

(7) OWI facilities.

(8) Parole supervision.

(9) Interstate compact.

(10) Substance abuse treatment services.

(11) Cognitive learning.

(12) Iowa domestic abuse program.

(13) Sex offender treatment.

(14) Preemployment programs.

(15) Special sentences.

~~e. Is responsible for programming for and treatment of incarcerated individuals to include the following:~~

~~(1) Interstate compact administration.~~

~~(2) Substance abuse treatment services.~~

~~(3) Cognitive learning.~~

~~(4) Batterers' education programs.~~

~~(5) Sex offender treatment.~~

~~(6) Preemployment programs.~~

ITEM 5. Amend subrule 38.2(3) as follows:

**38.2(3)** ~~Risk assessment instrument. Risk assessments used~~ Districts shall be validated and use the statewide approved by the department of corrections with collaborative input from the judicial districts and other affected stakeholders and validated risk/needs assessment. The risk assessment should be completed within 30 days prior to the incarcerated individual's release from custody or upon the incarcerated individual's/client's placement on probation, parole, or work release.

CORRECTIONS DEPARTMENT[201](cont'd)

ITEM 6. Amend subrule 42.1(4) as follows:

~~42.1(4) The district department~~ Districts shall have uniform statewide approved written policies and procedures which ensure the use of the statewide case management system ~~so that client risk,~~ Districts will use the statewide approved and validated risk/needs instrument that assesses and addresses client risk, criminogenic needs and protective factors are identified using the approved uniform and validated risk/needs assessment instruments and are addressed in an effort to lower risk and reduce in an effort to mitigate the probability for future violence, criminal behavior and victimization. The system should be designed to By stratifying risk using the risk-need-responsivity model, districts will focus the majority of their resources on moderate and high risk clients and shall include the following elements: ongoing risk and need clients who pose a greater risk to reoffend ensuring that all moderate-high risk clients receive evidence-based case planning and case management using the risk-need-responsivity model and core correctional practices to include: ongoing risk needs assessment, responsivity, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality improvement.

ITEM 7. Amend subrule 43.1(18) as follows:

~~43.1(18) The district department~~ Districts shall have statewide approved written policies and procedures which ensure the use of the statewide case management system ~~so that client risk,~~ Districts will use the statewide approved and validated risk/needs instrument that assesses and addresses client risk, criminogenic needs and protective factors are identified using the approved uniform and validated risk/needs assessment instruments and are addressed in an effort to lower risk and reduce in an effort to mitigate the probability for future violence, criminal behavior and victimization. The system should be designed to By stratifying risk using the risk-need-responsivity model, districts will focus the majority of their resources on moderate and high risk clients and shall include the following elements: ongoing risk and need clients who pose a greater risk to reoffend ensuring that all moderate-high risk clients receive evidence-based case planning and case management using the risk-need-responsivity model and core correctional practices to include: ongoing risk needs assessment, responsivity, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality improvement.

ITEM 8. Amend paragraph 44.1(5)“c” as follows:

c. ~~The district department~~ Districts shall have uniform statewide approved written policies and procedures which ensure the use of the statewide case management system ~~so that client risk,~~ Districts will use the statewide approved and validated risk/needs instrument that assesses and addresses client risk, criminogenic needs and protective factors are identified using the approved uniform and validated risk/needs assessment instruments and are addressed in an effort to lower risk and reduce in an effort to mitigate the probability for future violence, criminal behavior and victimization. The system should be designed to By stratifying risk using the risk-need-responsivity model, districts will focus the majority of their resources on moderate and high risk clients and shall include the following elements: ongoing risk and need clients who pose a greater risk to reoffend ensuring that all moderate-high risk clients receive evidence-based case planning and case management using the risk-need-responsivity model and core correctional practices to include: ongoing risk needs assessment, responsivity, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality improvement.

ITEM 9. Amend paragraph 45.1(2)“b” as follows:

b. ~~The district department~~ Districts shall have statewide approved written ~~uniform~~ policies and procedures which ensure the use of the statewide case management system ~~so that client risk,~~ Districts will use the statewide approved and validated risk/needs instrument that assesses and addresses client risk, criminogenic needs and protective factors are identified using the approved uniform and validated risk/needs assessment instruments and are addressed in an effort to lower risk and reduce in an effort to mitigate the probability for future violence, criminal behavior and victimization. The system should be designed to By stratifying risk using the risk-need-responsivity model, districts will focus the majority of their resources on moderate and high risk clients and shall include the following elements: ongoing risk and need clients who pose a greater risk to reoffend ensuring that all moderate-high risk clients receive evidence-based case planning and case management using the risk-need-responsivity model and core

CORRECTIONS DEPARTMENT[201](cont'd)

correctional practices to include: ongoing risk needs assessment, ~~responsivity, case planning,~~ case plan follow-up and documentation, transfer of records, staff training, and continuous quality improvement.

[Filed Emergency 11/13/18, effective 11/14/18]

[Published 12/5/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/5/18.

## ARC 4163C

## EDUCATION DEPARTMENT[281]

## Adopted and Filed

## Rule making related to career and technical education

The State Board of Education hereby amends Chapter 46, “Career and Technical Education,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 256.7(5).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 258.

*Purpose and Summary*

Items 1, 2, 3, 6, 8, and 12 are nonsubstantive, clarifying modifications to existing rules.

Item 4 adds policy language to a previously reserved rule. The language details the process to be followed for programs that do not meet program requirements established in this chapter.

Items 5, 7, 9, 10, and 11 implement the provisions of 2018 Iowa Acts, House File 648, passed by the Iowa Legislature and signed by Governor Reynolds during the 2018 Legislative Session. The items relate to the disbursement, monitoring, and allowable uses of state career and technical education funds.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 10, 2018, as **ARC 4048C**. A public hearing was held on October 30, 2018, at 10 a.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the State Board of Education on November 14, 2018.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

An agencywide waiver provision is provided in 281—Chapter 4.

*Review by Administrative Rules Review Committee*

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

EDUCATION DEPARTMENT[281](cont'd)

*Effective Date*

This rule making will become effective on January 9, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 281—46.1(258) as follows:

**281—46.1(258) Federal Act accepted.** The provisions of the Act of Congress known as the Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations, and the benefit of all funds appropriated under said Act and all other Acts pertaining to career and technical education, are accepted.

ITEM 2. Amend paragraph **46.6(1)“b,”** introductory paragraph, as follows:

*b. Program report and self-study.* A district shall create a program report and self-study for each offered program. The program report and self-study shall include ~~narrative on~~ the following minimum criteria:

ITEM 3. Amend subparagraph **46.6(3)“a”(1)** as follows:

(1) Conclusions drawn from annual program measurement. A district shall, for each program, annually review and evaluate program outcomes and student assessment data. The district shall ~~describe~~ document any conclusions drawn from the review and evaluation of program outcomes and student assessment data, and how those conclusions impact the future direction of the program. In addition to and as a result of this review, the district shall identify program strengths, in order of importance, and describe how these strengths will be maintained; perceived barriers to accomplishing the program’s goal(s) and objective(s); and primary opportunities for improvement, in order of importance, and how these opportunities for improvement will be addressed. The district shall also review program enrollment and participation data by high school to determine if students from each participating high school have access to the program. The district shall describe how the district is ensuring access to the program for all students from each participating high school.

ITEM 4. Adopt the following new rule 281—46.7(258):

**281—46.7(258) Accreditation standards not met.**

**46.7(1)** The following shall be conditions under which a district has failed to meet accreditation standards:

*a.* A district fails to submit a program for approval under rule 281—46.6(258).

*b.* A program fails to comply with the corrective action process outlined in paragraph 46.6(1)“*d*” or 46.6(3)“*c*.”

**46.7(2)** Any findings under subrule 46.7(1) shall be documented and reviewed as part of the comprehensive desk audit established under Iowa Code section 256.11(10)“*a*”(1).

*a.* A program identified under paragraph 46.7(1)“*a*” shall not be used by a district to meet minimum education program requirements for career and technical education specified under 281—paragraph 12.5(5)“*i*.” Such a program is ineligible to receive funds distributed under rule 281—46.9(258).

*b.* A program identified under paragraph 46.7(1)“*b*” shall not be used by a district to meet minimum education program requirements for career and technical education specified under 281—paragraph 12.5(5)“*i*.”

ITEM 5. Amend subrule 46.9(1), introductory paragraph, as follows:

**46.9(1)** An approved regional career and technical education planning partnership is eligible to receive ~~from state funds reimbursement for expenditures made during the fiscal year~~ school districts and community colleges participating in the regional career and technical education planning partnership for purposes allowed under subrule 46.10(6). If federal and state funds are not sufficient to make the reimbursement to the extent provided in this rule, the director shall prorate the respective amounts available to the regional career and technical education planning partnerships entitled to reimbursement.

## EDUCATION DEPARTMENT[281](cont'd)

ITEM 6. Amend subrule 46.9(2) as follows:

**46.9(2)** All federal funds shall be spent pursuant to the state plan required under the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations.

ITEM 7. Adopt the following new subrule 46.9(3):

**46.9(3)** Monitoring. An approved regional career and technical education planning partnership receiving funds under this rule shall comply with financial monitoring processes established by the department.

*a.* At the end of the state fiscal year, the fiscal agent of an approved regional career and technical education planning partnership shall submit to the department financial forms and other evidence documents required by the department to complete a comprehensive review of all transactions completed during the previous fiscal year which involve state and federal funds issued to the approved regional career and technical education planning partnership by the department. Documentation shall be submitted by the regional career and technical education planning partnership in a manner prescribed by the department.

*b.* Instances of transactions involving state and federal funds issued to an approved regional career and technical education planning partnership that are found to be noncompliant with state and federal regulations governing the use of such funds, including but not limited to subrule 46.10(6), shall be documented by the department.

(1) The fiscal agent of the approved regional career and technical education planning partnership shall be notified of any instances of noncompliance, and prepare, in consultation with the regional career and technical education planning partnership and department, a corrective action plan. The plan shall, at a minimum, detail the policies and procedures to be implemented by the fiscal agent to ensure that subsequent transactions involving state and federal funds issued to the regional career and technical education planning partnership are compliant with applicable state and federal regulations.

(2) The corrective action plan shall be approved by the regional career and technical education planning partnership and submitted to the department for approval through the annual approval process established under subrule 46.10(2). The department shall review and approve or deny approval of the corrective action plan. A regional career and technical education planning partnership required to create a corrective action plan must secure approval of the corrective action plan to be awarded continuing approval. A regional planning partnership that fails to secure continuing approval shall be subject to the requirements of paragraph 46.10(2)“c.”

ITEM 8. Amend paragraph **46.10(2)“b”** as follows:

*b. Continuing approval.* By June 30, 2018, and for each subsequent year, each partnership shall have adopted a multiyear plan meeting the requirements of subrule 46.10(5). The multiyear plan and documents required under paragraph 46.10(2)“a” shall be reviewed and, as necessary, revised on an annual basis by the partnership and submitted to the department. To maintain approval, the partnership shall maintain evidence that the duties assigned to the partnership under subrule 46.10(4) are performed on a continuing basis. In awarding continuing approval, the department shall consider documented findings from the financial monitoring process established under subrule 46.9(3).

ITEM 9. Amend paragraph **46.10(4)“b”** as follows:

*b.* Collect and review all relevant plans required by the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations; career and academic plans required under 281—Chapter 49; and regional labor market, socioeconomic, and demographic information.

ITEM 10. Amend subrule 46.10(6), introductory paragraph, as follows:

**46.10(6)** *Secondary career and technical education funds.* An approved regional career and technical education partnership may use funds received from state and federal sources on behalf of school districts and community colleges participating in the regional career and technical education planning partnership for the following:

EDUCATION DEPARTMENT[281](cont'd)

ITEM 11. Amend paragraph **46.10(6)“b”** as follows:

*b.* To offer regional career and technical education professional development opportunities; coordinate ~~and~~, maintain, and support a career guidance system pursuant to 281—Chapter 49, and related work-based learning opportunities for students; and purchase career and technical education equipment ~~on behalf of school districts and community colleges participating in the regional career and technical education planning partnership~~ and curricular resources to include standard classroom consumable supplies directly related to and necessary for the course curriculum, other than basic consumable supplies that will be made into products to be sold or used personally by students, teachers, and other persons. All expenditures on allowable uses specified under this paragraph must conform to the requirements of the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, codified at 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations.

ITEM 12. Amend subrule 46.11(4) as follows:

**46.11(4) Compliance.** Districts and community colleges shall maintain compliance with the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. §2301 et seq., as amended, and subsequent reauthorizations, in implementing career academies.

[Filed 11/14/18, effective 1/9/19]

[Published 12/5/18]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/5/18.

**ARC 4164C**

## **EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

### **Rule making related to career information systems**

The State Board of Education hereby amends Chapter 49, “Individual Career and Academic Plan,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 256.7(5).

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 279.61.

#### *Purpose and Summary*

Chapter 49 establishes the minimum components for career information systems used by districts to support individual career and academic planning activities for students in grades 8 through 12. The Department maintains a list of career information systems which meet the criteria established in Chapter 49. This amendment adds an additional category of “supplemental” career information systems. Career information systems that do not satisfy all criteria for career information systems may be placed on this list, and districts may use career information systems on this list to satisfy identified components of the career and academic planning process.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 10, 2018, as **ARC 4049C**. A public hearing was held on October 30, 2018, at 9 a.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

EDUCATION DEPARTMENT[281](cont'd)

*Adoption of Rule Making*

This rule making was adopted by the State Board of Education on November 14, 2018.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

An agencywide waiver provision is provided in 281—Chapter 4.

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on January 9, 2019.

The following rule-making action is adopted:

Adopt the following **new** subrule 49.6(4):

**49.6(4) Supplemental systems.** The department shall maintain a list of supplemental systems which districts may use to satisfy components of rule 281—49.3(279).

*a.* The department shall establish a process for the review of supplemental systems. The review shall, at a minimum, identify the components of rule 281—49.3(279) and paragraphs 49.6(3)“*b*,”“*c*,” and “*d*” which are satisfied through the supplemental system. All supplemental systems shall comply with paragraphs 49.6(3)“*f*” and “*g*.”

*b.* A district which chooses to utilize a supplemental system shall specify which components of rule 281—49.3(279) are satisfied through the use of the supplemental system in the district plan required under rule 281—49.5(279). A district which chooses to utilize a supplemental tool must continue to utilize and make available to students an approved system.

[Filed 11/14/18, effective 1/9/19]

[Published 12/5/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/5/18.

**ARC 4165C**

**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed****Rule making related to behavioral health services to medical assistance recipients**

The Human Services Department hereby amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 249A.4, 249A.15, and 249A.15A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 249A.4, 249A.15, and 249A.15A.

*Purpose and Summary*

These amendments reflect a recent statutory change entitling behavior analysts and assistant behavior analysts who are licensed pursuant to Iowa Code chapter 154D to payment for behavioral health services provided to recipients of medical assistance.

These amendments also reflect recent statutory changes entitling provisionally licensed psychologists, temporarily licensed marital and family therapists, and temporarily licensed mental health counselors who are licensed pursuant to Iowa Code section 154D.7 to payment for behavioral health services provided to recipients of medical assistance.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 26, 2018, as **ARC 4031C**. The Department received comments from two respondents. A summary of those comments and the Department's responses follows:

**Comment 1:** The respondent stated that this rule making eliminates the requirement that Medicaid cover fully licensed psychologists and that the rule making is not in alignment with the legislation. The respondent requested that the rules be revised to clarify the omission. In addition, the respondent noted that, in rule 441—77.22(249A), the Department referred to the Board of Behavioral Science in the provisional licensure of psychologists and that psychologists have their own board (Board of Psychology).

The respondent provided suggested language for rule 441—77.22(249A), which if revised as suggested would no longer include references to meeting the credentialing requirements of the National Register of Health Service Psychologists but would state that the following persons are eligible to participate in the Medicaid program as psychologists:

1. All psychologists licensed to practice in the state of Iowa;
2. Psychologists in other states when duly licensed to practice in that state;
3. Psychologists provisionally licensed to practice in the state of Iowa pursuant to Iowa Code section 154B.6 when the person possesses a doctoral degree in psychology from an institution approved by the Board of Psychology and provides treatment under the supervision of a licensed psychologist pursuant to Iowa Code section 154B.6; and
4. Psychologists provisionally licensed in other states when the person possesses a doctoral degree in psychology from an institution approved by the Board of Psychology and provides treatment under the supervision of a licensed psychologist pursuant to Iowa Code section 154B.6.

**Department response 1:** 2018 Iowa Acts, Senate File 2418, creates new Iowa Code section 514C.33 to include the payment of necessary behavioral health services provided by a person who holds a provisional license to practice psychology pursuant to Iowa Code section 154B.6 and who practices under the supervision of a supervisor who meets the qualifications determined by the Board of Psychology by rule.

These amendments do not make any changes to the licensed psychologist qualifications already covered in rule 441—77.22(249A), and the Board of Psychology's rule 645—240.7(154B) requires that in order to be a health service provider in psychology, an applicant must verify at least two years of clinical experience in a recognized health service setting or meet the standards of the National Register of Health Service Providers in Psychology (now named the National Register of Health Service

HUMAN SERVICES DEPARTMENT[441](cont'd)

Psychologists, as reflected in the Department's rule). As such, the Department will not be removing that language from rule 441—77.22(249A) at this time. The Department does agree that psychologists are licensed by the Board of Psychology and has replaced references to the Board of Behavioral Science with references to the Board of Psychology in rule 645—77.22(249A).

**Comment 2:** This respondent agreed that there is a need for Board-certified behavior analysts as recognized providers of behavioral health services but added that the process for obtaining and maintaining licensure is unclear. The respondent stated that clear licensure requirements are necessary to support this change to the Iowa Administrative Code.

**Department response 2:** 2018 Iowa Acts, Senate File 192, creates the licensure process for behavior analysts and assistant behavior analysts. The Board of Behavioral Science regulates behavior analysts and assistant behavior analysts. The Board may grant an applicant a license to practice as a behavior analyst when the applicant submits proof that the applicant has been certified as a behavior analyst or a behavior analyst-doctoral by the Behavior Analyst Certification Board or a similar entity accredited by the National Commission for Certifying Agencies of the American National Standards Institute. The Board of Behavioral Science may grant a license to practice as an assistant behavior analyst to an applicant who submits proof that the applicant has been certified as an assistant behavior analyst by a certifying entity. The applicant must also submit proof of ongoing supervision by a licensed behavior analyst. Senate File 192 takes effect January 1, 2019, but provides that the Board may begin implementation prior to that date as necessary to fully implement licensure by January 1, 2019. The licensing requirements are beyond the scope of these amendments, and therefore no changes will be made to the amendments at this time in response to this comment.

In addition to the change described in Department Response 1 above, the implementation sentences of rules 441—77.22(249A) and 441—77.26(249A) have been revised to remove proposed references to 2018 Iowa Acts since the amendments in the Acts are codified in the 2019 Iowa Code.

#### *Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on November 14, 2018.

#### *Fiscal Impact*

These amendments may allow Medicaid members additional access to behavioral health services; however, any fiscal impact is expected to be minimal. Medicaid currently allows behavior analysts and assistant behavior analysts to provide services, but the supervising authority must do the billing. These amendments will allow for these two professional types to bill Medicaid directly. Since the Medicaid program is already incurring these costs, minimal impact is expected. The change adding provisionally licensed psychologists, temporarily licensed marital and family therapists, and temporarily licensed mental health counselors as eligible providers under Medicaid is expected to have minimal impact since the change is consistent with current policy.

#### *Jobs Impact*

These amendments may incentivize additional behavior analysts to practice in Iowa and enroll with Medicaid to deliver behavioral health services to Medicaid members.

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

#### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

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

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on January 9, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 441—77.22(249A) as follows:

**441—77.22(249A) Psychologists.**

77.22(1) All psychologists licensed to practice in the state of Iowa and meeting the current credentialing requirements of the National Register of Health Service Psychologists are eligible to participate in the medical assistance program. Psychologists in other states are eligible to participate when they are duly licensed to practice in that state and meet the current credentialing requirements of the National Register of Health Service Psychologists.

77.22(2) A psychologist provisionally licensed to practice in the state of Iowa pursuant to Iowa Code section 154B.6 is eligible to participate in the medical assistance program when the person:

a. Possesses a doctoral degree in psychology from an institution approved by the board of psychology; and

b. Provides treatment under the supervision of a licensed psychologist pursuant to Iowa Code section 154B.6. Claims for payment for such services must be submitted by the licensed psychologist.

77.22(3) A psychologist provisionally licensed in another state is eligible to participate when the person:

a. Possesses a doctoral degree in psychology from an institution approved by the board of psychology; and

b. Provides treatment under the supervision of a licensed psychologist pursuant to Iowa Code section 154B.6. Claims for payment for such services must be submitted by the licensed psychologist who is duly licensed to practice in that state.

This rule is intended to implement Iowa Code sections 249A.4 and 249A.15.

ITEM 2. Amend rule 441—77.26(249A) as follows:

**441—77.26(249A) Behavioral health services.** The following persons are eligible to participate in the Medicaid program as providers of behavioral health services.

77.26(1) No change.

77.26(2) 77.26(2) *Temporarily licensed marital and family therapists.* Any person who holds a temporary license to practice marital and family therapy pursuant to Iowa Code section 154D.7 is eligible to participate when the temporarily licensed marital and family therapist provides treatment under the supervision of a qualified marital and family therapist as determined by the board of behavioral science by rule. Claims for payment for such services must be submitted by the supervising licensed marital and family therapist.

77.26(2) 77.26(3) *Licensed independent social workers (LISW).* Any person licensed by the board of social work as an independent social worker pursuant to 645—Chapter 280 is eligible to participate. An independent social worker in another state is eligible to participate when duly licensed to practice in that state.

77.26(3) 77.26(4) *Licensed master social workers (LMSW).*

a. and b. No change.

77.26(4) 77.26(5) *Licensed mental health counselors (LMC).* Any person licensed by the board of behavioral science as a mental health counselor pursuant to Iowa Code chapter 154D and 645—Chapter 31 is eligible to participate. A mental health counselor in another state is eligible to participate when duly licensed to practice in that state.

HUMAN SERVICES DEPARTMENT[441](cont'd)

77.26(6) Temporarily licensed mental health counselors. Any person temporarily licensed by the board of behavioral science as a mental health counselor pursuant to Iowa Code section 154D.7 is eligible to participate when the temporarily licensed mental health counselor provides treatment under the supervision of a qualified mental health counselor as determined by the board of behavioral science by rule. Claims for payment for such services must be submitted by the supervising licensed mental health counselor.

~~77.26(5)~~ 77.26(7) Certified alcohol and drug counselors. Any person certified by the nongovernmental Iowa board of substance abuse certification as an alcohol and drug counselor is eligible to participate.

77.26(8) Licensed behavior analysts. Any person licensed by the board of behavioral science as a behavior analyst pursuant to Iowa Code chapter 154D is eligible to participate. A licensed behavior analyst in another state is eligible to participate when duly licensed to practice in that state.

77.26(9) Licensed assistant behavior analysts. A person licensed by the board of behavioral science as an assistant behavior analyst pursuant to Iowa Code chapter 154D is eligible to participate when the licensed assistant behavior analyst:

- a. Holds current certification as an assistant behavior analyst by a certifying entity; and
- b. Provides treatment under the supervision of a behavior analyst licensed pursuant to Iowa Code chapter 154D. Claims for payment for such services must be submitted by the supervising licensed behavior analyst.

This rule is intended to implement Iowa Code chapter 249A as amended by 2011 Iowa Acts, Senate File 233.

[Filed 11/14/18, effective 1/9/19]

[Published 12/5/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/5/18.

**ARC 4166C**

## **HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

### **Rule making related to subsidized adoptions**

The Human Services Department hereby amends Chapter 201, "Subsidized Adoptions," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 234.6.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 234.6, Social Security Act Section 473(a)(4)(A) and (B), and 45 CFR 205.10.

#### *Purpose and Summary*

The administrative rules for subsidized adoptions are being revised to update outdated language, clarify eligibility criteria for special needs children, and clarify allowable expenses under special services and to add a provision to suspend adoption subsidy under defined circumstances.

These amendments promote consistency in the application of eligibility criteria through clarification of the rules. Federal policy has been updated to allow states to suspend adoption subsidy payments when concerns arise that the family is not financially supporting the family's adoptive child. Suspension of adoption subsidy payments was not previously allowed by federal policy.

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

Adoptive families will be affected by these amendments, potentially to their detriment. These amendments formalize the ability of the Department to assess and suspend a family's use of adoption subsidy funds if concerns are brought forward that the adoptive child is not being supported. Payments will be suspended during the Department's review and will be reinstated if the family is found to be supporting the family's adoptive child or if the family agrees to provide documentation that the family is providing appropriate support and provides that documentation. These amendments will allow the Department to terminate the subsidy agreement if the family is not supporting the adoptive child and will not agree to provide and document support for the adoptive child.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 26, 2018, as **ARC 4033C**. The Department received no comments during the public comment period. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on November 14, 2018.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 1, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule **441—201.2(600)**, definitions of "Maintenance subsidy," "Mental health professional," "Mental retardation professional," "Presubsidy," and "Special services subsidy," as follows:

*"Maintenance subsidy"* means a monthly payment to assist the family in meeting the living expenses and expenses related to the care of a special needs child in covering the cost of room, board, clothing, and spending money. The child will also be eligible for medical assistance pursuant to 441—Chapter 75.

*"Mental Qualified mental health professional"* means ~~the same as defined in rule 441—24.1(225C)~~. a person who meets all of the following conditions:

1. Holds a master's degree in a mental health field including, but not limited to, psychology, counseling and guidance, or psychiatric nursing and social work; or is a doctor of medicine or osteopathic medicine; and

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

2. Holds a current Iowa license when required by the Iowa professional licensure laws for persons practicing as a psychiatrist, a psychologist, a marital and family therapist, a mental health counselor, an advanced registered nurse practitioner, a psychiatric nurse, or a social worker; and

3. Has at least two years of postdegree experience supervised by a mental health professional in assessing mental health problems, mental illness, and services needs and in providing mental health services.

~~“Mental retardation~~ Qualified intellectual disability professional” means a person who has at least one year of experience working directly with persons with ~~mental retardation~~ an intellectual disability or other developmental disabilities and who is one of the following:

1. A doctor of medicine or osteopathy.
2. A registered nurse.
3. A person who holds at least a bachelor’s degree in a human services field including, but not limited to, social work, sociology, special education, rehabilitation counseling, ~~and~~ or psychology.

“Presubsidy” means payment for maintenance or special services for a special needs child who is placed in an adoptive home and who meets all eligibility criteria for maintenance subsidy but whose adoption is not finalized.

“Special services subsidy” means payment to a provider or reimbursement to the parent for medical, dental, therapeutic, or other services, equipment or appliances required by a child because of a handicapping condition in order to meet the child’s identified special needs.

ITEM 2. Amend rule 441—201.3(600) as follows:

**441—201.3(600) Conditions of eligibility or ineligibility.**

**201.3(1)** The child is eligible for subsidy when the department or a private agency has documented that it has been unable to place the child in an appropriate adoptive home without a subsidy and the child is determined to be a child with “special needs” based on one or more of the following reasons:

a. The child has a medically diagnosed disability, as determined by a physician, an advanced registered nurse practitioner or a physician assistant, which substantially limits one or more major life activities, requires ongoing professional treatment, assistance in self-care, or the purchase of special equipment impacts the child’s ability to perform daily living skills, and is expected to last 12 months or longer.

b. The child has been determined by a qualified ~~mental retardation~~ intellectual disability professional to be ~~mentally retarded~~ intellectually disabled.

c. ~~Effective April 20, 2004, or later, the~~ The child has been determined by a qualified professional to be at high risk of developing a qualifying medical, mental, or emotional condition as defined in this subrule. A child in this group is eligible for subsidy of nonrecurring expenses only.

d. The child has been diagnosed by a qualified mental health professional to have a psychiatric condition which impairs the child’s mental, intellectual, or social functioning, and for which the child requires ongoing professional services.

e. The child has been diagnosed by a qualified mental health professional to have a behavioral or emotional disorder characterized by situationally inappropriate behavior which deviates substantially from behavior appropriate to the child’s age or significantly interferes with the child’s intellectual, social and personal adjustment and which requires ongoing treatment.

f. The child is aged eight five or over ~~and Caucasian~~.

~~g. The child is aged two or older and is a member of a minority race or ethnic group or the child’s biological parents are of different races.~~

~~h. g.~~ The child is a member of a sibling group of three or more children who are placed in the same adoptive home.

**201.3(2)** A child who enters the United States from another country on the basis of a visa classifying the child as an orphan, in accordance with the Immigration and Naturalization Act, for the purpose of adoption by a specific United States family is not eligible for subsidized adoption maintenance payments, medical assistance, or special services except for nonrecurring expenses. ~~A child entering the country~~

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

for adoption may be eligible for subsidy for nonrecurring expenses, not to exceed \$500, in the following situations:

- ~~a. Rescinded IAB 8/11/99, effective 10/1/99.~~
- ~~b. The child from another country who meets the criteria in subrule 201.3(1) and whose adoption is finalized after June 14, 1989, must file an application on Form 470-0744, Application for Adoption Subsidy, and complete Form 470-0749, Adoption Subsidy Agreement, before or at the time of a final decree of adoption. The claim for reimbursement must be filed on Form GAX, General Accounting Expenditure, within two years of the date of the adoption decree and must include receipts.~~
- ~~c. If the adoptive placement disrupts prior to finalization or if the parental rights of the adoptive parents are terminated after the adoption is finalized and the department is named guardian of the child, the child may be eligible for subsidy in another adoptive placement.~~

~~201.3(3) Maintenance and child~~ Child care subsidies for children who were determined to be eligible before January 1, 2004, shall continue ~~unless one of the conditions for termination defined in 441—201.7(600) is present~~ if child care was written into the Adoption Subsidy Agreement and the need for child care continues. The child care subsidy payment shall not exceed the applicable reimbursement rate under the child care assistance program as specified in 441—subrule 170.4(7).

**201.3(4)** No change.

**201.3(5)** The department shall review the subsidy agreement when the child reaches the age of 17½ to determine whether the child is eligible to receive a subsidy ~~through the~~ to the age of 21 due to the child's physical, intellectual, or mental health disability.

- ~~a. The disability shall be diagnosed by a physician, a qualified mental health professional, or a qualified mental retardation~~ intellectual disability professional.
- ~~b. The diagnosis shall be current within one year of~~ prior to the child's eighteenth birthday.
- ~~c. Documentation of the child's diagnosed disability shall be provided by the child's parents to the department to make the determination of continued eligibility to the age of 21.~~

ITEM 3. Amend rule 441—201.4(600) as follows:

**441—201.4(600) Application.** Application for presubsidy or subsidy for a special needs child in the guardianship of the department shall be made on Form 470-0744, Application for Subsidy, at the time of the adoptive placement of the child, or at any time in the adoptive process before finalization of the adoption.

**201.4(1)** and **201.4(2)** No change.

**201.4(3)** The effective date for the Adoption Subsidy Agreement will be the date the agreement is signed by ~~all parties~~ the adoptive parents and a representative of the department, which may be the date the child is placed in the adoptive home or any date up to and including the date the adoption is finalized. The agreement shall state the amount of the presubsidy or subsidy, ~~and~~ the frequency and duration of payments and the conditions under which the agreement may be terminated.

**201.4(4)** No change.

**201.4(5)** A child in the guardianship of a licensed child-placing agency may be eligible for adoption subsidy when one of the following conditions is met:

- ~~a. The child receives or is eligible to receive SSI based on a diagnosed disability, or~~
- ~~b. The child received federally funded adoption subsidy in a prior adoption.~~

ITEM 4. Amend subrule 201.6(1) as follows:

**201.6(1) Special services only.**

~~a. Reimbursement to the adoptive family or direct payment made to a provider is suspended from January 1, 2010, to June 30, 2010, for any special services negotiated in that period except for nonrecurring expenses as defined in subparagraph (7). Reimbursement to the family or direct payment to a provider may be made for the following special services needed to meet the needs of the child.~~

(1) Outpatient counseling or therapy services. Reimbursement for outpatient individual or family services may be provided from a non-Medicaid provider only with approval from the service area manager or designee and when one of the following applies:

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

1. to 3. No change.

Reimbursement to non-Medicaid providers shall be limited to the Medicaid rate.

(2) No change.

(3) Medical services not covered by the Medicaid program ~~shall be limited to an additional premium amount due to the child's special needs to include the child in the family's health insurance coverage group~~ when the child, either alone or with the family, resides outside the state of Iowa and that state's Medicaid does not cover a needed service, or a provider enrolled with Iowa Medicaid cannot be secured. An adoption subsidy payment shall not supplement the Medicaid payment rate to a Medicaid provider or a non-Medicaid provider.

(4) ~~Child care, if the family has entered into a presubsidy or subsidy agreement on or before June 30, 2004, that contains a provision for child care reimbursement. Child care subsidy payments shall not exceed the maximum rates established in 441—paragraph 170.4(7)“a” for the child's age and type of care, unless the department grants a waiver under rule 441—1.8(17A,217). Child care services are available through the child care assistance program to families that meet the requirements of 441—Chapter 170. An additional premium amount as a result of adding the child to the family's health insurance group.~~

(5) Medical transportation, food and lodging not covered by Medicaid ~~and the family's lodging and meals, if necessary, when the child is receiving specialized care or the child and~~ in a facility 50 miles or farther from the family home, when the family are required to stay overnight as part of a treatment plan is participating in services and to facilitate reunification with the child.

(6) Supplies and equipment as required by the child's special needs and unavailable through other resources.

1. When the siblings in a sibling group of three or more are placed together, a one-time-only payment can be made, not to exceed \$500 per child, to reimburse the family for expenses related to accommodating the needs of the sibling group.

2. When home modifications have been authorized to accommodate a child's special needs and the family later sells the house, the family shall repay the department an amount equal to the increase in the equity value of the home attributable to the modifications.

(7) and (8) No change.

b. ~~The need for special services shall be established by a report in the child's record from the private or public agency which had guardianship of the child, and substantiating information from specialists as defined in rule 441—201.2(600) documented in the Adoption Subsidy Agreement. The family shall provide documentation of expenses to the department.~~

c. and d. No change.

ITEM 5. Amend subrule 201.7(8) as follows:

~~201.7(8) Rescinded IAB 3/12/08, effective 4/16/08. The child enlists in the military.~~

ITEM 6. Renumber rules ~~441—201.10(600) and 441—201.11(600)~~ as ~~441—201.11(600) and 441—201.12(600).~~

ITEM 7. Adopt the following new rule 441—201.10(600):

**441—201.10(600) Determination of ongoing subsidy eligibility and suspension of subsidy payments.**

**201.10(1)** Eligibility for continuation of adoption subsidy shall be evaluated when the department has reasonable cause to suspect the adoptive parent is not providing financial support, or is no longer legally responsible for the child. This includes, but is not limited to, the following circumstances:

- a. The child is placed in out-of-home care.
- b. A person alleges the parents are not providing financial support to the child.
- c. A person other than the parent is awarded legal custody of the child.
- d. A person other than the parent is appointed as the guardian of the child.
- e. The child has applied for food assistance or other benefits.
- f. The child has not resided with the parent for the past 30 consecutive days.

HUMAN SERVICES DEPARTMENT[441](cont'd)

g. The parent is incarcerated.

h. The parent is awaiting trial for criminal charges related to harm caused to a child in the home.

**201.10(2)** The department shall contact the child's parents via letter, telephone, or electronic or other means and document such efforts.

**201.10(3)** The child's parents shall provide documentation of support, including receipts, to the department upon request.

**201.10(4)** Upon completion of the department's evaluation of the child's continued eligibility for adoption subsidy, the department shall issue a written notice to the parents documenting required ongoing actions by the parents, including an expectation of continued cooperation by the parents to provide documentation of ongoing support to the child at the request of the department.

**201.10(5)** The department shall suspend adoption subsidy payments if the parents refuse to cooperate or if the department is unable to determine whether the parents are providing financial support or are legally responsible for the child.

**201.10(6)** Through a Notice of Decision, the department shall terminate the Adoption Subsidy Agreement upon a finding that the child is not being financially supported.

**201.10(7)** When the child has resided out of the parental home for 30 consecutive days, the department shall request a renegotiation of the Adoption Subsidy Agreement with the parents to reduce or suspend payments as agreed to by the parents.

[Filed 11/14/18, effective 2/1/19]

[Published 12/5/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/5/18.

**ARC 4167C**

## **HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

### **Rule making related to subsidized guardianship program**

The Human Services Department hereby amends Chapter 204, "Subsidized Guardianship Program," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 234.6.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 234.6, 45 CFR 1356.21, and the Social Security Act, Sections 472 and 473(d)(3).

#### *Purpose and Summary*

The administrative rules for subsidized guardianship are being amended in order to implement the program under the guidelines of the federal Fostering Connections to Success and Increasing Adoptions Act. The previous program was administered through a federal waiver which has been eliminated.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 26, 2018, as **ARC 4032C**. The Human Services Department received comments from seven respondents during the public comment period. All of the comments received were supportive of the amendments to the Subsidized Guardianship Program.

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

Two changes from the Notice were made. In Item 6, the word “for” in paragraph “1” of subparagraph 204.4(5)“a”(1) was changed to “from,” and paragraph “3” of subparagraph 204.4(5)“a”(1) was made a complete sentence and now reads as follows: “3. Available Medicaid providers lack experience in working with foster, adopted, or blended families.”

*Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on November 14, 2018.

*Fiscal Impact*

There will be a fiscal impact of \$100,000 annually or \$500,000 over five years.

*Jobs Impact*

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

*Waivers*

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at rule 441—1.8(17A,217).

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on February 1, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend **441—Chapter 204**, Preamble, as follows:

PREAMBLE

This chapter ~~implemented a five-year demonstration waiver project for~~ implements a subsidized guardianship program to provide financial assistance to guardians of eligible children who are in foster care but are not able to be adopted and who are not able to return home. ~~Notification has been given to the United States Department of Health and Human Services that the demonstration project will end effective September 1, 2010.~~ A subsidized guardianship agreement authorized under this chapter will remain in effect until the agreement is terminated under the terms of this chapter.

ITEM 2. Adopt the following new definition of “Relative” in rule **441—204.1(234)**:

“Relative” means, for this chapter only, a person to whom a child is related by blood, marriage, or adoption, or a person who has a significant, committed, positive relationship with the child.

ITEM 3. Amend subrule 204.2(1) as follows:

**204.2(1) General conditions of eligibility.** The guardian named in a permanency order under Iowa Code section 232.104(2) “d”(1) or Iowa Code chapter 633 for a child who was previously in the custody of the department is eligible for subsidy when all of the following conditions exist:

a. The child has a documented permanency goal of:

- ~~(1) Long term foster care;~~
- ~~(2) (1) Guardianship; or~~
- ~~(3) (2) Another planned permanent living arrangement.~~

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

~~b. The child has been in a licensed foster care placement and has lived in foster care for at least 6 of the last 12 months.~~

~~e. b. The child is either:~~

- ~~(1) 14 years of age or older and consents to the guardianship; or  
(2) 12 years of age or older and guardianship has been determined to be in the child's best interest;~~

~~or~~

~~(3) (2) Under No younger than 12 years of age and part of a sibling group with a child aged 12 14 or older.~~

~~d. c. The child has lived in continuous placement foster family care with the prospective guardian for the six months before initiation of the guardianship subsidy.~~

~~e. d. The prospective guardian is a person licensed relative foster parent who has a significant relationship with the child and demonstrates a willingness to make a long-term commitment to the child's care.~~

~~(1) The guardian may shall be a relative or nonrelative, as defined in this chapter.~~

~~(2) Placement with that guardian must be in the best interest of the child. The best-interest determination must be documented in the case file.~~

~~e. A child 12 years of age or older and part of a sibling group with a child 14 years of age or older may be eligible for subsidy if all criteria are met. The following conditions for the younger sibling shall also be met:~~

~~(1) The sibling is placed as a foster child in the same prospective guardian home.~~

~~(2) The guardian and the department agree it is appropriate for guardianship to be granted for the sibling.~~

~~f. The child has been randomly selected to participate in the waiver demonstration project.~~

ITEM 4. Amend subrule 204.2(4) as follows:

**204.2(4) Other services.** ~~Rescinded IAB 10/11/06, effective 11/1/06.~~ Other services available to meet the needs of the child that are free of charge, such as federal, state, and local governmental programs, or private assistance programs, shall be explored and used prior to the expenditure of subsidized guardianship funds.

ITEM 5. Amend rule 441—204.3(234) as follows:

**441—204.3(234) Application.** ~~Applications for the subsidized guardianship program shall not be accepted after August 31, 2010~~ may be made at any county office of the department.

**204.3(1) Application forms.** Application for a subsidized guardianship shall be made on the approved department form.

**204.3(2) Eligibility determination.** The determination of whether a child meets the eligibility requirements is made by the department. The proposed guardian shall be notified in writing of the decision of the department regarding the child's eligibility for the program and the amount of subsidy to be provided.

**204.3(3) Effective date.** The effective date of the guardianship subsidy payment shall be the date the guardianship order is signed if all other conditions of eligibility are met.

**204.3(4) Redetermination.** The department worker shall review the child's eligibility, the needs of the child and the child's unearned income every 12 months. Reviews may be done more often if needed due to the child's need for special services, revision of the subsidy amount because of the child's age, or a request for review by the guardian.

**204.3(5) Determination of eligibility after age 18.** The department shall review the subsidy agreement when the child reaches the age of 17½ to determine whether the child is eligible to receive subsidy to the age of 21 due to the child's physical, intellectual, or mental health disability.

a. A disability shall be diagnosed by a physician, a qualified mental health professional or a qualified intellectual disability professional.

b. The diagnosed disability shall be current within one year prior to the child's eighteenth birthday.

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

c. Documentation of the child's diagnosed disability shall be provided by the child's parents to the department to make the determination of continued eligibility to the age of 21.

ITEM 6. Amend rule 441—204.4(234) as follows:

**441—204.4(234) Negotiation of amount of subsidy.**

**204.4(1) Subsidy agreement.** The amount of subsidy shall be negotiated between the department and the guardian, and shall be based upon the needs of the child, and the circumstances of the family. ~~Each time negotiations are completed, the Guardianship Subsidy Agreement, Form 470-3631, shall be completed and signed by the guardian and the department worker.~~

**204.4(2) Amount of subsidy.** ~~The department shall enter into the agreement based upon available funds.~~ Each time negotiations are completed, the department worker and the guardian shall complete Form 470-3631, and sign a new Guardianship Subsidy Agreement.

~~a. The guardianship subsidy shall be based on a flat daily foster care rate adjusted according to the needs of the child and the circumstances of the family. The maximum monthly maintenance payment for a child in subsidized guardianship shall be made pursuant to the foster family care maintenance rates according to the age and special needs of the child as found in 441—subrule 156.6(1) and 441—paragraphs 156.6(4)“b” and “f.”~~

(1) ~~The rate for the guardianship subsidy shall not exceed the state's current daily basic foster care rate plus any daily level 1 or 2 special needs allowance or sibling allowance for which the child is eligible, as found at in 441—subrule 156.6(1) and 441—paragraphs 156.6(4)“b” and “f.”~~

(2) ~~Rescinded IAB 1/3/07, effective 1/1/07.~~

~~b. If the subsidized guardianship payment is less than the maximum amount allowed, the guardian may request an increase if ~~the~~ there is a substantial change in the child's or family's needs and circumstances ~~require~~ that requires additional resources.~~

~~c. Guardianship payments shall continue if the guardian dies or becomes incapacitated and has named a successor guardian in the Guardianship Subsidy Agreement or in any amendments to the agreement.~~

**204.4(3) No change.**

**204.4(4) Nonrecurring expenses.** The nonrecurring expenses necessary to finalize a guardianship shall be limited to the amount found in 441—subparagraph 201.6(1)“a”(7) not exceed \$2,000.

**204.4(5) Special services.**

a. Reimbursement to the guardian family or direct payment made to a provider is limited to the following services.

(1) Outpatient individual or family services provided from a non-Medicaid provider only with approval from the service area manager or designee and when one of the following applies:

1. The services are not available from a Medicaid provider within a reasonable distance from the family.

2. The child and the family were receiving therapy or counseling from a non-Medicaid provider and it would not be in the child's best interest to disrupt the services.

3. Available Medicaid providers lack experience in working with foster, adopted, or blended families.

(2) Travel-related expenses including transportation, meals and lodging not covered by Medicaid for visitation or family therapy when the child is receiving Medicaid-paid services out of the home.

(3) Supplies and equipment as required by the child's special needs and unavailable through other resources.

(4) Funeral benefits at the amount allowed for a foster child in accordance with rule 441—156.8(234).

b. Any single special service and any special service delivered over a 12-month period costing \$500 or more shall have prior approval from the central office program manager prior to expending program funds.

HUMAN SERVICES DEPARTMENT[441](cont'd)

c. For all Medicaid-covered services, the department shall reimburse at the same rate and duration as Medicaid as set forth in rule 441—79.1(249A).

ITEM 7. Amend rule 441—204.6(234) as follows:

**441—204.6(234) Termination of subsidy.** A guardianship subsidy agreement ~~negotiated based on an application signed on or before August 31, 2010,~~ shall remain in effect until the subsidy is terminated based on one of the grounds listed in this rule. The subsidy shall terminate when any of the following occur, and a notice shall be sent which states the reason for the termination:

1. to 3. No change.
4. The relationship ends due to the death of the child ~~or the death of the guardian of the child (one in a single-parent family or both in a two-parent family).~~
5. The terms of ~~Form 470-3631,~~ the Guardianship Subsidy Agreement, are concluded.
6. No change.
7. ~~Due to incapacity, the guardian can no longer discharge the responsibilities necessary to protect and care for the child, and the guardianship has been or will be vacated. The department has determined the guardian is not providing financial support to the child.~~
8. The guardian fails to abide by the terms of ~~Form 470-3631,~~ the Guardianship Subsidy Agreement.
9. and 10. No change.

ITEM 8. Amend rule 441—204.7(234) as follows:

**441—204.7(234) Reinstatement of subsidy.** Reinstatement of the subsidy shall be made when the subsidy was terminated ~~because of~~ at the guardian's request, and the guardian has requested reinstatement.

[Filed 11/14/18, effective 2/1/19]

[Published 12/5/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/5/18.

**ARC 4168C**

## **IOWA FINANCE AUTHORITY[265]**

**Adopted and Filed**

### **Rule making related to manufactured housing program fund**

The Iowa Finance Authority hereby adopts new Chapter 45, "Manufactured Housing Program Fund," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 16.5.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2018 Iowa Acts, House File 2480, section 1 (Iowa Code section 16.45).

#### *Purpose and Summary*

This rule making adopts a new chapter of rules to implement the Manufactured Housing Program Fund, as required by Iowa Code section 16.45.

IOWA FINANCE AUTHORITY[265](cont'd)

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 29, 2018, as **ARC 3973C**. Comments were received from lenders that are not depository institutions and that are seeking a way to participate in the program. Comments were also received from Iowa Legal Aid requesting changes to protect low-income Iowans from the consequences of the termination of lot leases.

In response to the public comment received, changes from the Notice were made to allow nondepository lenders to participate in conjunction with financial institutions that are depository institutions. Also, references to 2018 Iowa Acts have been replaced with references to the Iowa Code.

*Adoption of Rule Making*

This rule making was adopted by the Authority on November 7, 2018.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on January 9, 2019.

The following rule-making action is adopted:

Adopt the following **new** 265—Chapter 45:

CHAPTER 45  
MANUFACTURED HOUSING  
PROGRAM FUND

**265—45.1(16) Purpose.** The purpose of these rules is to allow the authority to allocate funds to financial institutions or lenders to finance the purchase by individuals of manufactured homes that are in compliance with all laws, rules, and standards that are applicable to manufactured homes. The fund is designed exclusively for manufactured homes sited on leased land located in the state of Iowa.

**265—45.2(16) Definitions.**

“*Authority*” means the Iowa finance authority.

## IOWA FINANCE AUTHORITY[265](cont'd)

“*Borrower*” means one or more individuals borrowing or seeking to borrow money for the purchase of a manufactured home.

“*Financial institution*” means a financial institution as defined in Iowa Code section 12C.1 that has been approved as a depository of public funds pursuant to Iowa Code section 12C.2.

“*Fund*” means the manufactured housing program fund created pursuant to Iowa Code section 16.45.

“*Interlender loan*” means the lending of funds by a financial institution to a lender, which funds are, in turn, to be loaned by the lender to a borrower to finance the purchase of a manufactured home.

“*Lender*” means a lender as defined in Iowa Code section 537.1301 that is licensed by the banking division of the department of commerce and that has not been approved as a depository of public funds pursuant to Iowa Code section 12C.2.

“*Manufactured home*” or “*manufactured housing*” means the same as defined in Iowa Code section 435.1.

“*Mortgage loan*” means a loan from a financial institution or lender to a borrower to finance the purchase of a manufactured home.

“*Program*” means the manufactured housing program.

“*Revolving funds*” means the funds created by Iowa Code sections 16.46 through 16.49.

**265—45.3(16) Sources of funds.**

**45.3(1) *Authorized transfers.*** In addition to any moneys that may be appropriated to the fund, the authority is authorized by Iowa Code section 16.45 to transfer for deposit into the fund for any fiscal year any unencumbered and unobligated moneys in the revolving funds from the prior fiscal year. However, the maximum amount of moneys that may be so transferred for any fiscal year may not exceed the lesser of \$1,000,000 or an amount equal to the total amount of any unencumbered and unobligated moneys in the revolving funds available for transfer from the previous fiscal year reduced by \$1,000,000.

**45.3(2) *Recapture and repayments—nonreversion.*** Pursuant to Iowa Code section 16.45, recapture of awards and other repayments to the fund shall be deposited into the fund and are appropriated to the authority to be used for the program. Notwithstanding Iowa Code section 8.33, unencumbered or unobligated moneys remaining in the fund on June 30 of any fiscal year shall not revert to any other fund but shall be available for expenditure in subsequent years. However, any unencumbered or unobligated moneys remaining in the fund on June 30 of any fiscal year that were transferred to the fund as described in subrule 45.3(1) shall revert to the revolving fund from which the transfer was made. Notwithstanding Iowa Code section 12C.7(2), interest or earnings on moneys in the fund or appropriated to the fund shall be credited to the fund.

**265—45.4(16) Program overview.** The program is established as a means of facilitating affordable financing for the purchase of eligible manufactured homes to be sited on leased land located in the state of Iowa. By providing capital at a low interest rate in the form of linked deposits to financial institutions and lenders, the program is intended to enable financial institutions and lenders, in turn, to offer lower interest rate mortgage loans to borrowers or to enable financial institutions to offer interlender loans to lenders, the proceeds of which are, in turn, to be loaned to borrowers at low interest rates to finance the purchase of manufactured homes. The authority’s role is strictly that of a depositor, not a lender, loan guarantor, or loan participant.

**265—45.5(16) Eligible financing.**

**45.5(1) *Lender participation agreement.*** Linked deposits shall be made pursuant to a lender participation agreement to be created by the authority. If the mortgage loan is to be made by a financial institution, the lender participation agreement shall be between the authority and the financial institution. If the mortgage loan is to be made by a lender, the lender participation agreement shall be between the authority, the lender, and a financial institution.

**45.5(2) *Eligible loans.*** To be eligible for a linked deposit under the program, a mortgage loan shall meet all of the following requirements:

## IOWA FINANCE AUTHORITY[265](cont'd)

- a.* The mortgage loan must be for the purchase of a manufactured home as the borrower's primary residence; refinancing is not eligible for the program;
- b.* The manufactured home must be sited on leased land located in the state of Iowa;
- c.* The term of the mortgage loan shall not exceed 30 years;
- d.* The mortgage loan shall be fully amortized;
- e.* The terms of the mortgage loan shall contain no prepayment penalties;
- f.* The interest rate payable on the mortgage loan shall not exceed 9 percent APR;
- g.* Fees charged by the financial institution or lender to cover its costs of originating the mortgage loan (closing fees, origination fees, etc.) shall, in the aggregate, not exceed 1 percent of the principal mortgage loan amount;
- h.* Closing agent/settlement fees paid to third-party closers, if any, shall not exceed \$500;
- i.* Customary and reasonable closing costs shall be allowed; and
- j.* The financial institution or lender shall comply with all applicable fair lending laws and regulations.

**265—45.6(16) Linked deposits.** The process to create a linked deposit shall be as follows:

**45.6(1)** Once a financial institution or lender has received a completed loan application from a borrower, the financial institution or lender shall notify the authority via a linked deposit reservation request. The reservation request shall be on a form which is created and may be periodically updated by the authority and which may be in a paper format or an online web-based format at the authority's discretion. The authority shall review the reservation request; if the reservation request is approved, the authority shall tentatively reserve an amount in or available to the fund for up to 60 days for a linked deposit for the mortgage loan that was the subject of the request. No reservation shall be made if the requested mortgage loan amount exceeds the amount(s) in and available to the fund. The reservation shall be terminated if the mortgage loan does not close within the 60-day period. If the reservation request is not approved, the authority shall notify the financial institution or lender that originated the mortgage loan and state the reason why the request was not approved.

**45.6(2)** The financial institution or lender that originated the mortgage loan shall review the borrower's mortgage loan application, applying ordinary manufactured housing lending underwriting criteria. If the loan application is approved by the financial institution or lender, the financial institution or lender shall submit a request to the authority for a linked deposit. The request shall be on a form which is created and may be periodically updated by the authority and which may be in a paper format or an online web-based format at the authority's discretion.

**45.6(3)** Upon receipt of a linked deposit request, the authority shall review the information provided and make a determination as to whether the mortgage loan is eligible under the program's criteria. If necessary, the authority may request additional information. If the mortgage loan is determined eligible, the authority shall, if necessary to make the linked deposit, transfer moneys from one or more of the revolving funds, at the authority's discretion, into the fund to ensure there is a sufficient amount available in the fund to make the linked deposit. The authority shall then deposit with the financial institution an amount equal to the principal amount of the mortgage loan via automated clearing house (ACH) money transfer. The linked deposit shall not be security for the mortgage loan or for the interlender loan, if any, nor shall it be a loan guarantee. The lender or financial institution making the mortgage loan shall bear all financial risk for the mortgage loan. The financial institution shall bear all financial risk for any interlender loan. If the mortgage loan is determined ineligible, the authority shall notify the financial institution or lender that originated the mortgage loan and state the reason why the request was not approved.

**45.6(4)** The authority shall receive monthly bank statements for the linked deposit account.

**45.6(5)** The moneys in the linked deposit account shall remain in the account for the duration of the mortgage loan. Annually, as of June 30, the financial institution or lender that originated the mortgage loan shall notify the authority of the amount of principal that has been repaid on the mortgage loan during the previous 12 months. The authority shall then withdraw from the linked deposit account an amount

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equal to the principal that was repaid on the mortgage loan during the previous year so that the amount of the linked deposit equals the outstanding principal balance of the mortgage loan.

**45.6(6)** If a financial institution has more than one mortgage loan in the program, the linked deposits for those mortgage loans may be maintained in a single account.

**45.6(7)** The linked deposit for a mortgage loan shall be withdrawn in full if the mortgage loan is paid off, if the manufactured home purchased with the mortgage loan proceeds is destroyed, or if the borrower defaults on the mortgage loan.

**45.6(8)** The linked deposit account shall bear interest at a rate of not less than 1 percent per annum.

**265—45.7(16) Limits on linked deposits.** In any state of Iowa fiscal year, the authority shall not deposit more than 50 percent of the moneys in or available to the fund with any one financial institution pursuant to the program; provided, however, that after the first six months of such fiscal year, the authority may make a linked deposit with any participating financial institution regardless of any amounts previously deposited with such financial institution.

**265—45.8(16) Availability of moneys for linked deposits.** The obligation of the authority to deposit funds into a linked deposit account shall be subject to the availability of moneys either in the fund or transferrable to the fund from the sources set forth in Iowa Code section 16.45, under the limitations set forth in that section. The authority shall maintain a running total of the unreserved amounts in and available to the fund on the authority's website.

These rules are intended to implement Iowa Code section 16.45.

[Filed 11/13/18, effective 1/9/19]

[Published 12/5/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/5/18.

**ARC 4169C**

## **REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

**Adopted and Filed**

### **Rule making related to real estate appraiser qualification criteria**

The Real Estate Appraiser Examining Board hereby amends Chapter 1, "Organization and Administration," Chapter 3, "General Provisions for Examinations," Chapter 4, "Associate Real Property Appraiser," Chapter 5, "Certified Residential Real Property Appraiser," Chapter 6, "Certified General Real Property Appraiser," and Chapter 15, "Supervisor Responsibilities," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 543D.5.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 543D.

#### *Purpose and Summary*

Under the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), the Appraiser Qualifications Board (AQB) establishes the Real Property Appraiser Qualification Criteria (Criteria), or the minimum education, experience, and examination requirements for real property appraisers to obtain a state certification. As of May 1, 2018, the AQB has lowered the minimum education, experience, and examination requirements. States may choose to have higher

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

standards, but standards may not fall below the minimum requirements. The Board considered the May 1, 2018, Criteria changes and decided to mirror those of the May 1, 2018, Criteria.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 26, 2018, as **ARC 4006C**. A public hearing was held on October 16, 2018, at 8:30 a.m. in the Small Conference Room, Third Floor, 200 East Grand Avenue, Des Moines, Iowa. No one attended the public hearing. Four written comments were received. One licensee expressed concern with the wording of the residential hour requirement, which states that out of 2,500 hours of experience required, 1,500 hours must consist of residential appraisal experience. Another licensee stated that the purpose of the changes to the AQB Criteria is not to permit less qualified appraisers to enter the profession, but instead to permit a more expedited time frame for appraisers to obtain the same qualifications and experience. The Iowa Bankers Association and the Iowa Association of Realtors both separately stated that their constituents would prefer to see the rules adopted fully consistent with the May 1, 2018, Criteria.

After fully considering these comments, the Board made three changes from the published Notice in order to adopt in full the May 1, 2018, Criteria. In subrule 5.5(2), the time frame in which experience must be completed was reduced from 24 months to 12 months, and the total hours of residential appraisal experience required were reduced from 2,500 hours to 1,500 hours. Also, in subrule 6.5(2), the time frame in which experience must be completed was reduced from 30 months to 18 months.

*Adoption of Rule Making*

This rule making was adopted by the Board on November 2, 2018.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

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

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on January 9, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 193F—1.19(543D) as follows:

**193F—1.19(543D) ~~January 1, 2015~~ May 1, 2018, criteria.**

**1.19(1)** Effective on and after ~~January 1, 2015~~ May 1, 2018, the AQB has changed the criteria for eligibility for ~~registration as an associate appraiser and~~ certification as a certified appraiser. No person

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

may be registered as an associate appraiser or certified as a certified appraiser on or after January 1, 2015 May 1, 2018, unless the person is eligible under the revised most recent criteria.

~~1.19(2)~~ The ~~January 1, 2015~~ May 1, 2018, criteria were adopted by the AQB in 2011 2018 and have been widely disseminated, including on the board's ~~Web site~~ website at: ~~http://www.state.ia.us/government/com/prof/appraiser/home.html~~ www.idob.state.ia.us/reap/.

~~a.~~ For associate appraisers, the revised criteria place a five-year restriction on the time period in which qualifying education must be completed prior to the submission of an application for associate appraiser registration and require completion of supervisory appraiser/associate coursework by both the supervisory appraiser and the associate appraiser applicant.

~~b.~~ For certified appraisers, the revised The May 1, 2018, criteria modify the conditions under which applicants for certification are eligible to take the required examinations and ~~require a bachelor's degree for all certified appraisers, including residential appraisers.~~

ITEM 2. Amend rule 193F—1.20(543D) as follows:

**193F—1.20(543D) Application and work product deadlines.**

~~1.20(1)~~ *December 31, 2014, application deadline.* In order to be considered for registration as an associate appraiser or certification as a certified appraiser under the criteria in effect prior to January 1, 2015, an applicant must submit an original, fully completed application to the board office for the board's actual receipt no later than December 31, 2014, at 4:30 p.m.

~~1.20(2)~~ 1.20(1) *Deadline for associate appraiser applicants* Summary of registration requirements for registration as an associate. The associate appraiser and supervisory appraiser provisions are more fully set out in 193F—Chapters 4 and 15, respectively. Before submitting an application for registration with the board, a person seeking registration as an associate appraiser must complete 75 hours of appraisal education and secure a qualified supervisory appraiser. An associate appraiser applicant who submits an application to the board office after December 31, 2014, at 4:30 p.m. shall be subject to the January 1, 2015, criteria and will accordingly be subject to the five-year restriction on must have completed all required qualifying education and the supervisory appraiser/associate coursework prior to submitting an application for registration.

~~1.20(3)~~ 1.20(2) *Summary of certification requirements before January 1, 2015.* As more fully set out in 193F—Chapters 3, 5, and 6, a person who is in the process of completing the education, experience, and examination required for certification as a certified appraiser may not submit an application for certification to the board until all prerequisites have been satisfactorily completed. The prerequisites include the following: qualifying college and core criteria appraiser education, qualifying examination, 2,500 hours of qualifying experience in a minimum of 24 months for residential appraisers or 3,000 hours of qualifying experience in a minimum of 30 months for general appraisers, and work product review. Work product review requires numerous steps, as provided in 193F—5.6(543D) and 193F—6.6(543D). The work product review process includes the applicant's submission of a work product experience log to the board; the board's selection of three appraisals to review; communication of the selected appraisals to the applicant; the applicant's submission of the three appraisals and associated work files to the board in electronic and paper formats; review of the appraisals and work files by a reviewer retained by the board; the reviewer's submission of review reports to the board; a meeting between the applicant and the board's work product review committee; a formal board vote at a board meeting; and communication of approval, denial, or deferral to the applicant. All of these steps must be completed before an applicant with approved work product can submit an application for certification to the board office.

~~1.20(4)~~ *October 1, 2014, deadline for submission of appraisals and work files.*

~~a.~~ As a result of the minimum periods of time needed to accomplish all work product review steps summarized in 1.20(3), an applicant for certification as a certified appraiser must fully submit to the board office the three appraisals and associated work files for work product review, as provided in 193F—5.6(543D) and 193F—6.6(543D), no later than October 1, 2014.

~~b.~~ To allow sufficient time for board selection of three appraisals from the work product review experience log, board communication of the selected appraisals to the applicant, and applicant submission of the appraisals and work files to the board office by October 1, 2014, applicants for

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

~~residential certification should submit their work product experience log to the board by September 1, 2014, and applicants for general certification should submit their work product experience log to the board by August 1, 2014.~~

~~e.—Applicants for certification as residential or general certified appraisers who submit appraisals and work files for work product review on or after October 2, 2014, shall be considered for certification under the January 1, 2015, criteria. If an applicant submitting appraisals and work files for work product review on or after October 2, 2014, has previously passed the required examination, the examination results will remain valid for the 24-month period of validity, as described in 193F—Chapter 3.~~

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

**3.4(3)** An initial certificate shall not be issued until the applicant has demonstrated compliance with all required appraiser qualifications for certification, which include examination, ~~education~~ core criteria, ~~a bachelor's degree~~ collegiate education, and real property appraiser experience pursuant to Iowa Code section 543D.9 and 193F—Chapter 5 or 6.

ITEM 4. Amend paragraph **4.1(1)“b”** as follows:

~~b. Beginning January 1, 2015, the~~ The initial qualifying education must be completed no more than five years prior to the date of application.

ITEM 5. Amend subrule 4.1(2) as follows:

**4.1(2) Training.** ~~Effective January 1, 2015, prior~~ Prior to registration as an associate, a person must complete a course that complies with the specifications for course content established by the AQB specifically oriented to the requirements and responsibilities of supervisory appraisers and associate appraisers. The course must be completed before the person can obtain an associate credential. This course cannot be applied toward the required hours of qualifying or continuing education.

ITEM 6. Amend rule 193F—5.2(543D) as follows:

**193F—5.2(543D) Education.** Education requirements for an applicant to obtain a certificate as a certified residential real property appraiser shall be in compliance with the criteria as set forth by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. If an accredited college or university (accredited by the Commission on Colleges, by a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education) accepts the College-Level Examination Program© (CLEP) examination(s) and issues a transcript for the examination(s) showing the college's or university's approval, the CLEP credit will be considered as credit for the college course.

**5.2(1) Formal Collegiate education.** There are five options toward certification as a certified residential real property appraiser. An applicant must meet at least one of the five options identified in paragraphs 5.2(1)“a” through 5.2(1)“e,” below, in order to be eligible for certification as a residential real property appraiser.

~~a. Applicants must hold an associate's degree or higher from an accredited college, junior college, community college, or university. In lieu of the associate's degree, an applicant shall successfully pass all of the following collegiate subject matter courses from an accredited college, junior college, community college, or university: An applicant holds a bachelor's degree in any field of study from an accredited college or university.~~

- ~~(1) English composition;~~
- ~~(2) Principles of economics (micro or macro);~~
- ~~(3) Finance;~~
- ~~(4) Algebra, geometry, or higher mathematics;~~
- ~~(5) Statistics;~~
- ~~(6) Computer science; and~~
- ~~(7) Business or real estate law.~~

~~b. Total hours of equivalent college courses in lieu of an associate's degree are 21 semester credit hours or equivalent. If an accredited college or university (accredited by the Commission on Colleges, by a regional or national accreditation association, or by an accrediting agency that is recognized by the~~

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

U.S. Secretary of Education) accepts the College-Level Examination Program© (CLEP) examination(s) and issues a transcript for the examination(s) showing the college's or university's approval, the CLEP credit will be considered as credit for the college course. An applicant holds an associate's degree in a field of study from an accredited college, junior college, community college, or university that relates to:

- (1) Business administration;
- (2) Accounting;
- (3) Finance;
- (4) Economics; or
- (5) Real estate.

c. Effective January 1, 2015, applicants must hold a bachelor's degree or higher from an accredited college or university. Successful completion of 30 semester hours of college-level courses from an accredited college, junior college, community college, or university that cover each of the following specific areas and hours:

- (1) English composition (3 hours);
- (2) Microeconomics (3 hours);
- (3) Macroeconomics (3 hours);
- (4) Finance (3 hours);
- (5) Algebra, geometry, or higher math (3 hours);
- (6) Statistics (3 hours);
- (7) Computer science (3 hours);
- (8) Business law or real estate law (3 hours);
- (9) Two electives in any of the above topics or in accounting, geography, agriculture, economics, business management, or real estate (3 hours each).

d. Successful completion of at least 30 semester hours of College-Level Examination Program© (CLEP) examinations that cover each of the following specific areas and hours:

- (1) College algebra (3 semester hours);
- (2) College composition (6 semester hours);
- (3) College composition modular (3 semester hours);
- (4) College mathematics (6 semester hours);
- (5) Principles of macroeconomics (3 semester hours);
- (6) Principles of microeconomics (3 semester hours);
- (7) Introductory business law (3 semester hours); and
- (8) Information systems (3 semester hours).

e. Any combination of paragraphs 5.2(1) "c" and 5.2(1) "d," above, that ensures coverage of all of the topics and hours identified in paragraph 5.2(1) "c." For purposes of determining whether coverage of the topics and hours identified in paragraph 5.2(1) "c" has occurred:

- (1) The college algebra CLEP examination may be considered for satisfying the algebra, geometry, or higher math requirement of paragraph 5.2(1) "c."
- (2) The college composition CLEP examination may be considered for satisfying the English composition requirement of paragraph 5.2(1) "c."
- (3) The college composition modular CLEP examination may be considered for satisfying the English composition requirement of paragraph 5.2(1) "c."
- (4) The college mathematics CLEP examination may be considered for satisfying the algebra, geometry, or higher math requirement of paragraph 5.2(1) "c."
- (5) The principles of macroeconomics CLEP examination may be considered for satisfying the macroeconomics or finance requirement of paragraph 5.2(1) "c."
- (6) The principles of microeconomics CLEP examination may be considered for satisfying the microeconomics or finance requirement of paragraph 5.2(1) "c."
- (7) The introductory business law CLEP examination may be considered for satisfying the business law or real estate law requirement of paragraph 5.2(1) "c."
- (8) The information systems CLEP examination may be considered for satisfying the computer science requirement of paragraph 5.2(1) "c."

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

**5.2(2) and 5.2(3)** No change.

ITEM 7. Amend rule 193F—5.3(543D) as follows:

**193F—5.3(543D) Examination.** The prerequisite for taking the AQB-approved examination is completion of 200 creditable course hours as specified in subrule 5.2(2). ~~Effective January 1, 2015, the~~ The 200 creditable course hours, college or university degree ~~collegiate education,~~ and all experience must be completed as specified in subrules 5.2(1) and 5.2(2) and rule 193F—5.4(543D) prior to the examination. For 5.2(2)“c,” equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP qualifying education shall be awarded only when the class is instructed by at least one AQB-certified USPAP instructor who holds a state-issued certified residential or certified general appraiser credential in active status and good standing.

**5.3(1) Qualification.**

a. No change.

b. ~~Effective January 1, 2015, the bachelor's degree, education~~ The core criteria, collegiate education, and experience must be completed and the documentation submitted to the board at the time of application to sit for the examination.

**5.3(2) to 5.3(5)** No change.

ITEM 8. Amend rule 193F—5.4(543D) as follows:

**193F—5.4(543D) Supervised experience required for initial certification.** ~~Commencing with experience attained on or after July 1, 2007, all~~ All experience required for initial certification pursuant to Iowa Code section 543D.9 shall be performed as a registered associate real property appraiser under the direct supervision of a certified real property appraiser pursuant to the provisions of 193F—Chapter 15.

**5.4(1)** No change.

**5.4(2) Exceptions.**

a. No change.

b. Among the circumstances the board may consider favorably in ruling on an application for approval of unsupervised experience or experience attained by the applicant in the absence of registration as an associate real property appraiser are:

(1) The experience was attained in a jurisdiction that, at the time, did not register associate real property appraisers or otherwise offer an associate, trainee or equivalent category of certification.

(2) The applicant attained the experience while employed in a county assessor's office engaged in mass appraisals, and the experience would otherwise qualify under applicable federal standards.

~~(3) The experience was attained between July 1, 2007, and January 1, 2008, and the appraiser could not reasonably have become registered and associated with a supervising certified appraiser by July 1, 2007, which is the effective date of the requirement that qualifying experience be attained by the applicant as an associate real property appraiser working under the direct supervision of a certified real property appraiser.~~

ITEM 9. Amend subrule 5.5(2) as follows:

**5.5(2)** The applicant shall accumulate a total of ~~2500~~ 1,500 hours of residential appraisal experience in no fewer than ~~24~~ 12 months while in active status, ~~of which a minimum of 1500 hours must consist of residential appraisal experience.~~ While the hours may be cumulative, the ~~24~~ 12 months must have elapsed before the applicant can apply to take the examination. Experience claimed must have been performed in compliance with USPAP in which the appraiser demonstrates proficiency in appraisal principles methodology, procedures and reporting conclusions. Acceptable appraisal experience includes, but is not limited to, the following:

a. to g. No change.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 10. Amend subrule 5.6(11) as follows:

**5.6(11)** Upon successful completion of the work product review process, an applicant will have 60 days to submit an application. ~~Any application~~ All applications filed on or after January 1, 2015, must meet ~~2015~~ the current AQB criteria.

ITEM 11. Amend subrule 5.7(1) as follows:

**5.7(1)** *Education.*

*a. Formal Collegiate education.* Certified residential real property appraisers must satisfy the college-level education requirements as specified in rule 193F—6.2(543D).

*b.* No change.

ITEM 12. Amend subrule 6.2(1) as follows:

**6.2(1)** *Formal Collegiate education.*

~~a.~~ Applicants must hold a bachelor's degree or higher from an accredited college, junior college, community college, or university. ~~In lieu of the bachelor's degree, an applicant shall successfully pass all of the following collegiate subject matter courses from an accredited college, junior college, community college, or university: If an accredited college or university (accredited by the Commission on Colleges, by a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education) accepts the College-Level Examination Program© (CLEP) examination(s) and issues a transcript for the examination(s) showing the college's or university's approval, the CLEP credit will be considered as credit for the college course. An applicant who submits a master's degree or higher as proof of the applicant's bachelor's degree must include an affidavit or a copy of the bachelor's degree attesting that the bachelor's degree is from an accredited college or university.~~

~~(1) English composition;~~

~~(2) Microeconomics;~~

~~(3) Macroeconomics;~~

~~(4) Finance;~~

~~(5) Algebra, geometry, or higher mathematics;~~

~~(6) Statistics;~~

~~(7) Computer science;~~

~~(8) Business or real estate law; and~~

~~(9) Two elective courses in accounting, geography, agricultural economics, business management, or real estate.~~

~~b.—Total hours of equivalent college courses in lieu of a bachelor's degree are 30 semester credit hours or equivalent. If an accredited college or university (accredited by the Commission on Colleges, by a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education) accepts the College-Level Examination Program© (CLEP) examination(s) and issues a transcript for the examination(s) showing the college's or university's approval, the CLEP credit will be considered as credit for the college course.~~

~~c.—Effective January 1, 2015, applicants must hold a bachelor's degree or higher from an accredited college or university.~~

ITEM 13. Amend rule 193F—6.3(543D) as follows:

**193F—6.3(543D) Examination.** The prerequisite for taking the AQB-approved examination is completion of 300 creditable course hours as specified in subrule 6.2(2). ~~Effective January 1, 2015, the~~ The 300 core criteria hours, college or university degree collegiate education, and all experience must be completed as specified in subrules 6.2(1) and 6.2(2) and rule 193F—6.4(543D) prior to the examination. For 6.2(2) "c," equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP qualifying education shall be awarded only when the class is instructed by at least one AQB-certified USPAP instructor who holds a state-issued certified residential or certified general appraiser credential in active status and good standing.

**6.3(1)** In order to qualify to sit for the certified general real property appraiser examination, the applicant must:

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

a. and b. No change.

c. ~~Effective January 1, 2015, the~~ The degree, education and experience must be completed and documentation submitted to the board at the time of application to sit for the examination.

**6.3(2) to 6.3(5)** No change.

ITEM 14. Amend rule 193F—6.4(543D) as follows:

**193F—6.4(543D) Supervised experience required for initial certification.** ~~Commencing with experience attained on or after July 1, 2007, all~~ All experience required for initial certification to obtain certification as a certified general real property appraiser pursuant to Iowa Code section 543D.9 shall be performed as a ~~registered associate real property appraiser~~ under the direct supervision of a certified general real property appraiser pursuant to the provisions of 193F—Chapter 15.

**6.4(1) Acceptable experience.** The board will accept as qualifying experience the documented experience attained while the applicant for initial certification was in an educational program recognized by the Appraiser Qualifications Board and Appraisal Subcommittee as providing qualifying experience for initial certification, whether or not the applicant was registered as an associate real property appraiser at the time the educational program was completed. Such programs, if approved by federal authorities, will incorporate direct supervision by a certified real property appraiser and such additional program features as to satisfy the purpose of requiring that qualifying experience be attained by the applicant as ~~an associate~~ a real property appraiser.

**6.4(2) Exceptions.**

a. Applicants for ~~initial~~ certified general real property certification in Iowa who request that the board approve experience performed in the absence of registration as an associate real property appraiser may file an application for approval on a form provided by the board. The burden shall be on the applicant to establish by clear and convincing evidence all of the following:

(1) to (4) No change.

(5) A basis exists beyond the individual control of the applicant to explain why the experience at issue could not have been attained by the applicant as ~~an associate real property appraiser~~ under the direct supervision of a certified general real property appraiser.

b. Among the circumstances the board may consider favorably in ruling on an application for approval of unsupervised experience or experience attained by the applicant in the absence of registration as an associate real property appraiser are:

(1) The experience was attained in a jurisdiction that, at the time, did not require direct supervision or register associate real property appraisers or otherwise offer ~~an associate, trainee or equivalent~~ a category of certification.

(2) No change.

~~(3) The experience was attained between July 1, 2007, and January 1, 2008, and the appraiser could not reasonably have become registered and associated with a supervising certified appraiser by July 1, 2007, which is the effective date of the requirement that qualifying experience be attained by the applicant as an associate real property appraiser working under the direct supervision of a certified real property appraiser.~~

ITEM 15. Amend subrule 6.5(2) as follows:

**6.5(2)** The applicant shall accumulate a total of ~~3000~~ 3,000 hours of appraisal experience in no fewer than ~~30~~ 18 months while in active status, of which ~~1500~~ 1,500 hours must consist of nonresidential appraisal experience. While the hours may be cumulative, the ~~30~~ 18 months must have elapsed before an applicant can be certified. Experience claimed must have been performed in compliance with USPAP where the appraiser demonstrates proficiency in appraisal principles methodology, procedures and reporting conclusions. Acceptable appraisal experience includes, but is not limited to, the following:

a. to g. No change.

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 16. Amend subrule 6.6(11) as follows:

**6.6(11)** Upon successful completion of the work product review process, an applicant will have 60 days to submit an application. ~~Any application~~ All applications filed ~~on or after January 1, 2015,~~ must meet ~~2015~~ current AQB criteria.

ITEM 17. Amend subrule 15.3(4) as follows:

**15.3(4)** ~~Effective January 1, 2015, a~~ A certified appraiser shall perform as a supervisory appraiser in Iowa only if the appraiser has completed a course that, at a minimum, complies with the specifications for course content established by the Appraiser Qualifications Board. The course is to be completed before the certified appraiser provides supervision.

[Filed 11/2/18, effective 1/9/19]

[Published 12/5/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/5/18.

**ARC 4170C**

**REVENUE DEPARTMENT[701]**

**Adopted and Filed**

**Rule making related to use of assessment/sales ratio study**

The Revenue Department hereby amends Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 421.17.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 441.47.

*Purpose and Summary*

This rule making expands the tools utilized by the Department to supplement the assessment/sales ratio study.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 10, 2018, as **ARC 4042C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Department on November 14, 2018.

*Fiscal Impact*

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

*Jobs Impact*

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

REVENUE DEPARTMENT[701](cont'd)

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on January 9, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 71.12(3) as follows:

**71.12(3) Multiresidential real estate.**

*a. Use of assessment/sales ratio study.*

(1) Basic data shall be that set forth in rule 701—71.10(421), refined by eliminating any sales determined to be abnormal or by adjusting same to eliminate the effects of factors that resulted in the determination that the sales were abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The department of revenue may also supplement the assessment/sales ratio study with other data, including appraisals made by department appraisal personnel for the year immediately preceding the year in which the equalization order is issued or by using modeled appraisal techniques. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of multiresidential real estate in each assessing jurisdiction. The department may consider sales and appraisal data for prior years if it is determined the use of sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is are used, consideration shall be given for any subsequent changes in either assessed value or market value.

(2) Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals that would indicate abnormal or unusual conditions or reporting discrepancies that would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

*b. Use of other relevant data.* The department of revenue may also consider other relevant data, including field investigations conducted by representatives of the department and statistical measures, to determine the level of assessment of multiresidential real estate.

*c. No change.*

ITEM 2. Amend subrule 71.12(4) as follows:

**71.12(4) Commercial real estate.**

*a. Use of assessment/sales ratio study.*

(1) Basic data shall be that set forth in rule 701—71.10(421), refined by eliminating any sales determined to be abnormal or by adjusting same to eliminate the effects of factors that resulted in the determination that the sales were abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The department of revenue may also supplement the assessment/sales

REVENUE DEPARTMENT[701](cont'd)

ratio study with appraisals made by department appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of commercial real estate in each assessing jurisdiction. The department may consider sales and appraisal data for prior years if it is determined the use of sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is are used, consideration shall be given for any subsequent changes in either assessed value or market value. Properties receiving a dual classification with the primary use being commercial shall be included.

(2) Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals that would indicate abnormal or unusual conditions or reporting discrepancies that would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

*b. Use of other relevant data.* The department of revenue may also consider other relevant data and statistical measures, including field investigations conducted by representatives of the department, to determine the level of assessment of commercial real estate. The diverse nature of commercial real estate precludes the use of a countywide or citywide income capitalization study.

*c.* No change.

[Filed 11/14/18, effective 1/9/19]

[Published 12/5/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/5/18.

**ARC 4171C**

## **UTILITIES DIVISION[199]**

**Adopted and Filed**

### **Rule making related to electric utility services**

The Utilities Board hereby amends Chapter 20, "Service Supplied by Electric Utilities," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 474.5 and 476.2.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 476.2, 476.6, 476.8, 476.20, 476.54, 476.66 and 546.7.

#### *Purpose and Summary*

The Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2). The purpose of this review is to identify and update or eliminate rules that are outdated or inconsistent with statutes and other administrative rules. Additionally, the Board is amending Chapter 20 by adding provisions regarding meter testing to eliminate the need for future waivers, updating its customer service rules, and addressing issues regarding master metering.

The Board issued an order adopting rule making on November 9, 2018. The order is available on the Board's electronic filing system, [efs.iowa.gov](http://efs.iowa.gov), under Docket No. RMU-2016-0008.

UTILITIES DIVISION[199](cont'd)

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 11, 2018, as **ARC 3726C**. An oral comment proceeding was held on May 16, 2018, at 9 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

The Board received comments from the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, as well as from Interstate Power and Light Company, MidAmerican Energy Company, the Iowa Association of Electric Cooperatives, the Environmental Law and Policy Center, Professional Property Management, the Iowa Association of Municipal Utilities, Golden Grain Energy, LLC, and jointly from the Large Energy Group and Resale Power Group of Iowa.

Although the majority of the adopted amendments are identical to the amendments published in the Notice of Intended Action, the Board adopted some additional changes in response to stakeholder comments received both at the oral comment proceeding and in filings in the Board's electronic filing system. There are several nonsubstantive grammatical or formatting changes made for ease of reading. The Board also adopted a definition of "capacity" and struck five other definitions that are outdated in a regional transmission market environment. These changes are made in subrule 20.1(3) and subparagraph 20.9(2)"b"(5).

The Board has also revised portions of paragraph 20.3(1)"b" regarding master metering rules in response to comments from numerous parties. Specifically, the Board lowered the qualifying threshold for existing buildings from that proposed in the Notice of Intended Action and added more specificity about how a property owner may establish such qualifications. The Board has also made some formatting changes.

The Board also made changes to new subrule 20.6(8) regarding comprehensive meter replacement programs. The subrule now contains time limits and a requirement to test a meter upon customer request. It also allows utilities to test a statistical sample of meters rather than a flat 10 percent of meters removed.

In response to objections from MidAmerican Energy Company and OCA, the Board is no longer striking the list of requirements for procurement plans in rule 199—20.13(476).

*Adoption of Rule Making*

This rule making was adopted by the Utilities Board on November 9, 2018.

*Fiscal Impact*

These amendments update and amend existing rules. No additional actions having a fiscal impact are being made.

*Jobs Impact*

After analysis and review, the Board concludes that the amendments will not have a detrimental effect on employment in Iowa.

*Waivers*

No waiver provision is included in these amendments since the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

*Review by Administrative Rules Review Committee*

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

UTILITIES DIVISION[199](cont'd)

*Effective Date*

This rule making will become effective on January 9, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 20.1(2) as follows:

**20.1(2) Application of rules.** The rules shall apply to any electric utility operating within the state of Iowa subject to Iowa Code chapter 476, and to the construction, operation and maintenance of electric transmission lines to the extent provided in Iowa Code chapter 478, and shall supersede all tariffs on file with the board which are in conflict with these rules.

These rules are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by utilities, and to establish a basis for determining the reasonableness of such demands as may be made by the public upon the utilities.

A request to waive the application of any rule on a permanent or temporary basis may be made in accordance with ~~199—1.3(17A,474,476,78GA,HF2206)~~ 199—1.3(17A,474,476).

The adoption of these rules shall in no way preclude the board from altering or amending them pursuant to statute or from making such modifications with respect to their application as may be found necessary to meet exceptional conditions.

These rules shall in no way relieve any utility from any of its duties under the laws of this state.

ITEM 2. Amend subrule 20.1(3) as follows:

**20.1(3) Definitions.** The following words and terms, when used in these rules, shall have the meaning indicated below:

*“Acid Rain Program”* means the sulfur dioxide and nitrogen oxides air pollution control program established pursuant to Title IV of the Act under 40 CFR Parts 72-78.

*“Act”* means the Clean Air Act, 42 U.S.C. Section 7401, et seq., ~~as amended by Pub. L. 101-549, November 15, 1990.~~

*“Affected unit”* means a unit or source that is subject to any emission reduction requirement or limitation under the Acid Rain Program, the Clean Air Interstate Rule (CAIR), ~~or the Clean Air Mercury Rule (CAMR)~~ the Cross-State Air Pollution Rule (CSAPR), or the Mercury and Air Toxics Standards (MATS), or a unit or source that opts in under 40 CFR Part 74.

*“Allowance”* means an authorization, allocated by the United States Environmental Protection Agency (EPA), ~~to emit sulfur dioxide (SO<sub>2</sub>) under the Acid Rain Program, to emit sulfur dioxide (SO<sub>2</sub>), any or SO<sub>2</sub> and nitrogen oxide (NO<sub>x</sub>) emissions subject to under the Clean Air Interstate Rule (CAIR), or mercury (Hg) emissions subject to the Clean Air Mercury Rule (CAMR), and the Cross-State Air Pollution Rule (CSAPR) during or after a specified calendar year.~~

~~*“Allowance forward contract”* is an agreement between a buyer and seller to transfer an allowance on a specified future date at a specified price.~~

~~*“Allowance futures contract”* is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.~~

~~*“Allowance option contract”* is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.~~

*“Board”* means the utilities board.

*“Capacity”* means the instantaneous rate at which energy can be delivered, received, or transferred, measured in kilowatts.

*“Clean Air Interstate Rule”* or *“CAIR”* means the requirements EPA published in the Federal Register (70 Fed. Reg. 25161) on May 12, 2005.

~~*“Clean Air Mercury Rule”* or *“CAMR”* means the requirements EPA published in the Federal Register (70 Fed. Reg. 28605) on May 18, 2005.~~

*“Complaint,”* as used in these rules, is a statement or question by anyone, whether a utility customer or not, alleging a wrong, grievance, injury, dissatisfaction, illegal action or procedure, dangerous condition or action, or utility obligation.

## UTILITIES DIVISION[199](cont'd)

“*Compliance plan*” means the document submitted for an affected source to the EPA which specifies the methods by which each affected unit at the source will meet the applicable emissions limitation and emissions reduction requirements.

“*Cross-State Air Pollution Rule*” or “*CSAPR*” means the requirements established by EPA in 40 CFR 97 Subparts AAAAA, BBBB, CCCCC, and DDDDD as amended by 81 FR 13275 (March 14, 2016).

“*Customer*” means any person, firm, association, or corporation, any agency of the federal, state or local government, or legal entity responsible by law for payment for the electric service or heat from the electric utility.

“*Delinquent*” or “*delinquency*” means an account for which a service bill or service payment agreement has not been paid in full on or before the last day for timely payment.

“*Distribution line*” means any single or multiphase electric power line operating at nominal voltage in either of the following ranges: 2,000 to 26,000 volts between ungrounded conductors or 1,155 to 15,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

~~“*Economy energy*” is energy bought or sold in a transaction wherein the supplier’s incremental cost is less than the buyer’s decremental cost, and the differential in cost is shared in an equitable manner by the supplier and buyer.~~

“*Electric plant*” includes all real estate, fixtures and property owned, controlled, operated or managed in connection with or to facilitate production, generation, transmission, or distribution, in providing electric service or heat by an electric utility.

“*Electric service*” is furnishing to the public for compensation any electricity, heat, light, power, or energy.

“*Emission for emission trade*” is an exchange of one type of emission for another type of emission. For example, the exchange of SO<sub>2</sub> emission allowances for NO<sub>x</sub> emission allowances.

“*Energy*” means electric energy measured in kilowatt hours.

~~“*Firm power*” is power and associated energy intended to be available at all times during the period covered by the commitment.~~

“*Gains and losses from allowance sales*” are calculated as the difference between the sale price of allowances sold during the month and the weighted average unit cost of inventoried allowances.

“*Mercury and Air Toxics Standards*” or “*MATS*” means the requirements established by EPA in 40 CFR Parts 60 and 63 regarding limits of power plant emissions of toxic air pollutants (February 16, 2012).

“*Meter*” means, unless otherwise qualified, a device that measures and registers the integral of an electrical quantity with respect to time.

~~“*Meter shop*” is a shop where meters are inspected, repaired and tested, and may be at a fixed location or may be mobile.~~

“*Operating reserve*” is a reserve generating capacity required to ensure reliability of generation resources.

~~“*Operational control energy*” is energy supplied by a selling utility to a buying utility for the improvement of electric system operation.~~

~~“*Outage energy*” is energy purchased during emergency or scheduled maintenance outages of generation or transmission facilities, or both.~~

~~“*Participation power*” means power and associated energy or energy which is purchased or sold from a specific unit or units on the basis that its availability is subject to prorate or other specified reduction if the units are not operated at full capacity.~~

“*Peaking power*” is power and associated energy intended to be available at all times during the commitment and which is anticipated to have low load factor use.

“*Power*” means electric power measured in kilowatts.

“*Price hedging*” means using futures contracts or options to guard against unfavorable price changes.

## UTILITIES DIVISION[199](cont'd)

“*Rate-regulated utility*” means any utility, as defined in 20.1(3), which is subject to board rate regulation under Iowa Code chapter 476.

“*Secondary line*” means any single or multiphase electric power line operating at nominal voltage less than either 2,000 volts between ungrounded conductors or 1,155 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Service limitation*” means the establishment of a limit on the amount of power that may be consumed by a residential customer through the installation of a service limiter on the customer’s meter.

“*Service limiter*” or “*service limitation device*” means a device that limits a residential customer’s power consumption to 3,600 watts (or some higher level of usage approved by the board) and that resets itself automatically, or can be reset manually by the customer, and may also be reset remotely by the utility at all times.

“*Speculation*” means using futures contracts or options to profit from expectations of future price changes.

“*Tariff*” means the entire body of rates, tolls, rentals, charges, classifications, rules, procedures, policies, etc., adopted and filed with the board by an electric utility in fulfilling its role of furnishing service.

“*Timely payment*” is a payment on a customer’s account made on or before the date shown on a current bill for service, or on a form which records an agreement between the customer and a utility for a series of partial payments to settle a delinquent account, as the date which determines application of a late payment charge to the current bill or future collection efforts.

“*Transmission line*” means any single or multiphase electric power line operating at nominal voltages at or in excess of either 69,000 volts between ungrounded conductors or 40,000 volts between grounded and ungrounded conductors, regardless of the functional service provided by the line.

“*Utility*” means any person, partnership, business association or corporation, domestic or foreign, owning or operating any facilities for providing electric service or heat to the public for compensation.

“*Vintage trade*” is an exchange of one vintage of allowances for another vintage of allowances with the difference in value between vintages being cash or additional allowances.

“*Weighted average unit cost of inventoried allowances*” equals the dollars in inventory at the end of the month divided by the total allowances available for use at the end of the month.

“*Wheeling service*” is the service provided by a utility in consenting to the use of its transmission facilities by another party for the purpose of scheduling delivery of power or energy, or both.

ITEM 3. Amend subrule 20.2(2) as follows:

**20.2(2) *Tariffs to be filed with the board.*** The schedules of rates and rules of rate-regulated electric utilities shall be filed with the board and shall be classified, designated, arranged and submitted so as to conform to the requirements of this chapter. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification and content of tariffs shall be in accordance with these rules. A rate-regulated electric utility’s current tariff will be made available through the board’s electronic filing system.

Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not be required to file schedules of rates, rules, or contracts primarily concerned with a rate schedule with the board and shall not be subject to the provisions related to rate regulations, but nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules or contracts which are needed by the board in the performance of the board’s duties upon request to do so by the board.

ITEM 4. Amend subrule 20.2(3) as follows:

**20.2(3) *Form and identification.*** All tariffs shall conform to the following rules:

a. The tariff shall be ~~printed, typewritten or otherwise~~ filed electronically using the board’s electronic filing system. The filed tariff shall be capable of being reproduced on 8½- × 11- inch sheets of durable white paper so as to result in a clear and permanent record customers may readily view and reproduce copies of the tariff. The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding. In the case of utilities subject to regulation by any federal agency

UTILITIES DIVISION[199](cont'd)

~~the format of sheets of A~~ tariff as filed with the board may be the same format as is required by ~~the a~~ federal agency provided that the rules of the board as to title page; identity of superseding, replacing or revision sheets; identity of amending sheets; identity of the filing utility, issuing official, date of issue, effective date; and the words "Tariff with board" shall apply in the modification of the federal agency format for the purposes of filing with this board.

b. The title page of every tariff and supplement shall show:

(1) The first page shall be the title page which shall show:

(Name of Public Utility)  
Electric Tariff  
Filed with  
Iowa Utilities Board

(Date)

~~(This requirement does not apply to tariffs or amendments filed with the board prior to July 1, 1981.)~~

(2) When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on the upper right corner of its title page that it supersedes a tariff on file and the number being superseded or replaced, for example:

TARIFF NO. \_\_\_\_\_  
SUPERSEDES TARIFF NO. \_\_\_\_\_

~~(This requirement does not apply to tariffs or amendments filed with the board prior to July 1, 1981.)~~

(3) When a new part of a tariff eliminates an existing part of a tariff it shall so state and clearly indicate the part eliminated.

(4) Any tariff modifications as defined above shall be marked in the right-hand margin of the replacing tariff sheet with symbols as here described to indicate the place, nature and extent of the change in text.

—Symbols—

- (C)—Changed regulation
- (D)—Discontinued rate or regulation
- (I)—Increase in rate or new treatment resulting in increased rate
- (N)—New rate, treatment or regulation
- (R)—Reduction in rate or new treatment resulting in reduced rate
- (T)—Change in text only

c. All sheets except the title page shall have, in addition to the above-stated requirements, the following information:

(1) Name of utility under which shall be set forth the words "Filed with board." If the utility is not a corporation, and a trade name is used, the name of the individual or partners must precede the trade name.

(2) Issuing official and issue date.

(3) Effective date (to be left blank by rate-regulated utilities).

d. All sheets except the title page shall have the following form:

(Company Name)	(Part identification)
Electric Tariff	(This sheet identification)
Filed with board	(Canceled sheet identification, if any)
	(Content or tariff)
Issued: (Date)	Effective:
Issued by: (Name, title)	(Proposed Effective Date:)

The issued date is the date the tariff or the amended sheet content was adopted by the utility.

The effective date will be left blank by rate-regulated utilities and shall be determined by the board. The utility may propose an effective date.

## UTILITIES DIVISION[199](cont'd)

ITEM 5. Amend subrule 20.2(5) as follows:

**20.2(5)** *Annual, periodic and other reports to be filed with the board.*

a. System map verification. The utility shall file annually a verification that it has a currently correct set of utility system maps in accordance with ~~general requirement~~ the general requirements of subrule 20.3(11) and a statement as to the location of the utility's offices where such maps, except those deemed confidential by the board, are accessible and available for examination by the board or its agents. The verification and map location information shall also be reported to the board upon other occasions when significant changes occur in either the maps or location of the maps.

b. to e. No change.

f. ~~A copy of the~~ The utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, electrical contractors, etc., covering meter and service installations shall be filed with maintained and made available to the board upon request.

g. to k. No change.

ITEM 6. Amend subparagraph **20.3(1)“a”(2)** as follows:

(2) For temporary service installations not otherwise metered.

ITEM 7. Amend paragraph **20.3(1)“b”** as follows:

b. The amount of all electricity delivered to multioccupancy premises within a single building, where units are separately rented or owned, shall be measured on the basis of individual meter measurement for each unit, except in the following instances:

(1) Where electricity is used in centralized heating, cooling, water-heating, or ventilation systems;  
 (2) Where a facility is designated for elderly or handicapped persons;  
 (3) Where submetering or resale of service was permitted prior to 1966; ~~or~~  
 (4) Where individual metering is impractical. “Impractical” means: ~~(1) where conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; (2) where the cost of providing individual metering exceeds the long-term benefits of individual metering; or (3) where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.~~

1. Conditions or structural barriers exist in the multioccupancy building that would make individual meters unsafe or physically impossible to install; or

2. The cost of providing individual metering exceeds the long-term benefits of individual metering; or

(5) Where the benefits of individual metering (reduced and controlled energy consumption) are more effectively accomplished through a master meter arrangement.

1. A new multioccupancy building qualifies for master metering under this subparagraph if the predicted annual energy use would result in at least a 30 percent energy savings compared to the predicted annual energy use of a new building meeting the requirements of the State of Iowa Energy Code and operating with equipment, fixtures, and appliances meeting federal energy standards for manufactured devices for a new building.

2. An existing multioccupancy building qualifies for master metering under this subparagraph when the predicted annual energy use would result in at least a 20 percent energy savings compared to the building's current annual energy usage levels.

3. Credits for on-site renewable energy generation shall not be taken into account when determining the predicted energy savings.

4. A report from a qualified, independent third party stating that the proposed building or renovation will meet the energy savings requirements of this subparagraph shall establish a rebuttable presumption of eligibility for master metering. “Qualified, independent third party” means a licensed architect or engineer, a certified residential energy services network home energy rating system (RESNET HERS) rater, or any other professional deemed qualified by the board.

If a multioccupancy building is master-metered, the end-user occupants may be charged for electricity as an unidentified portion of the rent, condominium fee, or similar payment, or, if some other

## UTILITIES DIVISION[199](cont'd)

method of allocating the cost of the electric service is used, the total charge for electric service shall not exceed the total electric bill charged by the utility for the same period.

ITEM 8. Rescind and reserve subrule **20.3(4)**.

ITEM 9. Amend subrule 20.3(5) as follows:

**20.3(5) Meter register.** If it is necessary to apply a multiplier to the meter readings, the multiplier must be marked on the face of the meter register or stenciled in ~~weather-resistant~~ weather-resistant paint upon the front cover of the meter. Customers shall have continuous visual access to meter registers as a means of verifying the accuracy of bills presented to them and for implementing such energy conservation initiatives as they desire, except in the individual locations where the utility has experienced vandalism to windows in the protective enclosures. Where remote meter reading is used, whether outdoor on premises or off premises automated, the customer shall also have readable meter registers at the meter. A utility may comply with the requirements of this subrule by making the required information available via the Internet or other equivalent means.

Where ~~magnetic tape or other~~ a delayed processing means is used, the utility may comply by having readable kWh registers only, visually accessible.

In instances in which the utility has determined that readable access, to locations existing July 1, 1981, will create a safety hazard, the utility is exempted from the access provisions above.

In instances when a building owner has determined that unrestricted access to tenant metering installation would create a vandalism or safety hazard, the utility is exempted from the access provision above.

Continuing efforts should be made to eliminate or minimize the number of restricted locations. The utility should assist affected customers in obtaining meter register information.

ITEM 10. Amend subrule 20.3(6) as follows:

**20.3(6) Meter reading and billing interval.** Readings of all meters used for determining charges and billings to customers shall be scheduled at least monthly and for the beginning and termination of service. Bills to larger customers may, for good cause, be ~~rendered~~ provided weekly or daily for a period not to exceed one month. Intervals other than monthly shall not be applied to smaller customers, or to larger customers after the initial month provided above, without a waiver from the board. A waiver request must include sufficient information to comply with ~~199—1.3(17A,474,476,78GA,HF2206)~~ 199—1.3(17A,474,476). If the board denies a waiver, or if a waiver is not sought with respect to a ~~high demand~~ high-demand customer after the initial month, that customer's meter shall be read monthly for the next 12 months. The group of larger customers to which shorter billing intervals may be applied shall be specified in the utility's tariff sheets, but shall not include residential customers.

An effort shall be made to obtain readings of the meters on corresponding days of each ~~meter-reading~~ meter reading period. When the meter reading date causes a given billing period to deviate by more than 10 percent (counting only business days) from the normal meter reading period, such bills shall be prorated on a daily basis.

The utility may permit the customer to supply the meter readings by telephone, by electronic means, or on a form supplied by the utility. The utility may arrange for customer meter reading forms to be delivered to the utility by United States mail, electronically, or by hand delivery. The utility may arrange for the meter to be read by electronic means. Unless the utility has a plan to test check meter readings, a utility representative shall physically read the meter at least once each 12 months.

In the event that the utility leaves a meter reading form with the customer when access to meters cannot be gained and the form is not returned in time for the billing operation, an estimated bill may be ~~rendered~~ provided.

If an actual meter reading cannot be obtained, the utility may ~~render~~ provide an estimated bill without reading the meter or supplying a meter reading form to the customer. Only in unusual cases or when approval is obtained from the customer shall more than three consecutive estimated bills be ~~rendered~~ provided.

## UTILITIES DIVISION[199](cont'd)

ITEM 11. Amend subrule 20.3(8) as follows:

**20.3(8) Service areas.** Service areas are defined by the boundaries on service area maps. Paper maps are available for viewing during regular business hours at the board's offices, and available for purchase at the cost of reproduction. Maps are also available for viewing on the board's website. These service area maps are adopted as part of this rule and are incorporated in this rule by this reference.

ITEM 12. Amend paragraph **20.3(11)“b”** as follows:

*b.* All maps, except those deemed confidential by the board, shall be available for examination at the utility's designated offices during the utility's regular office hours. The maps shall be drawn with clean, uniform lines to a scale of one inch per mile. A large scale shall be used where it is necessary to clarify areas where there is a heavy concentration of facilities. All cartographic details shall be clean cut, and the background shall contain little or no coloration or shading.

ITEM 13. Adopt the following **new** subrule 20.3(12):

**20.3(12) Prepayment meters.** Prepayment meters shall not be geared or set so as to result in the charge of a rate or amount higher than would be paid if a standard type meter were used, except under tariffs approved by the board.

ITEM 14. Amend paragraph **20.3(13)“a,”** definition of “Contribution in aid of construction,” as follows:

“*Contribution in aid of construction,*” as used in this subrule, means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of ~~an electrical line extension or a~~ a service line that are in excess of costs paid by the utility. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

ITEM 15. Amend subparagraph **20.3(13)“c”(5)** as follows:

(5) Refunds. When the customer is required to make an advance for construction, the utility shall refund to the depositor for a period of ten years from the date of the original advance a pro-rata share for each service line attached to the electrical line extension. The pro-rata refund shall be computed in the following manner:

1. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the electrical line extension and each service line attached to the electrical line extension exceeds the total estimated ~~construction~~ construction cost to provide the electrical line extension, the entire amount of the advance for construction provided shall be refunded.

2. and 3. No change.

ITEM 16. Amend paragraph **20.3(13)“e”** as follows:

*e. Extensions not required.* Utilities shall not be required to make electrical line extensions or install service lines as described in this subrule, unless the electrical line extension or service line shall be of a permanent nature. When the utility provides a temporary service to a customer, the utility may require that the customer bear all the cost of installing and removing the service in excess of any salvage realized.

ITEM 17. Amend subrule 20.4(1) as follows:

**20.4(1) Customer information.** Each utility shall:

*a.* and *b.* No change.

*c.* Notify customers affected by a change in rates or schedule classification in the manner provided in the rules of practice and procedure before the board. [~~199—7.4(476) IAC~~] (199—26.5(476))

*d.* Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the utility, as filed with the board, are available for public inspection. If the utility has provided access to its rate schedules and rules for service on its ~~Web-site~~ website, the notice ~~should~~ shall include the ~~Web-site~~ website address.

*e.* No change.

## UTILITIES DIVISION[199](cont'd)

*f.* State, on the bill form, that tariff and rate schedule information is available upon request at the utility's local business office. If the utility provides access to its tariff and rate schedules on its website, the bill form shall include the website address.

*g.* and *h.* No change.

ITEM 18. Amend subrule 20.4(2) as follows:

**20.4(2) Customer contact employee qualifications.** Each utility shall promptly and courteously resolve inquiries for information or complaints. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer that will enable the customer to reach that employee again if needed.

Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, or by writing to 1375 E. Court Avenue, ~~Room 69~~, Des Moines, Iowa 50319-0069, or by ~~E-mail~~ email to customer@iub.iowa.gov."

The bill insert or notice for municipal utilities shall include the following statement: "If your complaint is related to service disconnection, safety, or renewable energy, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, ~~Room 69~~, Des Moines, Iowa 50319-0069, or by ~~E-mail~~ email to customer@iub.iowa.gov."

The bill insert or notice for non-rate-regulated rural electric cooperatives shall include the following statement: "If your complaint is related to the (utility name) service rather than its rates, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling (515)725-7321, or toll-free 1-877-565-4450, by writing to 1375 E. Court Avenue, ~~Room 69~~, Des Moines, Iowa 50319-0069, or by ~~E-mail~~ email to customer@iub.iowa.gov."

The bill insert or notice on the bill shall be provided monthly by utilities serving more than 50,000 Iowa retail customers and no less than annually by all other electric utilities. Any utility which does not use the standard statement described in this subrule shall file its proposed statement in its tariff for approval. A utility that bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

ITEM 19. Amend subrule 20.4(9) as follows:

**20.4(9) Customer bill forms.** Each customer shall be informed as promptly as possible following the reading of the customer's meter, on bill form or otherwise, of the following:

*a.* The reading of the meter at the beginning and at the end of the period for which the bill is ~~rendered~~ provided.

*b.* and *c.* No change.

*d.* The applicable rate schedule, ~~or~~ with the identification of the applicable rate ~~schedule~~ classification.

*e.* No change.

*f.* The last date for timely payment shall be clearly shown and shall be not less than 20 days after the bill is ~~rendered~~ provided.

*g.* to *j.* No change.

ITEM 20. Amend subrule 20.4(11) as follows:

**20.4(11) Payment agreements.**

*a.* and *b.* No change.

*c.* *Terms of payment agreements.*

(1) *First payment agreement.* ~~The utility shall offer customers who have received a disconnection notice or have been disconnected 120 days or less and who are not in default of a payment agreement the~~

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~~option of spreading payments evenly over at least 12 months by paying specific amounts at scheduled times. The utility shall offer customers who have been disconnected more than 120 days and who are not in default of a payment agreement the option of spreading payments evenly over at least 6 months by paying specific amounts at scheduled times. The utility shall offer the following conditions to customers who have received a disconnection notice or who have been previously disconnected and are not in default of a payment agreement:~~

~~1. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules. The utility may also require the customer to enter into a level payment plan to pay the current bill.~~

~~2. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.~~

~~3. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement. The document will be considered rendered to the customer when addressed to the customer's last known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement or electronic agreement.~~

~~4. Each customer entering into a first payment agreement shall be granted at least one late payment that is made four days or less beyond the due date for payment and the first payment agreement shall remain in effect.~~

~~1. For customers who received a disconnection notice or who have been disconnected less than 120 days and are not in default of a payment agreement, the utility shall offer an agreement with at least 12 even monthly payments. For customers who have been disconnected more than 120 days and are not in default of a payment agreement, the utility shall offer an agreement with at least 6 even monthly payments. The utility shall inform customers they may pay off the delinquency early without incurring any prepayment penalties.~~

~~2. The agreement shall also include a provision for payment of the current account.~~

~~3. The utility may also require the customer to enter into a budget billing plan to pay the current bill.~~

~~4. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.~~

~~5. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission.~~

~~6. When the customer makes the agreement over the telephone or through electronic transmission, the utility shall provide to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement.~~

~~7. The document will be considered provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage paid. If delivery is by other than U.S. mail, the document shall be considered provided to the customer when delivered to the last-known address of the person responsible for payment for the service.~~

~~8. The document shall state that unless the customer notifies the utility otherwise within ten days from the date the document is provided, it will be deemed that the customer accepts the terms as stated~~

## UTILITIES DIVISION[199](cont'd)

in the written document. The document stating the terms and conditions of the agreement shall include the address and a toll-free or collect telephone number where a qualified representative can be reached.

9. Once the first payment required by the agreement is made by the customer or on behalf of the customer, the oral or electronic agreement is deemed accepted by the customer.

10. Each customer entering into a first payment agreement shall be granted at least one late payment that is four days or less beyond the due date for payment, and the first payment agreement shall remain in effect.

11. The initial payment is due on the due date for the next regular bill.

(2) *Second payment agreement.* The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two consecutive full payments under the first payment agreement.

1. The second payment agreement shall be for ~~the same term as or longer than~~ a term at least as long as the term of the first payment agreement.

2. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement.

3. The utility may also require the customer to enter into a ~~level payment~~ budget billing plan to pay the current bill.

(3) Additional payment agreements. The utility may offer additional payment agreements to the customer.

*d. Refusal by utility.* A customer may offer the utility a proposed payment agreement. If the utility and the customer do not reach an agreement, the utility may refuse the offer orally, but the utility must ~~render~~ provide a written refusal to the customer, stating the reason for the refusal, within three days of the oral notification. The written refusal shall be considered ~~rendered~~ provided to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the written refusal shall be considered ~~rendered~~ provided to the customer when handed to the customer or when delivered to the last-known address of the person responsible for the payment for the service.

A customer may ask the board for assistance in working out a reasonable payment agreement. The request for assistance must be made to the board within ten days after ~~the rendering of~~ the written refusal is provided. During the review of this request, the utility shall not disconnect the service.

ITEM 21. Amend subrule 20.4(12) as follows:

**20.4(12) Bill payment terms.** The bill shall be considered ~~rendered~~ provided to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered ~~rendered~~ provided when delivered to the last-known address of the party responsible for payment. There shall not be less than 20 days between the ~~rendering~~ providing of a bill and the date by which the account becomes delinquent. Bills for customers on more frequent billing intervals under subrule 20.3(6) may not be considered delinquent less than 5 days from the date ~~of rendering~~ the bill is provided. However, a late payment charge may not be assessed if payment is received within 20 days of the date the bill is ~~rendered~~ provided.

*a.* The date of delinquency for all residential customers or other customers whose consumption is less than 3,000 kWh per month, shall be changeable for cause ~~in writing~~; such as, but not limited to, 15 days from approximate date each month upon which income is received by the person responsible for payment. In no case, however, shall the utility be required to delay the date of delinquency more than 30 days beyond the date of preparation of the previous bill.

*b. to d.* No change.

*e.* Level payment Budget billing plan. Utilities shall offer a ~~level payment~~ budget billing plan to all residential customers or other customers whose consumption is less than 3,000 kWh per month. A ~~level payment~~ budget billing plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances. The ~~level payment~~ budget billing plan shall include at least the following:

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(1) Be offered to each eligible customer when the customer initially requests service. The plan may be estimated if there is insufficient usage history to create a budget billing plan based on actual use.

(2) Allow for entry into the level-payment budget billing plan anytime during the calendar year.

(3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level-payment budget billing plan to a customer for six months after the customer has terminated from a level-payment budget billing plan.

(4) Use a computation method that produces a reasonable monthly level-payment budget billing amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements ~~in 20.4(12) "e"~~(4) of this subrule. The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the level-payment budget billing plan.

The amount to be paid at each billing interval by a customer on a level-payment budget billing plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The level-payment budget billing amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level-payment budget billing amount is recomputed, the level-payment budget billing plan account balance shall be divided by 12, and the resulting amount shall be added to the estimated monthly level-payment budget billing amount. Except when a utility has a level-payment budget billing plan that recomputes the level-payment budget billing amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level-payment budget billing amounts due or of obtaining a refund of any credit in excess of \$25.

Except when a utility has a level-payment budget billing plan that recomputes the level-payment budget billing amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing period prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level-payment budget billing amount. If the account balance is a credit, the level-payment budget billing plan may be terminated by the utility after 30 days of delinquency.

ITEM 22. Amend subrule 20.4(13) as follows:

**20.4(13) Customer records.** The utility shall retain records as may be necessary to effectuate compliance with 20.4(14) and 20.6(6), but not less than ~~three~~ five years. Records for customer shall show where applicable:

- a. kWh meter reading.
- b. kWh consumption.
- c. kW meter reading.
- d. kW measured demand.
- e. kW billing demand.
- f. Total amount of bill.

ITEM 23. Amend paragraph **20.4(14)"d"** as follows:

d. *Back billing.* A utility may not back bill due to underregistration unless a minimum back bill amount is specified in its tariff. The minimum amount specified for back billing shall not be less than, but may be greater than, \$5 for an existing customer or \$10 for a former customer. All recalculations resulting in an amount due equal to or greater than the tariff specified minimum shall result in issuance of a back bill.

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Back billings shall be ~~rendered~~ provided no later than six months following the date of the metering installation test.

ITEM 24. Amend paragraph **20.4(15)“a”** as follows:

a. The utility shall give written notice of pending disconnection except as specified in paragraph 20.4(15) “b.” The notice shall set forth the reason for the notice and the final date by which the account is to be settled or specific action taken. The notice shall be considered ~~rendered~~ provided to the customer when addressed to the customer’s last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered ~~rendered~~ provided when delivered to the last-known address of the person responsible for payment for the service. The date for disconnection of service shall be not less than 12 days after the notice is ~~rendered~~ provided. The date for disconnection of service for customers on shorter billing intervals under subrule 20.3(6) shall not be less than 24 hours after the notice is posted at the service premises.

One written notice, including all reasons for the notice, shall be given where more than one cause exists for disconnection of service. In determining the final date by which the account is to be settled or other specific action taken, the days of notice for the causes shall be concurrent.

ITEM 25. Amend subparagraph **20.4(15)“d”(3)** as follows:

(3) The summary of the rights and responsibilities must be approved by the board. Any utility providing electric service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below for customers billed monthly shall submit to the board ~~an original and six copies of~~ electronically its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word “electric” with the words “gas and electric” in all instances.

**CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUTOFF OF ELECTRIC SERVICE FOR NONPAYMENT**

**1. What can I do if I receive a notice from the utility that says my service will be shut off because I have a past due bill?**

- a. Pay the bill in full; or
- b. Enter into a reasonable payment plan with the utility (see #2 below); or
- c. Apply for and become eligible for low-income energy assistance (see #3 below); or
- d. Give the utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or
- e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

**2. How do I go about making a reasonable payment plan? (Residential customers only)**

- a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.
- b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, you may qualify for a second payment agreement under certain conditions.
- c. If you do not make the payments you promise, the utility may shut off your utility service on one day’s notice unless all the money you owe the utility is paid or you enter into another payment agreement.

**3. How do I apply for low-income energy assistance? (Residential customers only)**

- a. Contact the local community action agency in your area (see attached list); or visit [humanrights.iowa.gov/dcaa/where-apply](http://humanrights.iowa.gov/dcaa/where-apply).
- ~~b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, you must contact the utility prior to disconnection of your service.~~
- e. b. To avoid disconnection, you must apply for energy assistance or weatherization before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance.

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Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

d. c. Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.

d. If you have additional questions, contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-3861.

**4. What if someone living at the residence has a serious health condition? (Residential customers only)**

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within 5 days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

**5. What should I do if I believe my bill is not correct?**

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute. (See #9 below.)

**6. When can the utility shut off my utility service because I have not paid my bill?**

a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.  
b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The utility will not shut off your service if the temperature is forecasted to be 20 degrees Fahrenheit or colder during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the utility cannot shut off your service from November 1 through April 1. However, you will still owe the utility for the service used during this time.

f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

g. If one of the heads of household is a service member deployed for military service, utility service cannot be shut off during the deployment or within 90 days after the end of deployment. In order for this exception to disconnection to apply, the utility must be informed of the deployment prior to disconnection. However, you will still owe the utility for service used during this time.

**7. How will I be told the utility is going to shut off my service?**

a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The utility must also try to reach you by telephone or in person before it shuts off your service. From November 1 through April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of or another conspicuous place at your residence to tell you that your utility service will be shut off.

**8. If service is shut off, when will it be turned back on?**

a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan (see #2 above).

## UTILITIES DIVISION[199](cont'd)

b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

**9. Is there any other help available besides my utility?**

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, or by E-mail at [customer@iub.iowa.gov](mailto:customer@iub.iowa.gov). Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 1-800-532-1275.

ITEM 26. Amend subparagraph **20.4(15)“d”(5)** as follows:

(5) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the customer's rights and responsibilities. During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.

If an attempt at personal or telephone contact of a customer occupying a rental unit has been unsuccessful, the utility shall make a diligent attempt to contact the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected. The utility shall make a diligent attempt to inform the landlord at least 48 hours prior to disconnection of service to a tenant.

If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons for the disconnection.

ITEM 27. Amend subparagraph **20.4(15)“d”(6)** as follows:

(6) Disputed bill. If the customer has received notice of disconnection and has a dispute concerning a bill for electric utility service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid disconnection of service. A utility shall delay disconnection for nonpayment of the disputed bill for up to 45 days after the ~~rendering~~ providing of the bill if the customer pays the undisputed amount. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board in compliance with 199—Chapter 6.

ITEM 28. Amend subparagraph **20.4(15)“d”(8)** as follows:

(8) Severe cold weather. A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at ~~the a residence on any day~~ when the actual temperature or the 24-hour forecast of the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will residence's area is predicted to be 20 degrees Fahrenheit or colder. In any case where If the utility has properly posted a disconnect notice in compliance with subparagraph 20.4(15)“d”(5) but is precluded from disconnecting service because of a National Weather Service forecast severe cold weather, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the residence's area where the residence is located rises above 20 degrees Fahrenheit and is forecasted to be remain above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is otherwise entitled to postponement of disconnection under some other provision of paragraph 20.4(15)“d.”.

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ITEM 29. Amend subparagraph **20.4(15)“d”(10)** as follows:

(10) Winter energy assistance (November 1 through April 1). If the utility is informed that the customer's household may qualify for winter energy assistance or weatherization funds, there shall be no disconnection of service for 30 days from the date the utility is notified to allow the customer time to obtain assistance. Disconnection shall not take place from November 1 through April 1 for a resident who is a head of household and who has been certified to the public utility by the community action agency as eligible for either the low-income home energy assistance program or weatherization assistance program. A utility may develop an incentive program to delay disconnection on April 1 for customers who make payments throughout the November 1 through April 1 period. All such incentive programs shall be set forth in tariffs approved by the board.

ITEM 30. Amend subrule 20.4(16) as follows:

**20.4(16) *Insufficient reasons for denying service.*** The following shall not constitute sufficient cause for refusal of service to a customer:

- a. to d. No change.
- e. Failure to pay the back bill ~~rendered~~ provided in accordance with paragraph 20.4(14) “d” (slow meters).
- f. Failure to pay a bill ~~rendered~~ provided in accordance with paragraph 20.4(14) “f.”
- g. Failure of a residential customer to pay a deposit during the period November 1 through April 1 for the location at which the customer has been receiving service in the customer's name.
- h. No change.
- i. Delinquency in payment for service arising more than ten years prior, as measured from the most recent of:
  - (1) The last date of service for the account giving rise to the delinquency,
  - (2) Physical disconnection of service for the account giving rise to the delinquency, or
  - (3) The last voluntary payment or voluntary written promise of payment made by the customer, if made before the ten-year period described in this paragraph has otherwise lapsed.
- j. Delinquency in payment for service that arose on or before September 4, 2010, pursuant to an oral contract, except in cases of fraud or deception that prevented the utility from timely addressing such delinquencies with the customer.

ITEM 31. Rescind and reserve subrule **20.4(21)**.

ITEM 32. Amend subrule 20.4(22), introductory paragraph, as follows:

**20.4(22) *Change in type of service.*** If a change in the type of service, ~~such as from 25- to 60-cycle or from direct or alternating current,~~ or a change in voltage to a customer's substation, is effected at the insistence of the utility and not solely by reason of increase in the customer's load or change in the character thereof, the utility shall share equitably in the cost of changing the equipment of the customer affected as determined by the board in the absence of agreement between utility and customer. In general, the customer should be protected against or reimbursed for the following losses and expenses to an appropriate degree:

ITEM 33. Rescind and reserve subrule **20.5(5)**.

ITEM 34. Amend paragraph **20.6(3)“a”** as follows:

- a. American National Standard Code for Electricity Metering, ANSI C12.1-~~2008~~ 2014.

ITEM 35. Adopt the following **new** subrule 20.6(8):

**20.6(8) *Comprehensive meter upgrade programs.***

- a. A utility may forgo the meter testing procedures required under the utility's own inspection and testing program and subrule 20.6(2) if:
  - (1) The meters are removed or scheduled to be removed as part of a comprehensive meter upgrade program over a specified period not to exceed three years;
  - (2) The meters being removed have not previously been shown to be inaccurate or otherwise faulty;
  - (3) The utility either retains the removed meters for a period of one year from the removal date to allow customers the opportunity to challenge a meter's accuracy or tests a representative statistical

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sample based upon an industry standard such as ANSI C12.1-2014 of each type of meter being removed as part of the program and maintains the removed meters for a period of at least six months; and

(4) The utility tests any meter upon request of a customer based upon the customer's experience comparing the replaced and replacement meters.

*b.* Prior to forgoing its testing procedures under this subrule, a utility shall notify the board that the utility is engaging in a comprehensive meter upgrade program. The notice shall state the option the utility is electing to pursue under subparagraph 20.6(8) "a"(3), the specified period of the program, and the expected number of meters to be upgraded. A utility electing to test a statistical sample of removed meters under subparagraph 20.6(8) "a"(3) shall also state the industry standard it will use to determine the sample size and provide the full text of the standard to the board upon request.

*c.* A utility shall continue to follow the meter testing procedures for meters removed for any reason unrelated to the comprehensive meter upgrade program.

*d.* A utility shall resume the meter testing procedures required under the utility's own inspection and testing program and subrule 20.6(2) upon completion of the comprehensive meter upgrade program or the end of the specified period, whichever occurs first.

ITEM 36. Amend subrule 20.7(7) as follows:

**20.7(7)** Each utility shall make a sufficient number of voltage measurements, ~~using recording voltmeters,~~ in order to determine if voltages are in compliance with the requirements as stated in 20.7(2), 20.7(3), and 20.7(4). All ~~voltmeter~~ records obtained under ~~20.7(7) this subrule~~ shall be retained by the utility for at least two years and shall be available for inspection by the board's representatives. Notations on each chart shall indicate the following:

- a.* The location where the voltage was taken.
- b.* The time and date of the test.
- c.* The results of the comparison with a working standard indicating voltmeter.

ITEM 37. Amend subparagraph **20.9(2)"b"(5)** as follows:

(5) The energy costs paid for energy purchased under arrangements or contracts for ~~firm power, operational control energy, outage energy, participation power, peaking power, and economy energy, capacity and energy,~~ as entered into account 555 of the Uniform System of Accounts, less the energy revenues to be recovered from corresponding sales, as entered in account 447 of the Uniform System of Accounts.

ITEM 38. Amend subrule 20.9(3) as follows:

**20.9(3)** *Optional energy clause for a rate-regulated utility which does not own generation.* A rate-regulated utility which does not own generation may adopt the energy adjustment clause of this subrule in lieu of that set forth in subrule 20.9(2). Prior to each billing cycle ~~it,~~ the rate-regulated utility shall determine and file for board approval the adjustment amount to be charged for each energy unit consumed under rates set by the board. The filing shall include all journal entries, invoices (except invoices for fuel, freight, and transportation), worksheets, and detailed supporting data used to determine the amount of the adjustment. ~~The estimated amount of fossil fuel should be detailed to reflect the amount of fuel, transportation, and other costs.~~

~~The journal entries should reflect the following breakdown for each type of fuel: actual cost of fuel, transportation, and other costs. Items~~ The items identified as other costs should be described and their inclusion as fuel energy costs should be justified. The utility shall also file detailed supporting data:

1. To show the actual amount of sales of energy by month for which an adjustment was utilized, and
2. To support the energy cost adjustment balance utilized in the monthly energy adjustment clause filings.
  - a. to e.* No change.

ITEM 39. Amend subrule 20.9(4) as follows:

**20.9(4)** *Annual review* Review of energy clause. ~~On or before each May 1~~ At least biennially, but no more than annually, the board will ~~notify~~ require each utility ~~as to the~~ that owns generation and utilizes

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an energy adjustment clause to provide fuel, freight, and transportation invoices from two months of the previous calendar year for which fuel, freight, and transportation invoices will be required. The board will notify each utility by May 1 as to which two months' invoices will be required. Two copies of these invoices shall be filed with the board no later than the subsequent November 1.

ITEM 40. Amend rule **199—20.9(476)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~476.6(11)~~ 476.6(12).

ITEM 41. Rescind rule 199—20.11(476) and adopt the following **new** rule in lieu thereof:

**199—20.11(476) Customer notification of peaks in electric energy demand.**

**20.11(1)** Pursuant to Iowa Code section 476.17, each investor-owned utility shall have a plan to notify its customers of an approaching peak demand on the day when peak demand is likely to occur. The plan shall be made available to the board upon request.

**20.11(2)** The plan shall include, at a minimum, the following:

- a. A description and explanation of the condition(s) that will prompt a peak alert.
- b. A provision for a general notice to be given to customers prior to the time when peak demand is likely to occur and an explanation of when and how notice of an approaching peak in electric demand will be given to customers.
- c. The text of the message or messages to be given in the general notice to customers. The message shall include the name of the utility providing the notice, an explanation that conditions exist which indicate a peak in electric demand is approaching, and an explanation of the significance of reductions in electricity use during a period of peak demand and the potential benefits of energy efficiency.

ITEM 42. Amend subrule 20.13(1), introductory paragraph, as follows:

**20.13(1) Procurement plan.** ~~The Pursuant to Iowa Code section 476.6(12), the board shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's electric fuel procurement and contracting practices. By January 31 each year the board will notify a rate-regulated utility if the utility will be required to file an electric fuel procurement plan. In the years in which it does not conduct a contested case proceeding, the board may require a utility to file certain information for the board's review. In years in which a full proceeding is conducted, a rate-regulated utility providing electric service in Iowa shall prepare and file with the board on or before May 15 of each required filing year a complete electric fuel procurement plan for an annual period commencing June 1 or, in the alternative, for the annual period used by the utility in preparing its own fuel procurement plan. practices related to procurement of and contracting for fuel used in generating electricity. When it determines to conduct a contested case proceeding, the board shall notify a rate-regulated utility that the utility will be required to file an electric fuel procurement plan. The notification to the utility shall include a detailed list of what the board will be examining as part of the review. The utility shall file its plan no later than 105 days after notification unless otherwise directed by the board.~~ A utility's procurement plan shall be organized to include information as follows:

ITEM 43. Rescind and reserve subrule **20.13(2)**.

ITEM 44. Amend paragraph **20.14(3)“c”** as follows:

c. The floor for the discount rate shall be equal to the energy costs and customer costs of serving the specific customer.

ITEM 45. Amend subrule 20.15(1) as follows:

**20.15(1) Applicability and purpose.** This rule applies to each electric public utility, as defined in Iowa Code sections 476.1, 476.1A, and 476.1B. ~~Each Pursuant to Iowa Code section 476.66, each utility shall maintain a program plan to assist the utility's low-income customers with weatherization and to supplement assistance received under the federal low-income home energy assistance program for the payment of winter heating bills.~~

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ITEM 46. Rescind and reserve subrule **20.15(2)**.

ITEM 47. Amend subrule 20.15(3), introductory paragraph, as follows:

**20.15(3) Notification.** Each utility shall notify all customers of the customer contribution fund at least twice a year. The method of notice which will ensure the most comprehensive notification to the utility's customers shall be employed. Upon commencement of service and at least once a year, the notice shall be mailed or personally delivered to all customers, or provided by electronic means to those customers who have consented to receiving electronic notices. The other required notice may be published in a local newspaper(s) of general circulation within the utility's service territory. A utility serving fewer than 6,000 customers may publish ~~their~~ its semiannual notices locally in a free newspaper, utility newsletter or shopper's guide instead of a newspaper. At a minimum, the notice shall include:

ITEM 48. Amend subrule 20.15(4) as follows:

**20.15(4) Methods of contribution.** The utility shall provide for contributions as monthly pledges, as well as one-time or periodic contributions. A pledge by a customer or other party shall not be construed to be a binding contract between the utility and the pledger. The pledge amount shall not be subject to delayed payment charges by the utility. Each utility may allow persons or organizations to contribute matching funds.

ITEM 49. Rescind and reserve subrule **20.15(6)**.

ITEM 50. Amend subrule 20.17(1) as follows:

**20.17(1) Applicability and purpose.** This rule applies to all rate-regulated utilities providing electric service in Iowa. Under ~~Title IV~~ of the Clean Air Act Amendments of 1990, each electric utility is required to hold sufficient emission allowances to offset emissions at all affected and new units. The acquisition and disposition of emission allowances will be treated for ratemaking purposes as defined in this rule.

ITEM 51. Amend subrule 20.17(2) as follows:

**20.17(2) Definitions.** The following words and terms, when used in this rule, shall have the meaning indicated below:

*"Allowance futures contract"* is an agreement between a futures exchange clearinghouse and a buyer or seller to buy or sell an allowance on a specified future date at a specified price.

*"Allowance option contract"* is an agreement between a buyer and seller whereby the buyer has the option to transfer an allowance(s) at a specified date at a specified price. The seller of a call or put option will receive a premium for taking on the associated risk.

*"Auction allowances"* are allowances acquired or sold through EPA's annual allowance auction.

*"Boot"* means something acquired or forfeited to equalize a trade.

*"Direct sale allowances"* are allowances purchased from the EPA in its annual direct sale.

*"Emission for emission trade"* is an exchange of one type of emission for another type of emission. ~~For example, the exchange of SO<sub>2</sub> emission allowances for NO<sub>x</sub> emission allowances.~~

*"Fair market value"* is the amount at which an allowance could reasonably be sold in a transaction between a willing buyer and a willing seller other than in a forced or liquidation sale.

*"Historical cost"* is the amount of cash or its equivalent paid to acquire an asset, including any direct acquisition expenses. Any commissions paid to brokers shall be considered a direct acquisition expense.

*"Original cost"* is the historical cost of an asset to the person first devoting the asset to public service.

*"Statutory allowances"* are allowances allocated by the EPA at no cost to affected units under the ~~Acid Rain Program~~ Clean Air Act either through annual allocations as a matter of statutory right and those for which a utility may qualify by using certain compliance options or effective use of conservation and renewables.

*"Vintage trade"* is an exchange of one vintage of allowances for another vintage of allowances with ~~the difference in value between vintages being cash or additional allowances.~~

ITEM 52. Amend subrule 20.18(1) as follows:

**20.18(1) Applicability.** ~~Rule 199—20.18(476,478)~~ This rule is applicable to investor-owned electric utilities and electric cooperative corporations and associations operating within the state of Iowa subject

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to Iowa Code chapter 476 and to the construction, operation, and maintenance of electric transmission lines by electric utilities as defined in subrule 20.18(4) to the extent provided in Iowa Code chapter 478.

ITEM 53. Amend subrule 20.18(2) as follows:

**20.18(2) Purpose and scope.** Reliable electric service is of high importance to the health, safety, and welfare of the citizens of Iowa. The purpose of this rule ~~199—20.18(476,478)~~ is to establish requirements for assessing the reliability of the transmission and distribution systems and facilities that are under the board's jurisdiction. This rule establishes reporting requirements to provide consumers, the board, and electric utilities with methodology for monitoring reliability and ensuring quality of electric service within an electric utility's operating area. This rule provides definitions and requirements for maintenance of interruption data, retention of records, and report filing.

ITEM 54. Amend paragraph **20.18(3)“g”** as follows:

g. Any electric utility unable to comply with applicable provisions of this rule ~~199—20.18(476,478)~~ may file a waiver request pursuant to rule ~~199—1.3(17A,474,476,78GA,HF2206)~~ 199—1.3(17A,474,476).

ITEM 55. Amend subrule 20.18(4), introductory paragraph, as follows:

**20.18(4) Definitions.** Terms and formulas when used in this rule ~~199—20.18(476,478)~~ are defined as follows:

ITEM 56. Amend subrule **20.18(4)**, definition of “Customer,” as follows:

“Customer” means (1) any person, firm, association, or corporation, (2) any agency of the federal, state, or local government, or (3) any legal entity responsible by law for payment of the electric service from the electric utility which has a separately metered electrical service point for which a bill is rendered provided. Electrical service point means the point of connection between the electric utility's equipment and the customer's equipment. Each meter equals one customer. Retail customers are end-use customers who purchase and ultimately consume electricity.

ITEM 57. Amend subrule 20.18(7), introductory paragraph, as follows:

**20.18(7) Annual reliability and service quality report for utilities with more than 50,000 Iowa retail customers.** Each electric utility with over 50,000 Iowa retail customers shall submit to the board ~~and consumer advocate~~ on or before May 1 of each year an annual reliability report for the previous calendar year for the Iowa jurisdiction. The report shall include the following information:

ITEM 58. Amend paragraph **20.18(7)“f”** as follows:

f. *Plans and status report.*

(1) A plan for service quality improvements, including costs, for the electric utility's transmission and distribution facilities that will ensure quality, safe, and reliable delivery of energy to customers.

~~1.—The plan shall cover not less than the three years following the year in which the annual report was filed. A copy of the electric utility's documents and databases supporting capital investment and maintenance budget amounts required in 20.18(7)“g”(1) and 20.18(7)“h”(1), respectively, (including but not limited to transmission and distribution facilities, transmission and distribution control and communication facilities, and transmission and distribution planning, maintenance, and reliability-related computer hardware and software) shall be maintained in the utility's principal Iowa business location and shall be available for inspection by the board and office of consumer advocate. The utility's plan may reference said budget documents and databases, instead of duplicating or restating the detail therein. Copies of capital budgeting documents shall be maintained for five years.~~

~~2.—The plan shall identify reliability challenges and may describe specific projects and projected costs. The filing of the plan shall not be considered as evidence of the prudence of the utility's reliability expenditures.~~

~~3.—The plan shall provide an estimate of the timing for achievement of the plan's goals.~~

~~(2) A progress report on plan implementation. The report shall include identification of significant changes to the prior plan and the reasons for the changes.~~

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ITEM 59. Amend paragraph **20.18(7)“i”** as follows:

*i.* The annual reliability report, ~~starting with the reliability report for calendar year 2008,~~ shall include the number of poles inspected, the number rejected, and the number replaced.

ITEM 60. Amend subrule 20.18(8) as follows:

**20.18(8)** *Annual report for all electric utilities not reporting pursuant to 20.18(7).*

*a.* ~~By July 1, 2003, each~~ Each electric utility shall adopt and have approved by its board of directors or other governing authority a reliability plan ~~and shall file an informational copy of the plan with the board.~~ The plan shall be updated not less than annually ~~and shall describe the following:~~

~~(1) The utility's current reliability programs, including:~~

~~1. Tree trimming cycle, including descriptions and explanations of any changes to schedules and procedures reportable in accordance with 199 IAC 25.3(3)“c”;~~

~~2. Animal contact reduction programs, if applicable;~~

~~3. Lightning outage mitigation programs, if applicable; and~~

~~4. Other programs the electric utility may identify as reliability-related.~~

~~(2) Current ability to track and monitor interruptions.~~

~~(3) How the electric utility plans to communicate its plan with customers/consumer owners.~~

*b.* ~~By April 1, 2004, and each April 1 thereafter~~ of each year, each electric utility shall prepare for its board of directors or other governing authority a reliability report. A copy of the annual report shall be filed with the board for informational purposes, shall be made publicly available in its entirety to customers/consumer owners, and shall report on ~~at least the following:~~ the reliability indices in 20.18(5)“b”(3) for each of the five previous calendar years.

~~(1) Measures of reliability for each of the five previous calendar years, including reliability indices if required in 20.18(5)“b”(3). These measures shall start with data from the year covered by the first Annual Reliability Report so that by the fifth Annual Reliability Report submittal reliability measures will be based upon five years of data.~~

~~(2) Progress on any reliability programs identified in its plan, but not less than the applicable programs listed in 20.18(8)“a”(1).~~

ITEM 61. Adopt the following **new** paragraph **20.19(2)“c”**:

*c.* The utility shall notify the board once service is fully restored to all customers after an outage meeting the requirements of subrule 20.19(1).

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