



# IOWA ADMINISTRATIVE BULLETIN

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Pages 3149 to 3260

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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]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

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

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### CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, 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
Sep. 6	Sep. 25	Oct. 15	Oct. 30	<b>**Oct. 30**</b>	Nov. 20	Dec. 25	Mar. 23 '20
Sep. 20	Oct. 9	Oct. 29	Nov. 13	<b>**Nov. 13**</b>	Dec. 4	Jan. 8 '20	Apr. 6 '20
Oct. 4	Oct. 23	Nov. 12	Nov. 27	Nov. 29	Dec. 18	Jan. 22 '20	Apr. 20 '20
Oct. 18	Nov. 6	Nov. 26	Dec. 11	<b>**Dec. 11**</b>	Jan. 1 '20	Feb. 5 '20	May 4 '20
<b>**Oct. 30**</b>	Nov. 20	Dec. 10	Dec. 25	<b>**Dec. 26**</b>	Jan. 15 '20	Feb. 19 '20	May 18 '20
<b>**Nov. 13**</b>	Dec. 4	Dec. 24	Jan. 8 '20	<b>**Jan. 8 '20**</b>	Jan. 29 '20	Mar. 4 '20	June 1 '20
Nov. 29	Dec. 18	Jan. 7 '20	Jan. 22 '20	Jan. 24 '20	Feb. 12 '20	Mar. 18 '20	June 15 '20
<b>**Dec. 11**</b>	Jan. 1 '20	Jan. 21 '20	Feb. 5 '20	Feb. 7 '20	Feb. 26 '20	Apr. 1 '20	June 29 '20
<b>**Dec. 26**</b>	Jan. 15 '20	Feb. 4 '20	Feb. 19 '20	Feb. 21 '20	Mar. 11 '20	Apr. 15 '20	July 13 '20

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
2	Wednesday, June 26, 2019	July 17, 2019
3	Friday, July 12, 2019	July 31, 2019
4	Friday, July 26, 2019	August 14, 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.

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, July 9, 2019, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Supplemental Agenda published in the July 3, 2019, Iowa Administrative Bulletin.

**ACCOUNTANCY EXAMINING BOARD[193A]**

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

CPA examinations, 3.6(1) Notice **ARC 4507C**..... 6/19/19

**CHIEF INFORMATION OFFICER, OFFICE OF THE[129]**

Broadband—infrastructure, targeted service areas, project certification, grants program,  
amendments to chs 20 to 22 Notice **ARC 4505C** ..... 6/19/19

**COLLEGE STUDENT AID COMMISSION[283]**

EDUCATION DEPARTMENT[281]"umbrella"

Future ready Iowa skilled workforce last-dollar scholarship program, ch 15 Notice **ARC 4474C** ..... 6/5/19

Future ready Iowa skilled workforce grant program, ch 16 Notice **ARC 4473C**..... 6/5/19

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

Regional sports authority districts, 38.3(1)"b," 38.4(1)"a" Filed **ARC 4509C** ..... 6/19/19

Workforce housing tax incentives program—housing project completion deadline,  
48.5(3)"c" Filed **ARC 4510C** ..... 6/19/19

Brownfield and grayfield redevelopment tax credit, 65.8(2)"a," 65.11(7)"b" Filed **ARC 4511C** ..... 6/19/19

Targeted jobs withholding tax credit program, tax credits for investments in certified  
innovation funds—extension of sunset dates, amendments to chs 71, 116 Filed **ARC 4512C** ..... 6/19/19

Community attraction and tourism programs, amendments to chs 211, 213 Filed **ARC 4513C** ..... 6/19/19

**EDUCATIONAL EXAMINERS BOARD[282]**

EDUCATION DEPARTMENT[281]"umbrella"

Teaching license suspension or revocation due to student loan default—elimination, rescind  
ch 9; amend chs 11, 25 Notice **ARC 4503C**..... 6/19/19

Teaching licensure—nonrenewable temporary initial license, 13.6 Notice **ARC 4502C**..... 6/19/19

Child abuse and dependent adult abuse identification and reporting training, amendments to  
chs 15, 19, 20, 22 to 24 Notice **ARC 4504C** ..... 6/19/19

Preservice substitute authorization, 22.2(4) Notice **ARC 4501C** ..... 6/19/19

**EDUCATION DEPARTMENT[281]**

Pupil transportation, amendments to ch 43 Notice **ARC 4478C**..... 6/5/19

School bus construction standards, amendments to ch 44 Notice **ARC 4479C**..... 6/5/19

Standards for teacher intern preparation programs, 77.11(2)"c" Notice **ARC 4480C** ..... 6/5/19

Standards for preparation examinations, 79.2, 79.10(4), 79.15(6), 79.17(1) Notice **ARC 4481C** ..... 6/5/19

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Surface water classification, 61.3(5) Filed **ARC 4514C**..... 6/19/19

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]**

Flood recovery fund, 14.12 Notice **ARC 4498C**, also Filed Emergency **ARC 4499C** ..... 6/19/19

**HUMAN SERVICES DEPARTMENT[441]**

Child care assistance—fee schedule, change reporting, 170.2(4), 170.4  
Filed Emergency After Notice **ARC 4470C**..... 6/5/19

Aftercare services program, ch 187 Filed **ARC 4485C**..... 6/5/19

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

Residential care—specialized licenses for three- to five-bed facilities, amendments to ch 63  
Notice **ARC 4467C** ..... 6/5/19

**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

Residential and motor vehicle services contracts, amend ch 103; rescind ch 104  
Notice **ARC 4496C**, also Filed Emergency **ARC 4495C** ..... 6/19/19

Pharmacy benefits manager annual report, amendments to ch 59 Notice **ARC 4482C** ..... 6/5/19

**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Organization of and procedures before the division; civil penalties for child labor violations; asbestos abatement; technical and statutory changes; IOSH enforcement, research, statistics, consultation and education, amend chs 1, 4, 8, 32, 35, 38, 155, 156; rescind ch 2 Notice **ARC 4497C** ..... 6/19/19

**MEDICINE BOARD[653]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure of genetic counselors, amendments to ch 20  
Notice **ARC 4477C**, also Filed Emergency **ARC 4468C** ..... 6/5/19

**PAROLE BOARD[205]**

CORRECTIONS DEPARTMENT[201]"umbrella"

Revocation of parole—conviction in another state or foreign country, 11.12 Filed **ARC 4486C** ..... 6/5/19

**PHARMACY BOARD[657]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensing sanctions—student loan debt or related service obligations, rescind ch 31; amend ch 36 Notice **ARC 4484C** ..... 6/5/19  
Military service and veteran reciprocity for licensing, 33.1, 33.3, 33.4 Notice **ARC 4483C** ..... 6/5/19

**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Polysomnographic technologists and respiratory care and polysomnography practitioners—continuing education, amendments to ch 262 Filed **ARC 4515C** ..... 6/19/19

**PUBLIC HEALTH DEPARTMENT[641]**

Special supplemental nutrition program for women, infants, and children (WIC), amendments to ch 73 Filed **ARC 4487C** ..... 6/5/19  
Local public health services, 80.2, 80.3 Filed **ARC 4488C** ..... 6/5/19  
Medical cannabidiol program, amendments to ch 154 Filed **ARC 4489C** ..... 6/5/19  
Oral and health delivery system bureau; office of minority and multicultural health, 170.7(6) Filed **ARC 4490C** ..... 6/5/19

**PUBLIC SAFETY DEPARTMENT[661]**

Military service and veteran reciprocity for fire extinguishing and alarm systems contractors and installers, ch 278 Notice **ARC 4475C** ..... 6/5/19

**REVENUE DEPARTMENT[701]**

Determination of net income—like-kind exchanges of personal property, 40.82, 53.27, 59.25  
Notice **ARC 4500C** ..... 6/19/19  
Iowa educational savings plan trust; Iowa ABLE savings plan trust, 40.53, 40.81 Filed **ARC 4516C** ..... 6/19/19  
Section 179 expensing, 40.65, 53.23, 59.24 Filed **ARC 4517C** ..... 6/19/19

**SECRETARY OF STATE[721]**

Minimum age for registering to vote, 23.3, 23.10 Filed **ARC 4491C** ..... 6/5/19

**TRANSPORTATION DEPARTMENT[761]**

Confidential records, 4.4(3), 4.9 Notice **ARC 4471C** ..... 6/5/19  
Petition submission methods; oral presentation information; office name and address updates, amendments to chs 10 to 12 Filed **ARC 4492C** ..... 6/5/19  
Driver licensing, amendments to chs 600, 602, 604, 605, 607 Notice **ARC 4476C** ..... 6/5/19

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Intrastate gas pipelines and underground gas storage, amendments to ch 10 Notice **ARC 4506C** ..... 6/19/19  
Rate cases, tariffs, and rate regulation election practice and procedure, amendments to ch 26  
Notice of Termination **ARC 4469C** ..... 6/5/19

**VOLUNTEER SERVICE, IOWA COMMISSION ON[817]**

Future ready Iowa volunteer mentor program, ch 13 Notice **ARC 4508C** ..... 6/19/19

**VOTER REGISTRATION COMMISSION[821]**

Petitions for rule making; county registration date for applicants aged 17 to 18, amendments  
to chs 1, 2, 11 Filed **ARC 4493C** ..... 6/5/19

**WORKERS' COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"  
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**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

Senator Waylon Brown  
109 South Summer Street  
St. Ansgar, Iowa 50472

Representative Steven Holt  
1430 Third Avenue South  
Denison, Iowa 51442

Senator Mark Costello  
37265 Rains Avenue  
Imogene, Iowa 51645

Representative Megan Jones  
4470 Highway 71  
Sioux Rapids, Iowa 50585

Senator Robert Hogg  
P.O. Box 1361  
Cedar Rapids, Iowa 52406

Representative Joe Mitchell  
Mount Pleasant, Iowa

Senator Pam Jochum  
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Dubuque, Iowa 52001

Representative Amy Nielsen  
168 Lockmoor Circle  
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**ACCOUNTANCY EXAMINING BOARD[193A]**

CPA examinations, 3.6(1) IAB 6/19/19 <b>ARC 4507C</b>	Professional Licensing Bureau Offices 200 E. Grand Ave., Suite 350 Des Moines, Iowa	July 10, 2019 9 to 10 a.m.
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**CHIEF INFORMATION OFFICER, OFFICE OF THE[129]**

Broadband—infrastructure, targeted service areas, project certification, grants program, amendments to chs 20 to 22 IAB 6/19/19 <b>ARC 4505C</b>	OCIO Innovation Lab A Level, Room 12 Hoover State Office Bldg. Des Moines, Iowa	July 10, 2019 10 to 11 a.m.
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**EDUCATIONAL EXAMINERS BOARD[282]**

Teaching license suspension or revocation due to student loan default—elimination, rescind ch 9; amend chs 11, 25 IAB 6/19/19 <b>ARC 4503C</b>	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	July 10, 2019 1 p.m.
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Teaching licensure—nonrenewable temporary initial license, 13.6 IAB 6/19/19 <b>ARC 4502C</b>	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	July 10, 2019 1 p.m.
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Child abuse and dependent adult abuse identification and reporting training, amendments to chs 15, 19, 20, 22 to 24 IAB 6/19/19 <b>ARC 4504C</b>	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	July 10, 2019 1 p.m.
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Preservice substitute authorization, 22.2(4) IAB 6/19/19 <b>ARC 4501C</b>	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	July 10, 2019 1 p.m.
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**EDUCATION DEPARTMENT[281]**

Pupil transportation, amendments to ch 43 IAB 6/5/19 <b>ARC 4478C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 25, 2019 9 to 10 a.m.
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School bus construction standards, amendments to ch 44 IAB 6/5/19 <b>ARC 4479C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 25, 2019 10 to 11 a.m.
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Standards for teacher intern preparation programs, 77.11(2)“c” IAB 6/5/19 <b>ARC 4480C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 25, 2019 11 a.m. to 12 noon
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Standards for preparation examinations, 79.2, 79.10(4), 79.15(6), 79.17(1) IAB 6/5/19 <b>ARC 4481C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 25, 2019 12 noon to 1 p.m.
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**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]**

Flood recovery fund, 14.12 IAB 6/19/19 <b>ARC 4498C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	July 9, 2019 10 to 11 a.m.
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**INSURANCE DIVISION[191]**

Residential and motor vehicle services contracts, amend ch 103; rescind ch 104 IAB 6/19/19 <b>ARC 4496C</b>	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	July 16, 2019 2 to 3 p.m.
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Pharmacy benefits manager annual report, amendments to ch 59 IAB 6/5/19 <b>ARC 4482C</b>	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	June 27, 2019 10 to 11 a.m.
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**LABOR SERVICES DIVISION[875]**

Organization of and procedures before the division; child labor violations; asbestos abatement; technical and statutory changes; IOSH enforcement, research, statistics, consultation and education, amend chs 1, 4, 8, 32, 35, 38, 155, 156; rescind ch 2 IAB 6/19/19 <b>ARC 4497C</b>	150 Des Moines St. Des Moines, Iowa	July 16, 2019 9 a.m. (If requested)
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**TRANSPORTATION DEPARTMENT[761]**

Confidential records, 4.4(3), 4.9 IAB 6/5/19 <b>ARC 4471C</b>	Department of Transportation Administration Bldg. First Floor, South Conference Room 800 Lincoln Way Ames, Iowa	June 27, 2019 10 a.m. (If requested)
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Driver licensing, amendments to chs 600, 602, 604, 605, 607 IAB 6/5/19 <b>ARC 4476C</b>	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	June 27, 2019 1 p.m. (If requested)
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**UTILITIES DIVISION[199]**

Intrastate gas pipelines and underground gas storage, amendments to ch 10 IAB 6/19/19 <b>ARC 4506C</b>	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	August 1, 2019 1 to 3 p.m.
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**VOLUNTEER SERVICE, IOWA COMMISSION ON[817]**

Future ready Iowa volunteer mentor program, ch 13 IAB 6/19/19 <b>ARC 4508C</b>	Central First Floor Conference Room Economic Development Authority 200 E. Grand Ave. Des Moines, Iowa	July 9, 2019 11 a.m.
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**WORKERS' COMPENSATION DIVISION[876]**

Electronic filing, amendments to  
chs 2 to 5, 10, 11  
IAB 6/5/19 **ARC 4472C**

Room 106  
150 Des Moines St.  
Des Moines, Iowa

June 25, 2019  
9:30 a.m.

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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AGING, DEPARTMENT ON[17]  
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
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## ARC 4507C

## ACCOUNTANCY EXAMINING BOARD[193A]

## Notice of Intended Action

**Proposing rule making related to CPA examinations  
and providing an opportunity for public comment**

The Accountancy Examining Board hereby proposes to amend Chapter 3, “Certification of CPAs,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 542.

*Purpose and Summary*

The proposed amendment to Chapter 3 reflects a change in the availability of the certified public accountant (CPA) examinations. Instead of examinations being available during four annual examination windows with dark periods during which the examinations are not available, the Board is permitted to make examinations available year-round.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. No current fees are being changed, and no new fees are being imposed.

*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 193A—Chapter 5.

*Public Comment*

Any interested person may submit comments concerning this proposed rule making. Comments in response to this rule making must be received by the Board no later than 4:30 p.m. on July 10, 2019. Comments should be directed to:

Robert Lampe  
Iowa Accountancy Examining Board  
200 East Grand Avenue, Suite 350  
Des Moines, Iowa 50309  
Phone: 515.725.9024  
Email: [robert.lampe@iowa.gov](mailto:robert.lampe@iowa.gov)

*Public Hearing*

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

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

July 10, 2019  
9 to 10 a.m.

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

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

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

*Review by Administrative Rules Review Committee*

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

The following rule-making action is proposed:

Amend subrule 3.6(1) as follows:

**3.6(1)** Effective with the implementation of the computer-based examination, a candidate may take the required test subjects individually and in any order. Except as provided in rule 193A—3.7(542), credit for any subjects passed shall be valid for 18 months from the actual date the candidate sat for the subject, without the candidate's having to attain a minimum score on any failed subject(s) and without regard to whether the candidate sat for any other subjects. The candidate shall also be subject to the following:

*a.* The candidate must pass all four subjects of the examination within a rolling 18-month period that begins on the date that the first subject is passed. If all four subjects are not passed within the 18-month period, credit for any subject taken outside the 18-month period shall expire.

*b.* ~~If Subject to paragraph 3.6(1) "c,"~~ if a candidate fails a subject, the candidate cannot retake the same failed subject in an examination window. An ~~examination window~~ "examination window" refers to a three-month period in which a candidate has the opportunity to take the examination (comprised of two months when the examination is offered and one month when the examination will not be offered while routine maintenance is performed and the item bank is refreshed). Thus, the candidate will be able to sit for the examination two out of three months within an examination window.

*c.* If and when the board determines that examination system changes necessary to eliminate examination window limitations have been implemented, paragraph 3.6(1) "b" will no longer be effective and a candidate will be permitted to retake a subject once the candidate's grade for any previous attempt of that same subject has been released.

## ADMINISTRATIVE SERVICES DEPARTMENT

### Public Notice

NOTICE OF OFFICIAL PUBLICATION RATE INCREASE FOR THE FISCAL YEAR  
COMMENCING JULY 1, 2019, AND ENDING JUNE 30, 2020

In accordance with Iowa Code section 618.11, the Iowa Department of Administrative Services Director hereby publishes the lineage rate\* for newspaper publications of any order, citation, or other publication required or allowed by law (also known as official publications) for the period commencing on July 1, 2019, and ending on June 30, 2020, in the following amounts:

## ADMINISTRATIVE SERVICES DEPARTMENT(cont'd)

\* Lineage rate: "...each line of eight point type two inches in length, or its equivalent." (Iowa Code section 618.11)

One insertion = 50.1 cents

Each subsequent insertion = 33.8 cents

The rate becomes effective on July 1, 2019. The rate was determined by applying the formula specified in the statute. According to the federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 2.0% for the 12 months ended April 2019. The April index was the most recent index available as of May 22, 2019, the date on which this notice was submitted for publication.

Pursuant to Iowa Code section 618.11, the calculation and publication of the rate by the Director of the Department of Administrative Services shall be exempt from the provisions of chapters 17A and 25B.

If you have questions regarding this notice, please contact:

Matthew Behrens, OCIO Deputy Chief Operating Officer  
Office of the Chief Information Officer  
1305 E. Walnut  
Des Moines, Iowa 50319  
Telephone: 515.281.5503  
Email: [Matt.Behrens@iowa.gov](mailto:Matt.Behrens@iowa.gov)

**ARC 4505C**

**CHIEF INFORMATION OFFICER, OFFICE OF THE [129]**

**Notice of Intended Action**

**Proposing rule making related to broadband infrastructure and grants and providing an opportunity for public comment**

The Office of the Chief Information Officer (Office) hereby proposes to amend Chapter 20, "Broadband Infrastructure—Targeted Service Areas," Chapter 21, "Broadband Infrastructure—Project Certification," and Chapter 22, "Broadband Grants Program," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 8B.4(5) and 8B.10(2) and sections 8B.11(8) and 427.1(40) as amended by 2019 Iowa Acts, House File 772.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 8B.1, 8B.10, 8B.11 and 427.1(40) as amended by 2019 Iowa Acts, House File 772.

*Purpose and Summary*

These proposed amendments interpret and implement 2019 Iowa Acts, House File 772, the Empower Rural Iowa Act, which authorizes the continued operation of broadband programs currently administered by the Office through 2025, and implement several policy changes and requirements related to these programs. In addition, these amendments clarify aspects of the broadband programs identified as requiring clarification following the Office's administration of these programs over the past several years and make several clerical and ministerial updates which were identified throughout the drafting process.

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

*Fiscal Impact*

The Office will use existing budget and resources to implement these rules, including specific appropriations made during the 2019 Legislative Session for such purposes.

*Jobs Impact*

These amendments and continued support and operation of these programs will lead to the deployment of additional broadband projects by communications service providers and therefore increased job opportunities across the state.

*Waivers*

As it relates to the property tax program, an agencywide waiver provision has not yet been adopted by the Office but will be adopted in a subsequent rule making. As they relate to the broadband grants program, waivers will be handled in accordance with the terms of the Notice of Funding Availability, similar to the manner in which waivers for solicitations in the procurement context are handled.

*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 Office no later than 4:30 p.m. on July 9, 2019. Comments should be directed to:

Matt Behrens  
Office of the Chief Information Officer  
Hoover State Office Building, Level B  
1305 East Walnut Street  
Des Moines, Iowa 50319  
Phone: 515.281.5503  
Fax: 515.281.6137  
Email: [cio@iowa.gov](mailto:cio@iowa.gov)

*Public Hearing*

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

July 10, 2019  
10 to 11 a.m.

OCIO Innovation Lab, Room 12  
Hoover State Office Building, Level A  
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 Office and advise of specific needs by calling 515.281.5503.

*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:



CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

ITEM 1. Amend rule 129—20.1(8B,427) as follows:

**129—20.1(8B,427) Definitions.** ~~For purposes of this chapter, the following definitions shall govern. The definitions in Iowa Code section 8B.1 as amended by 2019 Iowa Acts, House File 772, shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall apply.~~

~~“As of date” means the as of date of the broadband availability maps and corresponding data sources utilized by the office in determining whether a communications service provider offers or facilitates broadband service in a particular census block at or above the download and upload speeds specified in the definition of targeted service area and underlying the statewide map published and then in effect in accordance with rules 129—20.3(8B,427) and 129—20.4(8B,427). For example, until the office publishes an updated version of the statewide map in accordance with rules 129—20.3(8B,427) and 129—20.4(8B,427), the as of date remains July 1, 2015, which is the as of date of the first statewide map.~~

~~“Broadband” means a high-speed, high-capacity electronic transmission medium, including fixed wireless and mobile wireless mediums, that can carry data signals from independent network sources by establishing different bandwidth channels and that is commonly used to deliver Internet services to the public.~~

~~“Broadband infrastructure” means the physical infrastructure used for the transmission of data that provides broadband services. “Broadband infrastructure” does not include land, buildings, structures, improvements, or equipment not directly used in the transmission of data via broadband.~~

~~“Census block” means a U.S. Census Bureau census block located in this state, including any crop operation located within the census block.~~

~~“Chief information officer” or “CIO” means the state chief information officer or the state chief information officer’s designee.~~

~~“Communications service provider” means a service provider that provides broadband service.~~

~~“Crop operation” means a commercial enterprise where a crop is maintained on the property of the commercial enterprise.~~

~~“Date of commencement” means the date first occurring after July 1, 2015, and before July 1, 2020, in which broadband infrastructure used in a certified project becomes property taxed as real property as determined by Iowa Code section 427A.1.~~

~~“Date of completion” or “completed” means the date that a communications service provider offers or facilitates broadband service delivered at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in a targeted service area.~~

~~“Installation of the broadband infrastructure” means the labor, construction, building, and furnishing of new physical infrastructure used for the transmission of data that provides broadband services. “Installation of the broadband infrastructure” does not include the process of removing existing infrastructure, fixtures, or other real property in preparation of installation of the broadband infrastructure.~~

~~“Is being performed” includes but is not limited to the planning, preparation, design, architecture, labor, construction, building, and furnishing of new physical infrastructure used for the transmission of data that provides broadband services.~~

~~“Office” means the office of the chief information officer authorized by Iowa Code chapter 8B.~~

~~“Targeted service area” means a U.S. Census Bureau census block located in this state, including any crop operation located within the census block, within which no communications service provider offers or facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed as of July 1, 2015.~~

ITEM 2. Amend rule 129—20.2(8B,427) as follows:

**129—20.2(8B,427) Scope.** This chapter interprets relevant provisions of Iowa Code sections 8B.1, 8B.10, and 8B.11 as amended by 2019 Iowa Acts, House File 772; implements Iowa Code section 427.1(40) as amended by 2019 Iowa Acts, House File 772; and applies to the office’s determinations

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

of whether a census block is a targeted service area and to persons who wish to challenge the office's finding on whether a census block is a targeted service area.

ITEM 3. Amend rule 129—20.3(8B,427) as follows:

**129—20.3(8B,427) Broadband availability maps and data sources.** To determine whether a communications service provider offers or facilitates broadband service in a particular census block at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed as of July 1, 2015~~ the download and upload speeds specified in the definition of targeted service area as of the as of date, the office ~~utilized~~ utilizes fixed broadband availability maps and corresponding data sources made available by Connect Iowa, LLC, a subsidiary of Connected Nation, Inc the Federal Communications Commission (FCC) online, which as of [the effective date of these rules] was available at www.fcc.gov/general/broadband-deployment-data-fcc-form-477. Such maps and data sources ~~were~~ are widely accepted for accuracy and made available for public review and comment. By selecting these maps and data sources, the office has satisfied its obligation to reference broadband availability maps or data sources that are widely accepted for accuracy and available for public review and comment as required by Iowa Code section 8B.10(1).

ITEM 4. Amend rule 129—20.4(8B,427) as follows:

**129—20.4(8B,427) Targeted service area determination.**

**20.4(1)** The office will create a statewide map divided into census blocks. Based on the maps and data sources referenced in rule 129—20.3(8B,427), the statewide map will designate census blocks within which, as of ~~July 1, 2015~~ the as of date, no communications service provider offered or facilitated broadband service to the public at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area. This statewide map shall be available published online at http://ocio.iowa.gov/ocio.iowa.gov/broadband.

**20.4(2)** In accordance with Iowa Code section 8B.10(1) as amended by 2019 Iowa Acts, House File 772, the office shall periodically make renewed determinations of whether a communications service provider offers or facilitates broadband service at or above the download or upload speeds specified in the definition of targeted service area by publishing an updated version of the statewide map. Such updates shall be made, to the extent updated maps and data sources are available at the time, no less frequently than prior to each round of grant applications solicited by the office pursuant to Iowa Code section 8B.11 as amended by 2019 Iowa Acts, House File 772.

**20.4(3)** As of ~~November 30, 2016~~ the date of the office's publication of each version of the statewide map online at ocio.iowa.gov/broadband, targeted service area designations as shown on the statewide map shall be considered the office's final determination and finding of whether a particular census block constitutes a targeted service area, unless a person or party successfully challenges the office's determination pursuant to the appeals and contested case process outlined in this chapter, in which case the office will update the statewide map to reflect the outcome of such challenge(s). For the sake of clarity, failure to challenge the office's determination and finding of whether a particular census block constitutes a targeted service area by filing a notice of appeal within the 20-day period established by subrule 20.5(1) shall render the office's determination and finding with respect to that particular census block final and no longer subject to challenge. A party's failure to challenge the office's determination and finding of whether a particular census block constitutes a targeted service area by filing a notice of appeal within the 20-day period established by subrule 20.5(1) shall be deemed a failure to exhaust administrative remedies.

**20.4(4)** Until the office publishes an updated version of the statewide map in accordance with this rule, the as of date for purposes of determining whether any communications service provider offered and facilitated broadband service to the public at or above the download and upload speeds specified in the definition of targeted service area in accordance with Iowa Code section 8B.10(1) as amended by 2019 Iowa Acts, House File 772, and rule 129—20.3(8B,427) and this rule shall remain July 1, 2015,

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

which is the as of date of the first statewide map. Thereafter, the as of date shall be the same as the as of date of the maps and corresponding data sources utilized by the office each time the office makes its renewed determination in accordance with Iowa Code section 8B.10(1) as amended by 2019 Iowa Acts, House File 772, and rule 129—20.3(8B,427) and this rule.

ITEM 5. Amend subrule 20.5(3) as follows:

**20.5(3) Notification of and input from affected persons or parties.** Within ~~10~~ ten calendar days of receipt of a notice of appeal, the office shall provide notification to any affected persons or parties by posting the notice of appeal at ~~http://ocio.iowa.gov/~~ ocio.iowa.gov/broadband. From the date of such posting, any affected persons or parties will have 20 calendar days to submit evidence and information in support of, or in opposition to, such appeal. Except to the extent not feasible, any such evidence and information shall be submitted by ~~electronic mail (e-mail)~~ email to ocio@iowa.gov. To the extent electronic submission is not feasible, such evidence and information shall be mailed to: Office of the Chief Information Officer, Hoover State Office Building, Level B, 1305 East Walnut Street, Des Moines, Iowa 50319. If such evidence or information is submitted by mail, the evidence or information shall be accompanied by a written explanation of why electronic submission was not feasible.

ITEM 6. Amend subrule 20.5(5) as follows:

**20.5(5) Final agency decision.** Following the internal review set forth in subrule 20.5(4), the office will issue a final agency decision stating the reasons for the office's decision concerning the census ~~block~~ block(s) in question. In issuing the decision, the office shall consider the evidence and information submitted by all appellants related thereto, in conjunction with any other evidence and information submitted by any affected persons or parties pursuant to subrule 20.5(3), the maps and data sources originally utilized in rule 129—20.4(8B,427), and any other information deemed relevant by the office. The final agency decision will be posted online at ~~http://ocio.iowa.gov/~~ ocio.iowa.gov/broadband. The final agency decision shall become final unless within 30 days of such posting an appellant or an affected person or party that submitted evidence in support of, or in opposition to, the appeal files a request for a contested case proceeding pursuant to rule 129—20.6(8B,427).

ITEM 7. Amend subparagraph **20.5(7)“a”(1)** as follows:

(1) Fully complete and submit to the office Form 22 (available online at ~~http://ocio.iowa.gov/~~ ocio.iowa.gov/broadband);

ITEM 8. Adopt the following **new** subrule 20.5(8):

**20.5(8) Probative evidence and information.** Examples of evidence and information the office would consider particularly probative of broadband service at or above the download and upload speeds specified in the definition of targeted service area as of the as of date for purposes of adjudicating an appeal of the office's determination of whether a particular census block constitutes a targeted service area include:

*a.* Signed attestations submitted to the office under penalty of perjury on forms provided by the office that the applicable census block(s) was or was not served as of the as of date with broadband service at or above the download and upload speeds specified in the definition of targeted service area.

*b.* Bills or invoices provided to or received by customers in the applicable census block(s) which identify the specific download and upload speeds provided or received as of the as of date.

ITEM 9. Amend **129—Chapter 20**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 8B.1, 8B.10, ~~47A.3~~, and 427.1(40) as amended by 2019 Iowa Acts, House File 772.

ITEM 10. Amend rule 129—21.2(8B,427) as follows:

**129—21.2(8B,427) Scope.** This chapter applies to communications service providers who request certification pursuant to Iowa Code section 427.1(40) from the office that an installation of the broadband infrastructure is ~~being performed or was completed in a targeted service area, and that the broadband infrastructure installed facilitates broadband service at or above 25 megabits per second of~~

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

download speed and 3 megabits per second of upload speed will facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area.

ITEM 11. Amend rule 129—21.3(8B,427) as follows:

**129—21.3(8B,427) Application for certification.** Applications for certification shall be completed and submitted by the means specified online at <http://ocio.iowa.gov/ocio.iowa.gov/broadband>. In order to receive certification from the office, applications must be filled out in their entirety. Communications service providers making application to the office will be required to certify that all of the information contained in the application is accurate. If it is later determined that any of the information contained in the application is inaccurate, the office may revoke the certification, in whole or in part. An application for certification shall include without limitation the following information:

1. The communications service provider's legal and business ~~name~~ name(s) and ~~address~~ address(es) and the name, address, telephone number, and ~~e-mail~~ email address of the person authorized by the communications service provider to respond to inquiries regarding the application for certification;

2. The census block number(s) as provided on the statewide map referenced in rule 129—20.4(8B,427) for the targeted service area(s) forming the basis of the application (i.e., the targeted service ~~area~~ area(s) in which the installation of the broadband infrastructure ~~is being performed or was completed~~ will facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area);

3. A description and overview of the specific technologies to be deployed (e.g., fixed wireless) that will facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area;

~~3.~~ 4. Attestation that the broadband infrastructure installed in the targeted service area(s) facilitates ~~will facilitate~~ broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area; and

~~4.~~ 5. Any other information as requested in the application.

ITEM 12. Amend rule 129—21.4(8B,427) as follows:

**129—21.4(8B,427) Time of filing.** Applications for certification must be received by the office at least ten days prior to the closure of the next applicable assessment deadline to be considered by the office for purposes of that reporting cycle. If the office does not receive an application within that time frame, the office may deny the application or consider the application as part of the next assessment cycle. Except as otherwise authorized by the office, an application for certification shall be deemed filed on the date of its online submission pursuant to rule 129—21.3(8B,427) actual receipt by the office. Notwithstanding the foregoing, except as otherwise authorized by the office, when an application for certification is filed during an open 20-day appeal period specified in 129—subrule 20.5(1) following the publication of an updated statewide map in accordance with rule 129—20.4(8B,427), an application for certification will not be deemed filed prior to the expiration of the initial 20-day appeal period specified in 129—subrule 20.5(1).

ITEM 13. Amend rule 129—21.5(8B,427) as follows:

**129—21.5(8B,427) Notice of decision and issuance of certificate.** The Following the timely filing of an application for certification and before the closure of the next assessment cycle, the office shall notify the communications service provider by electronic means of its decision regarding an the application for certification within 30 days of the filing of an application and, if appropriate, shall issue a certification by electronic means within that same time frame. If the decision is to deny the application or part of the application, such notice shall include a concise statement of the office's reasons for such denial, in whole or in part. A determination by the office to deny an application for certification, in whole or in part, may be appealed pursuant to 129—Chapter 6.

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

ITEM 14. Amend rule 129—21.6(8B,427) as follows:

**129—21.6(8B,427) Contents of certification.** The certification shall state the communications service provider for which the certification is being issued, the census block number(s) (as provided on the map referenced in rule 129—21.4(8B,427)) of the targeted service area(s) for which the certification is being issued and county(s) in which such targeted service area(s) resides ~~reside~~, that the office has determined the census block(s) in which the installation ~~is being performed or was completed~~ will facilitate broadband service are targeted service area(s), that the broadband infrastructure ~~installed facilitates~~ will facilitate broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area, and the date on which the certification is issued by the office. Such certification shall be signed by the CIO.

ITEM 15. Amend rule 129—21.8(8B,427) as follows:

**129—21.8(8B,427) Certification of completion and field testing.** To the extent applicable, after an installation of broadband infrastructure certified by the office is fully installed in a targeted service area, the communications service provider for which a certification was issued must certify to the office that such installation facilitates broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area. The office may, in its discretion, conduct field tests for compliance with the requirements of Iowa Code section 427.1(40)“b” at any time after broadband service is available in a targeted service area. Such field tests may include but not be limited to speed tests from any location in a targeted service area in which the project was deployed or, in the case of wireline installations, the communications service provider’s network operation center or central office. As applicable, noncompliance may be reported to the attorney general, the department of revenue, or applicable county board of supervisors.

ITEM 16. Amend **129—Chapter 21**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 8B.1, ~~8B.3, 8B.4(15), 17A.3,~~ and 427.1(40) as amended by 2019 Iowa Acts, House File 772.

ITEM 17. Amend rule 129—22.1(8B) as follows:

**129—22.1(8B) Definitions.** The definitions in Iowa Code section 8B.1 as amended by 2019 Iowa Acts, House File 772, and rule 129—20.1(8B,427) shall apply to this chapter. In addition, for purposes of this chapter, the following definitions shall also apply:

“*Grantee*” means a communications service provider awarded grant funds by the office pursuant to and in accordance with Iowa Code section 8B.11 and these rules.

“*Project*” means an installation of broadband infrastructure by a communications service provider that facilitates broadband service at or above the download and upload speeds specified in the definition of targeted service area in one or more targeted service areas. ~~Except in limited circumstances otherwise permitted herein, a project may not be comprised of, in whole or in part, census blocks that are not targeted service areas.~~

ITEM 18. Amend rule 129—22.2(8B) as follows:

**129—22.2(8B) Purpose and scope.** This chapter applies to the broadband grants program established by Iowa Code section 8B.11 and administered by the office. As authorized by Iowa Code section 8B.11(8), this chapter interprets relevant provisions of Iowa Code sections 8B.1 and 8B.11 as amended by 2019 Iowa Acts, House File 772, and establishes program process, management, and measurement rules designed to ensure the effective and efficient administration and oversight of the program, the key objective of which is to reduce or eliminate targeted service areas in the state of Iowa unserved and underserved areas in the state, leveraging federal funds and public and private partnerships where possible, by incentivizing the installation of broadband infrastructure by communications service

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

~~providers therein~~ awarding grants to communications service providers that reduce or eliminate targeted service areas by installing broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in the definition of targeted service area in accordance with Iowa Code section 8B.11 as amended by 2019 Iowa Acts, House File 772, and with this chapter.

ITEM 19. Amend subrule 22.4(1) as follows:

**22.4(1) *Application process.*** Following the issuance of a NOFA by the office, communications service providers may apply to the office for grant funds for the installation of broadband infrastructure at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in the definition of targeted service area. Applications shall be made and submitted in accordance with the terms of these rules and the NOFA.

ITEM 20. Amend subrule 22.4(2) as follows:

**22.4(2) *Contents of application.*** In addition to any other questions or requirements established by the NOFA, an application shall, at a minimum, include:

*a.* The communications service provider's legal and business ~~name~~ name(s) and ~~address~~ address(es);

*b.* The name, address, telephone number, and email address of the person authorized by the communications service provider to respond to inquiries regarding the application;

*c.* The census block number(s) as provided on the statewide map referenced in rule 129—20.4(8B,427) for the targeted service area(s) forming the basis of the application/project (i.e., the targeted service area(s) in which the proposed installation of broadband infrastructure will ~~occur~~ facilitate broadband service at or above the download and upload speeds specified in the definition of targeted service area);

*d.* Attestation that the broadband infrastructure installed ~~in the targeted service area(s)~~ will facilitate broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area;

*e.* Unless a specific cost allocation methodology is identified or required by the office as set forth in the NOFA, the specific methods or formulas the communications service provider will utilize in allocating the costs of and for broadband infrastructure for which reimbursement may be sought in proportion to such infrastructure's actual facilitation of broadband service at or above the download and upload speeds specified in the definition of targeted service area in the targeted service areas forming the basis of the project;

*e.f.* An anticipated project completion date, which shall not exceed five years from the date the NOFA is issued. An applicant's anticipated project completion date shall be used to determine whether a grantee's failure to complete a project in a timely manner warrants a finding of noncompliance for purposes of subparagraph 22.6(4) "b"(2).

ITEM 21. Rescind and reserve subrule **22.4(5)**.

ITEM 22. Amend subrule 22.5(1) as follows:

**22.5(1) *Optional period* Period for public comment and validation process.**

*a.* Following the expiration of the deadline for the receipt of applications stated in the NOFA, the office ~~may, in its sole discretion,~~ will open a period for public comment as it relates to such applications ~~through the state of Iowa's public comment website: [comment.iowa.gov](http://comment.iowa.gov).~~ If the office elects to solicit public comment pursuant to this rule, any Any member of the public will be permitted to submit comments regarding applications received by the office through the means specified in the NOFA.

*b.* As required by Iowa Code section 8B.11(3) as amended by 2019 Iowa Acts, House File 772, the period for public comment will include the opportunity for the public to submit factual information as part of a validation process to address claims that a targeted service area forming the basis of an application received by the office is currently served with broadband service at or above the download and upload

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

speeds specified in the definition of targeted service area. Examples of such factual information the office would consider particularly probative of current service include:

(1) Signed attestations submitted to the office under penalty of perjury on forms provided by the office that such targeted service areas are currently served with broadband service at or above the download and upload speeds specified in the definition of targeted service area.

(2) Bills or invoices provided to or received by customers in such targeted service areas which identify current broadband service at or above the download and upload speeds specified in the definition of targeted service area.

To the extent such factual information is credible and verifiable, the office may consider such factual information in considering the relative need factor set forth in Iowa Code section 8B.11(4) "a" and paragraph 22.5(3) "a" in determining whether, to which projects, and in what amount(s) to award grant funds. In addition, to the extent such factual information is credible and verifiable, such factual information may result in the disqualification of a project where the factual information demonstrates that a material portion of the proposed project is currently served with broadband service at or above the download and upload speeds specified in the definition of targeted service area. Further, to the extent such factual information is credible and verifiable, the office may incorporate such factual information into its next renewed determination of whether a communications service provider offers or facilitates broadband service at or above the download or upload speeds specified in the definition of targeted service area and thereby subsequent iteration of the statewide map, as determined and updated in accordance with Iowa Code section 8B.10(1) as amended by 2019 Iowa Acts, House File 772, and rules 129—20.3(8B,427) and 129—20.4(8B,427).

ITEM 23. Amend subrule 22.5(3) as follows:

**22.5(3) Office final decision.** Following the office's receipt of the review committee's input or recommendations and the closure of the period for public comment, if any, the office will review all applications received by the deadline and otherwise warranting review in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B; the input/recommendations made by the review committee; and any public comment solicited/received received, all in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B, and make a final agency decision regarding whether, to which projects, and in what amount(s) to award grant funds for the installation of broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in the definition of targeted service area.

a. In so doing, the office will take into consideration the following factors, in accordance with and in the manner specified by the terms, conditions, and requirements of the NOFA, affording the greatest weight to the factors in subparagraphs 22.5(3) "a"(1), 22.5(3) "a"(2), and 22.5(3) "a"(3):

(1) The relative need for broadband infrastructure in the area and the existing broadband service speeds, including whether the project serves a rural area(s). Existing broadband service speeds may be determined by reference to the statewide map referenced in rule 129—20.4(8B,427), although the office may also take into consideration factual information received through the validation process pursuant to and in accordance with Iowa Code section 8B.11(3) as amended by 2019 Iowa Acts, House File 772, and paragraph 22.5(1) "b."

(2) The applicant's total proposed budget for the project, including the amount or percentage of local or federal matching funds, if any, any funding obligations shared between public and private entities, and the percentage of funding provided directly from the applicant.

(3) The relative download and upload speeds of proposed projects for all the applicants.

(4) The specific product attributes resulting from the proposed project, including technologies that provide higher qualities of service, such as service levels, latency, and other service attributes as determined by the office.

(2) (5) The percentage of the homes, schools, and businesses in the targeted service area(s) forming the basis of the project that will be provided access to broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed the download and

## CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

upload speeds specified in the definition of targeted service area as a result of the project. The number of homes, schools, and businesses in a targeted service area may be determined by reference to the statewide map referenced in rule 129—20.4(8B,427). To the extent possible in light of the current unit of measurement incorporated into current maps and data sources relied on by the office (i.e., census blocks), considering this factor is the means by which the office ensures underserved areas within targeted service areas are, to the extent possible, reduced or eliminated.

~~(3)~~ (6) The geographic diversity of the project areas of all applicants.

(4) (7) The economic impact of the project ~~will have on~~ to the area.

~~(5) The applicant's total proposed budget for the project, including the amount or percentage of local match, if any. For purposes of this chapter, "local match" shall include any private and public sources of funding available to the applicant and to be utilized in connection with the applicant's proposed project.~~

~~(6)~~ (8) Any other factors deemed relevant by the office as stated in the NOFA.

b. In determining whether, to which projects, and in what amount(s) to award grant funds, the office will not:

(1) Base its decision on the office's prior knowledge of any applicant except for ~~the information provided in the application~~ obtained by the office during the application process or period for public comment; or

(2) Make an award that exceeds 15 percent of any communications service provider's total estimated allowable project costs for a proposed installation of broadband infrastructure.

ITEM 24. Amend subrule 22.6(2) as follows:

**22.6(2) Mapping data required.** Upon project completion, a grantee must supply the office with geographic information system (GIS) data in a form mutually acceptable to both the office and grantee demonstrating specifically where broadband infrastructure for which grant funds have been utilized, in whole or in part, has been installed, regardless of whether such infrastructure actually serves any customers in targeted service area(s) forming a basis of the application at the time such mapping data is supplied to the office. Such GIS data must enable the office to determine which specific homes, schools, and businesses within each targeted service area forming the basis of the project have access to broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area as a result of the project.

ITEM 25. Amend subparagraph **22.6(3)"a"(1)** as follows:

(1) General. A grantee shall only be reimbursed by the office for:

1. No change.

2. Expenditures for broadband infrastructure ~~installed in targeted service areas; or, in the limited circumstances permitted herein, to the extent any expenditures relate to broadband infrastructure installed outside of targeted service areas but which facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed within targeted service areas underlying the application, only for the proportionate amount that~~ solely to the extent such broadband infrastructure facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed the download and upload speeds specified in the definition of targeted service area within targeted service areas forming the basis of the project; and

3. No change.

ITEM 26. Amend paragraph **22.6(3)"b"** as follows:

b. *Performance/certification.* After the completion of a project utilizing, in whole or in part, grant funds, a grantee must:

(1) Certify to the office that the project was completed as proposed in the original application, including but not limited to that the final installation ~~was installed in or otherwise~~ facilitates broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area in each of the applicable targeted service areas identified in the original application, and identify the total number of



## CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

homes, schools, and businesses actually receiving broadband service in each of the targeted service areas identified in the original application as a result of the project.

(2) Attest that any claimed, allowable expenditures are true and accurate, were directly related to the installation of broadband infrastructure that facilitates broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area in eligible targeted service areas forming the basis of the project, and were properly allocated in accordance with the terms, conditions, and requirements of the NOFA or grant agreement.

(3) Supply the office with updated GIS data in accordance with subrule 22.6(2).

ITEM 27. Amend subparagraph **22.6(3)“c”(3)** as follows:

(3) In the case where a grantee does not have a customer in a targeted service area being served by the installation, certification obtained by the grantee and supplied to the office from an independent third party who is a properly licensed engineer that the installation facilitates broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area in applicable targeted service areas identified in the original application. The costs of such certification shall be borne by the grantee.

ITEM 28. Amend subparagraph **22.6(3)“d”(2)** as follows:

(2) A grantee shall not be entitled to any grant funds or shall be obligated to repay the office the entire amount of any grant funds previously distributed by the office to the grantee if the office determines that:

1. Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that was not in or does not facilitate broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area in a targeted service area identified in the original application;

2. and 3. No change.

ITEM 29. Amend subparagraph **22.6(4)“b”(5)** as follows:

(5) Claimed expenditures or a prior reimbursement, in whole or in part, was used for the installation of broadband infrastructure that ~~was not in or that~~ does not facilitate broadband service at or above ~~25 megabits per second of download speed and 3 megabits per second of upload speed~~ the download and upload speeds specified in the definition of targeted service area in a targeted service area identified in the original application;

ITEM 30. Adopt the following new rule 129—22.8(8B,427):

**129—22.8(8B,427) Targeted service areas subject to challenge.** If at the time a grantee is awarded grant funds the office's determination of whether a particular census block forming the basis of the grantee's application, in whole or in part, is a targeted service area currently subject to challenge pursuant to the appeal and contested case procedures set forth in 129—Chapter 20, or the office's administration of the award process is subject to challenge pursuant to subrule 22.5(4), including any subsequent judicial review or appeal therefrom as outlined in Iowa Code sections 17A.19 and 17A.20, the office may proceed to enter into a grant agreement with the grantee pursuant to subrule 22.6(1). Notwithstanding the foregoing or any contract executed between the parties to the contrary, the aspect(s) of the office's award(s) that is subject to such challenge at the time of such execution shall be valid and enforceable only to the extent the office's original determination or award process, as applicable, is ultimately upheld at the end of the entire appeals and contested case process once final, including judicial review and any subsequent appeal. If a census block is ultimately determined to not constitute a targeted service area, or a portion of an award is later deemed invalid, in whole or in part: the grantee shall not be entitled to any grant funds or reimbursement to the extent of any such noneligibility or invalidity; the office may require the grantee to amend the grant agreement to reflect such result; and the grantee will be required to reimburse the office for any corresponding funds previously distributed by the office.

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

ITEM 31. Amend **129—Chapter 22**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 8B.1, 8B.10(1), and 8B.11 as amended by 2019 Iowa Acts, House File 772.

**ARC 4503C**

## **EDUCATIONAL EXAMINERS BOARD[282]**

### **Notice of Intended Action**

#### **Proposing rule making related to student loan default and providing an opportunity for public comment**

The Educational Examiners Board hereby proposes to rescind Chapter 9, “Student Loan Default/Noncompliance with Agreement for Payment of Obligation,” and to amend Chapter 11, “Complaints, Investigations, Contested Case Hearings,” and 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 and 2019 Iowa Acts, Senate File 304.

#### *Purpose and Summary*

The proposed amendments are intended to implement 2019 Iowa Acts, Senate File 304, which eliminates the suspension or revocation of a license issued to a person who is in default or is delinquent on repayment or a service obligation under federal or state postsecondary educational loans or public or private services-conditional postsecondary tuition assistance solely on the basis of such default or delinquency.

#### *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 July 12, 2019. Comments should be directed to:

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

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)

*Public Hearing*

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

July 10, 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 actions are proposed:

ITEM 1. Rescind and reserve **282—Chapter 9**.

ITEM 2. Amend subparagraph **11.4(1)“e”(1)** as follows:

(1) The executive director receives information that a practitioner:

1. to 7. No change.

8. Has failed to comply with a board order as prohibited by 282—paragraph ~~25.3(7)“d”~~ 25.3(7)“c”; and

ITEM 3. Amend subrule 25.3(7) as follows:

**25.3(7) Standard VII—compliance with state law governing obligations to state or local governments, ~~student loan obligations, child support obligations, and board orders.~~** Violation of this standard includes:

*a.* Failing to comply with 282—Chapter 8 concerning payment of debts to state or local governments.

~~*b.* Failing to comply with 282—Chapter 9 concerning repayment of student loans.~~

~~*e. b.* Failing to comply with 282—Chapter 10 concerning child support obligations.~~

~~*d. c.* Failing to comply with a board order.~~

**ARC 4502C****EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action****Proposing rule making related to temporary initial licensure and providing an opportunity for public comment**

The Educational Examiners Board hereby proposes to amend Chapter 13, "Issuance of Teacher Licenses and Endorsements," 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 and 2019 Iowa Acts, Senate File 159.

*Purpose and Summary*

The proposed amendment is intended to implement 2019 Iowa Acts, Senate File 159, which directs the Iowa Board of Educational Examiners to adopt rules to create a nonrenewable initial one-year license for applicants who have met all licensure requirements with the exception of a passing score on the required assessments.

*Fiscal Impact*

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

*Jobs Impact*

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

*Waivers*

The required assessment may not be waived except through the process outlined in 2019 Iowa Acts, Senate File 159, section 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 July 12, 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)

*Public Hearing*

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

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

July 10, 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 rule 282—13.6(272) as follows:

**282—13.6(272) Specific requirements for an initial license.** An initial license valid for a minimum of two years with an expiration date of June 30 may be issued to an applicant who meets the general requirements set forth in rule 282—13.5(272).

**13.6(1)** For an applicant applying pursuant to subrule 13.5(1), a nonrenewable temporary initial license may be issued if the applicant presents an assessment waiver issued by the director of the Iowa department of education within 30 days of the waiver issuance. The applicant must meet the assessment requirement in order to apply for full Iowa licensure.

**13.6(2)** For an applicant applying pursuant to subrule 13.5(2), a nonrenewable temporary initial license may be issued to the applicant if all requirements have been met with the exception of the assessments pursuant to subparagraph 13.5(2)“b”(2). The applicant must meet the assessment requirement in order to apply for full Iowa licensure.

**13.6(3)** The temporary initial license shall be valid for one year from the date of issuance. This license is nonrenewable and may not be extended. This license may only be issued if the applicant provides an affidavit from the administrator of an Iowa school district or accredited nonpublic school verifying that an offer of a teaching contract has been made and that the employer made every reasonable and good-faith effort to employ a fully licensed teacher for the specified subject and was unable to employ such a teacher.

**ARC 4504C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Notice of Intended Action**

**Proposing rule making related to abuse identification and reporting training and providing an opportunity for public comment**

The Educational Examiners Board hereby proposes to amend Chapter 15, “Special Education Support Personnel Authorizations,” Chapter 19, “Evaluator Endorsement and License,” Chapter 20, “Renewals,” Chapter 22, “Authorizations,” Chapter 23, “Behind-the-Wheel Driving Instructor Authorization,” and Chapter 24, “Paraeducator Certificates,” Iowa Administrative Code.

*Legal Authority for Rule Making*

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

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

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 272.2 and sections 232.69 and 235B.16 as amended by 2019 Iowa Acts, House File 731.

*Purpose and Summary*

The proposed amendments are intended to implement 2019 Iowa Acts, House File 731, which amends Iowa Code sections 232.69 and 235B.16 by modifying the mandatory child abuse and dependent adult abuse identification and reporting training requirements.

*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*

Training requirements for mandatory reporters are set forth in Iowa Code sections 232.69 and 235B.16 and therefore cannot be waived.

*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 July 12, 2019. Comments should be directed to:

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

*Public Hearing*

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

July 10, 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

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

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph **15.7(6)“d”(2)** as follows:

(2) Submit documentation of completion of the child and dependent adult abuse ~~training approved by the state abuse education review panel trainings~~ pursuant to 282—subrule 20.3(4). A waiver of this requirement may apply under the following conditions with appropriate documentation of any of the following:

- 1.—A person is engaged in active duty in the military service of this state or of the United States.
- 2.—The application of this requirement would impose an undue hardship on the person for whom the waiver is requested.
- 3.—A person is practicing a licensed profession outside this state.
- 4.—A person is otherwise subject to circumstances that would preclude the person from satisfying the approved child and dependent adult abuse training in this state.

ITEM 2. Amend subrule 19.8(1) as follows:

**19.8(1)** *Child and dependent adult abuse ~~training~~ trainings.* All applicants renewing an evaluator license must submit documentation of completion of the child and dependent adult abuse ~~training approved by the state abuse education review panel trainings~~ pursuant to 282—subrule 20.3(4). A waiver of this requirement may apply if a person submits appropriate documentation of any of the following:

- a.—A person is engaged in active duty in the military service of this state or of the United States.
- b.—The application of this requirement would impose an undue hardship on the person for whom the waiver is requested.
- c.—A person is practicing a licensed profession outside this state.
- d.—A person is otherwise subject to circumstances that would preclude the person from satisfying the approved child and dependent adult abuse training in this state.

ITEM 3. Amend subrule 20.3(4), introductory paragraph, as follows:

**20.3(4)** *Child and dependent adult abuse ~~training~~ trainings.* Every renewal applicant must submit documentation of completion of the child and dependent adult abuse ~~training trainings~~ approved by the state abuse education review panel ~~department of human services.~~ The completion documentation must be no more than three years old at the time of application. A waiver of this requirement may apply under the following conditions with appropriate documentation of any of the following:

ITEM 4. Amend subparagraph **22.1(4)“a”(3)** as follows:

(3) Complete child and dependent adult abuse ~~training~~ trainings. Every renewal applicant must submit documentation of completion of the child and dependent adult abuse ~~training approved by the state abuse education review panel trainings~~ pursuant to 282—subrule 20.3(4). ~~This certification~~ These trainings combined may be used for a maximum total of one planned activity/course required in 22.1(4)“a”(1). A waiver of this requirement may apply if a person is engaged in active duty in the military service of this state or of the United States.

ITEM 5. Amend subparagraph **22.1(7)“b”(4)** as follows:

(4) Successful completion of ~~an approved the~~ child and dependent adult abuse ~~mandatory reporter training course~~ trainings pursuant to 282—subrule 20.3(4).

ITEM 6. Amend subparagraph **22.2(1)“c”(2)** as follows:

(2) Child and dependent adult abuse ~~training~~ trainings. Every renewal applicant must submit documentation of completion of the child and dependent adult abuse ~~training approved by the state abuse education review panel trainings~~ pursuant to 282—subrule 20.3(4). A waiver of this requirement may apply under the following conditions with appropriate documentation of any of the following:

- 1.—A person is engaged in active duty in the military service of this state or of the United States.

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

~~2.—The application of this requirement would impose an undue hardship on the person for whom the waiver is requested.~~

~~3.—A person is practicing a licensed profession outside this state.~~

~~4.—A person is otherwise subject to circumstances that would preclude the person from satisfying the approved child and dependent adult abuse training in this state.~~

~~5.—The person has previously renewed a license or another authorization issued by the board of educational examiners and, at that time, reported the completion, within the past five years, of child and dependent adult abuse training approved by the state abuse education review panel.~~

ITEM 7. Amend paragraph **22.3(7)“b”** as follows:

*b.* Child and dependent adult abuse mandatory reporter ~~training~~ trainings. Every renewal applicant must submit documentation of completion of the child and dependent adult abuse mandatory reporter ~~training approved by the state abuse education review panel~~ trainings pursuant to 282—subrule 20.3(4). A waiver of this requirement may apply under any of the following appropriately documented conditions:

~~(1) The person is engaged in active duty in the military service of this state or of the United States.~~

~~(2) The application of this requirement would impose an undue hardship on the person for whom the waiver is requested.~~

~~(3) The person is practicing in a licensed profession outside this state.~~

~~(4) The person is otherwise subject to circumstances that would preclude the person from satisfying the approved child and dependent adult abuse mandatory reporter training in this state.~~

~~(5) The person has previously renewed a license or another authorization issued by the board of educational examiners and, at that time, reported the completion, within the past five years, of child and dependent adult abuse mandatory reporter training approved by the state abuse education review panel.~~

ITEM 8. Amend subparagraph **22.7(7)“b”(2)** as follows:

(2) Child and dependent adult abuse mandatory reporter ~~training~~ trainings. Every renewal applicant must submit documentation of completion of the child and dependent adult abuse mandatory reporter ~~training approved by the state abuse education review panel~~ trainings pursuant to 282—subrule 20.3(4). A waiver of this requirement may apply under any of the following appropriately documented conditions:

1.—The person is engaged in active duty in the military service of this state or of the United States.

2.—The person has previously renewed a license or another authorization issued by the board of educational examiners and, at that time, reported the completion, within the past five years, of child and dependent adult abuse mandatory reporter training approved by the state abuse education review panel.

ITEM 9. Amend subrule 23.5(3) as follows:

**23.5(3)** ~~Effective September 1, 2002, the child~~ Child and dependent adult abuse ~~training approved by the state abuse education review panel~~ trainings pursuant to 282—subrule 20.3(4). A waiver of this requirement may apply under the following conditions with appropriate documentation of any of the following:

~~a.—The person is engaged in active duty in the military service of this state or of the United States.~~

~~b.—The application of this requirement would impose an undue hardship on the person for whom the waiver is requested.~~

~~c.—The person is practicing a licensed profession outside this state.~~

~~d.—The person is otherwise subject to circumstances that would preclude the person from satisfying the approved child and dependent adult abuse training in this state.~~

~~e.—The person has previously renewed a license or authorization issued by the board of educational examiners and, at that time, reported the completion, within the past five years, of child and dependent adult abuse training approved by the state abuse education review panel.~~

ITEM 10. Amend subrule 24.6(2) as follows:

**24.6(2)** All applicants renewing a paraeducator certificate must submit documentation of completion of the child and dependent adult abuse ~~training approved by the state abuse education review panel~~ trainings pursuant to 282—subrule 20.3(4). A waiver of this requirement may apply under the following conditions with appropriate documentation of any of the following:



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

- ~~a.—A person is engaged in active duty in the military service of this state or of the United States.~~  
~~b.—The application of this requirement would impose an undue hardship on the person for whom the waiver is requested.~~  
~~c.—A person is practicing a licensed profession outside this state.~~  
~~d.—A person is otherwise subject to circumstances that would preclude the person from satisfying the approved child and dependent adult abuse training in this state.~~

**ARC 4501C****EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action****Proposing rule making related to preservice substitute authorization and providing an opportunity for public comment**

The Educational Examiners Board hereby proposes to amend Chapter 22, “Authorizations,” 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.

*Purpose and Summary*

The proposed amendments would create a new preservice substitute authorization to allow certain teacher preparation candidates to serve as substitute teachers.

*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 July 12, 2019. Comments should be directed to:

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

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)

*Public Hearing*

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

July 10, 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:

Adopt the following **new** subrule 22.2(4):

**22.2(4) Preservice substitute authorization.** A nonrenewable preservice substitute authorization may be issued to applicants who do not meet the requirements in subrule 22.2(1) but who are enrolled in a state-approved Iowa teacher preparation program.

*a. Requirements.* Eligible applicants for the preservice substitute authorization shall meet the following requirements:

(1) Recommendation from the designated recommending official at the Iowa institution where the applicant is enrolled as a teacher preparation candidate. The recommending official will verify the following for each applicant:

1. Full admission into a teacher preparation program, which must include passing scores on entry assessments.

2. Junior or senior standing.

3. Exemplary classroom readiness as identified by the teacher preparation program.

(2) Background check. Applicants must complete the background check requirements set forth in rule 282—13.1(272).

(3) Minimum age. Applicants must have attained a minimum age of 21 years.

*b. Validity.* The preservice substitute authorization is valid for a maximum of two years. Holders of this authorization may not use substituting experience to supplant required field experiences or student teaching. This authorization may not be renewed or extended.

**ARC 4498C****HOMELAND SECURITY AND EMERGENCY  
MANAGEMENT DEPARTMENT[605]****Notice of Intended Action****Proposing rule making related to flood recovery fund  
and providing an opportunity for public comment**

The Homeland Security and Emergency Management Department hereby proposes to amend Chapter 14, "Flood Mitigation Program," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in 2019 Iowa Acts, Senate File 638.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 638.

*Purpose and Summary*

This proposed rule making amends Chapter 14 by adding a new rule that deals with the creation of the Flood Recovery Fund. The fund will be administered by the Flood Mitigation Board. The fund will provide financial support to political subdivisions of the state that have experienced or will experience expenses related to flood response, flood recovery, or flood mitigation. The proposed new rule provides details on eligible applicants, eligible projects, and the application process. This proposed rule making was approved by the Flood Mitigation Board on May 20, 2019.

*Fiscal Impact*

The funds will be used to support eligible political subdivisions as they seek to recover and rebuild from the recent flood events. At this point the Department cannot determine the fiscal impact to individual political subdivisions until applications are processed.

*Jobs Impact*

It is anticipated that this funding will enable eligible political subdivisions to more fully recover from the impacts of recent flooding events, thereby improving the short-term and long-term sustainability of the political subdivisions.

*Waivers*

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

*Public Comment*

Any interested person may submit written 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 July 9, 2019. Comments should be directed to:

John Benson  
Department of Homeland Security and Emergency Management  
7900 Hickman Road, Suite 500  
Windsor Heights, Iowa 50265  
Email: [john.benson@iowa.gov](mailto:john.benson@iowa.gov)

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

*Public Hearing*

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

July 9, 2019  
10 to 11 a.m.

Cyclones Conference Room, Suite 500  
7900 Hickman Road  
Windsor Heights, 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.

*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).

*Emergency Rule Making Adopted by Reference*

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 4499C**, IAB 6/19/19). 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 4496C**

**INSURANCE DIVISION[191]**

**Notice of Intended Action**

**Proposing rule making related to residential and motor vehicle services contracts and providing an opportunity for public comment**

The Insurance Division (Division) hereby proposes to amend Chapter 103, "Residential Service Contracts," and to rescind Chapter 104, "Motor Vehicle Service Contracts," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 516E.7 and 523C.10 and 2019 Iowa Acts, Senate File 619, section 18.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 516E and 523C and 2019 Iowa Acts, Senate File 619.

*Purpose and Summary*

These proposed amendments augment 2019 Iowa Acts, Senate File 619, which, in part, updates provisions regarding the licensing of residential service companies and motor vehicle service companies that enter into residential service contracts and motor vehicle service contracts with consumers. This rule making is intended to provide guidance to residential service companies and motor vehicle service companies regarding how their current license or registration status will be administered by the Division now that the new law has become effective.

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

The new law took effect upon enactment, according to 2019 Iowa Acts, Senate File 619, section 19. The Governor signed the law, thereby making it effective, on May 16, 2019.

*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*

These rules do not include a provision for the waiver of a rule because the Division's general waiver rules of 191—Chapter 4 apply.

*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 Division no later than 4:30 p.m. on July 16, 2019. Comments should be directed to:

Ann Outka  
Insurance Division  
Two Ruan Center  
601 Locust Street, Fourth Floor  
Des Moines, Iowa 50309  
Fax: 515.281.3059  
Email: [ann.outka@iid.iowa.gov](mailto:ann.outka@iid.iowa.gov)

*Public Hearing*

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

July 16, 2019  
2 to 3 p.m.

Division Offices, Fourth Floor  
Two Ruan Center  
601 Locust Street  
Des Moines, Iowa

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rule making. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division 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).

*Emergency Rule Making Adopted by Reference*

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 4495C**, IAB 6/19/19). 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 4497C****LABOR SERVICES DIVISION[875]****Notice of Intended Action****Proposing rule making related to division organization and statutory and technical changes  
and providing an opportunity for public comment**

The Labor Commissioner hereby proposes to amend Chapter 1, "Description of Organization and Procedures Before the Division," to rescind Chapter 2, "IOSH Enforcement, IOSH Research and Statistics, IOSH Consultation and Education," and to amend Chapter 4, "Recording and Reporting Occupational Injuries and Illnesses," Chapter 8, "Consultative Services," Chapter 32, "Child Labor," Chapter 35, "Wage Payment Collection," Chapter 38, "Employment Agency Licensing," Chapter 155, "Asbestos Removal and Encapsulation," and Chapter 156, "Bidder Preferences in Government Contracting," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 73A.21, 88.5, 88B.3, 91A.9, 92.21 and 94A.5.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 17A, 22, 73A, 88, 88B, 91A, 92 and 94A.

*Purpose and Summary*

The proposed amendments would update rules to reflect statutory changes, new phone numbers, a new office location, reorganization of the division, and revision of forms; rescind unnecessary rules; and amend the existing requirement for advance notice of an asbestos abatement project.

*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 Division for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 1 or 5.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on July 16, 2019. Comments should be directed to:

Kathleen Uehling  
Labor Services Division  
150 Des Moines Street  
Des Moines, Iowa 50319

## LABOR SERVICES DIVISION[875](cont'd)

*Public Hearing*

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

July 16, 2019  
9 a.m.

150 Des Moines Street  
Des Moines, Iowa

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

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Division 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. Rescind rule 875—1.3(91) and adopt the following **new** rule in lieu thereof:

**875—1.3(91) Description of the division.** General authority for the division is set forth in Iowa Code chapter 91. The labor commissioner is the executive head of the division and is appointed by the governor and confirmed by the senate. The division also includes employees under the supervision of the commissioner, the elevator safety board, and the boiler and pressure vessel board.

**1.3(1)** The function of the division is to administer and enforce the following:

- a. Bidder preference in government construction contracts as set forth in Iowa Code section 73A.21;
- b. Collection of payments owed to the workers' compensation second injury fund as set forth in Iowa Code section 85.68;
- c. The occupational safety and health program as set forth in Iowa Code chapter 88;
- d. The amusement ride safety program as set forth in Iowa Code chapter 88A;
- e. The asbestos removal and encapsulation program as set forth in Iowa Code chapter 88B;
- f. The boiler and unfired steam pressure vessel program as set forth in Iowa Code chapter 89;
- g. The conveyance safety program as set forth in Iowa Code chapter 89A;
- h. The hazardous chemicals risks right to know program as set forth in Iowa Code chapter 89B;
- i. The boxing, mixed martial arts, and wrestling program as set forth in Iowa Code chapter 90A;
- j. The wage payment collection program as set forth in Iowa Code chapter 91A;
- k. The construction contractor registration and bonding program as set forth in Iowa Code chapter 91C;
- l. The minimum wage program as set forth in Iowa Code chapter 91D;
- m. The employment of non-English speaking employees program as set forth in Iowa Code chapter 91E;
- n. The child labor program as set forth in Iowa Code chapter 92; and
- o. The employment agency licensing program as set forth in Iowa Code chapter 94A.

**1.3(2)** Correspondence and payments may be mailed to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The telephone number for the division is (515)242-5870. The division's office is located at 150 Des Moines Street, Des Moines, Iowa. The division's website is [www.iowadivisionoflabor.gov](http://www.iowadivisionoflabor.gov).

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 2. Rescind subrule 1.12(1) and adopt the following **new** subrule in lieu thereof:

**1.12(1) Filing a request.** A request for access to a record may be sent to the division at 1000 East Grand Avenue, Des Moines, Iowa 50319, or [open.records@iwd.iowa.gov](mailto:open.records@iwd.iowa.gov). A request for access may be sent via facsimile to (515)281-7995 or may be delivered to the division's office at 150 Des Moines Street, Des Moines, Iowa. If a request for access to a record is misdirected, division personnel will promptly forward the request to the appropriate person within the division.

ITEM 3. Amend paragraphs **1.18(2)“h”** to **“j”** as follows:

*h.* Records or portions of records containing attorney work product or attorney-client communications, or which are otherwise privileged pursuant to Iowa Code sections 22.7(4), 622.10, and 622.11, Iowa R.C.P. 122(e), Fed. R. Civ. P. 26(b)(3), rules of; rules of civil procedure, evidence, and professional responsibility for attorneys; and case law, and the Code of Professional Responsibility.

*i.* Minutes of closed meetings of a government body pursuant to Iowa Code section ~~21.5(4)~~ 21.5.

*j.* Information protected by ~~42 U.S.C. 11044(a) or~~ by Iowa Code sections 89B.12, ~~and~~ 89B.13, ~~and~~ 91.12.

ITEM 4. Rescind and reserve paragraph **1.18(2)“l.”**

ITEM 5. Rescind rule 875—1.21(22,91) and adopt the following **new** rule in lieu thereof:

**875—1.21(22,91) Notice to suppliers of information.** The division shall notify persons completing agency forms of the use that will be made of personal information, which persons outside the agency might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means. Notice need not be given in connection with discovery requests in litigation or administrative proceedings, subpoenas, investigations of possible violations of law, or similar demands for information.

ITEM 6. Rescind and reserve subrule **1.23(1).**

ITEM 7. Amend subrule 1.23(16) as follows:

**1.23(16)** Personally identifiable information concerning ~~private~~ employment agency licensees is collected pursuant to Iowa Code chapter ~~95~~ 94A. The information includes biographical data and information about the ~~private~~ employment agency ~~licensee~~ licensee.

ITEM 8. Amend paragraph **1.35(3)“a”** as follows:

*a. Applicability.* This subrule applies only to those oral rule-making proceedings in which an opportunity to make oral presentations is authorized or required by Iowa Code section 17A.4(1) *“b”* as ~~amended by 1998 Iowa Acts, chapter 1202, section 8,~~ or this chapter.

ITEM 9. Amend subrule 1.35(5) as follows:

**1.35(5) Accessibility.** The division will schedule oral proceedings in rooms accessible to and functional for persons with physical disabilities. Persons who have special requirements should contact the division's rules coordinator at ~~(515)281-3445~~ in advance to arrange access or other needed services.

ITEM 10. Amend subrule 1.36(1) as follows:

**1.36(1) Definition of small business.** A “small business” is defined in ~~1998 Iowa Acts, chapter 1202, section 10(7)~~ Iowa Code section 17A.4A(8).

ITEM 11. Rescind and reserve subrules **1.36(2)** and **1.36(3).**

ITEM 12. Amend subrule 1.36(4), introductory paragraph, as follows:

**1.36(4) Qualified requesters for regulatory analysis—economic impact.** The division will issue a regulatory analysis of a proposed rule that conforms to the requirements of ~~1998 Iowa Acts, chapter 1202, section 10(2a)~~ Iowa Code section 17A.4A, after a proper request from:



## LABOR SERVICES DIVISION[875](cont'd)

ITEM 13. Amend subrule 1.36(5), introductory paragraph, as follows:

**1.36(5) *Qualified requesters for regulatory analysis—business impact.*** The division will issue a regulatory analysis of a proposed rule that conforms to the requirements of ~~1998 Iowa Acts, chapter 1202, section 10(2b)~~ Iowa Code section 17A.4A, after a proper request from:

ITEM 14. Amend subrules 1.36(6) to 1.36(11) as follows:

**1.36(6) *Time period for analysis.*** Upon receipt of a timely request for a regulatory analysis the division will adhere to the time lines described in ~~1998 Iowa Acts, chapter 1202, section 10(4)~~ Iowa Code section 17A.4A.

**1.36(7) *Contents of request.*** A request for a regulatory analysis is made when it is mailed or delivered to the division. The request shall be in writing and satisfy the requirements of ~~1998 Iowa Acts, chapter 1202, section 10(1)~~ Iowa Code section 17A.4A.

**1.36(8) *Contents of concise summary.*** The contents of the concise summary shall conform to the requirements of ~~1998 Iowa Acts, chapter 1202, section 10(4,5)~~ Iowa Code section 17A.4A.

**1.36(9) *Publication of a concise summary.*** The division will make available, to the maximum extent feasible, copies of the published summary in conformance with ~~1998 Iowa Acts, chapter 1202, section 10(5)~~ Iowa Code section 17A.4A.

**1.36(10) *Regulatory analysis contents—rules review committee or rules coordinator.*** When a regulatory analysis is issued in response to a written request from the administrative rules review committee, or the administrative rules coordinator, the regulatory analysis will conform to the requirements of ~~1998 Iowa Acts, chapter 1202, section 10(2a)~~ Iowa Code section 17A.4A, unless a written request expressly waives one or more of the items listed in the section.

**1.36(11) *Regulatory analysis contents—substantial impact on small business.*** When a regulatory analysis is issued in response to a written request from the administrative rules review committee, the administrative rules coordinator, at least 25 persons signing that request who each qualify as a small business or by an organization representing at least 25 small businesses, the regulatory analysis shall conform to the requirements of ~~1998 Iowa Acts, chapter 1202, section 10(2b)~~ Iowa Code section 17A.4A.

ITEM 15. Rescind subrule 1.37(1) and adopt the following **new** subrule in lieu thereof:

**1.37(1)** The division will prepare and submit a fiscal impact statement to satisfy the requirements of Iowa Code section 17A.4(4) and section 25B.6 if a notice of intended action or a rule filed without notice necessitates new annual expenditures of at least \$100,000 or combined expenditures of at least \$500,000 within five years by all affected persons.

ITEM 16. Rescind rule 875—1.40(17A) and adopt the following **new** rule in lieu thereof:

**875—1.40(17A) Exemptions from public rule-making procedures.**

**1.40(1) *Omission of notice and comment.*** Pursuant to Iowa Code section 17A.4(3) “a,” the division may adopt a rule without publishing advance notice of intended action in the Iowa Administrative Bulletin and without providing for public comment when the statute so provides or if the administrative rules review committee approves.

**1.40(2) *Providing for notice and comment for a rule adopted without notice and comment.*** The commissioner may begin a standard rule-making proceeding for the adoption of a rule that is identical or similar to a rule adopted without notice and comment. After notice under this subrule, the commissioner may take any lawful action, including amendment, adoption, or repeal of the rule.

ITEM 17. Amend paragraph **1.42(1)“b”** as follows:

*b.* A brief explanation of the principal reasons for the rule-making action if such reasons are required by ~~1998 Iowa Acts, chapter 1202, section 8,~~ Iowa Code section 17A.4(2) or the division in its discretion decides to include the reasons;

ITEM 18. Amend paragraph **1.42(1)“f”** as follows:

*f.* A brief explanation of the principal reasons for the failure to provide for waivers to the rule if no waiver provision is included and a brief explanation of any waiver or special exceptions provided

## LABOR SERVICES DIVISION[875](cont'd)

in the rule if such reasons are required by ~~1998 Iowa Acts, chapter 1202, section 8,~~ Iowa Code section 17A.4(2) or the division in its discretion decides to include such reasons; and

ITEM 19. Amend subrule 1.43(4) as follows:

~~1.43(4) Significant-written~~ Written criticisms. Written criticisms of a rule may be ~~submitted to the division and directed mailed to the~~ Division of Labor Services, Division Rules Coordinator, 1000 East Grand Avenue, Des Moines, Iowa 50319. ~~A criticism of a specific rule must be more than a mere lack of understanding of a rule or a dislike regarding the rule.~~ To constitute a criticism of a rule, the criticism must be in writing, state it is a criticism of a specific rule, state the rule number, and provide reasons for criticism of the rule. All written rule criticisms received will be kept ~~in a separate record~~ for a period of five years.

ITEM 20. Amend subrule 1.52(3), introductory paragraph, as follows:

~~1.52(3)~~ A petition for intervention shall be ~~filed at the~~ mailed to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The petition is deemed filed when it is received by that office. The division will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be ~~typewritten or legibly handwritten in ink~~ legible and must substantially conform to the following form:

ITEM 21. Amend rule 875—1.54(17A) as follows:

~~875—1.54(17A) Inquiries.~~ Inquiries concerning the status of a declaratory order proceeding may be ~~made mailed to the Declaratory Orders Coordinator,~~ Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319.

ITEM 22. Amend subrule 1.57(1) as follows:

~~1.57(1)~~ Within the time allowed by ~~1998 Iowa Acts, chapter 1202, section 13(5)~~ Iowa Code section 17A.9, after receipt of a petition for a declaratory order, the labor commissioner or designee shall take action on the petition as required by ~~1998 Iowa Acts, chapter 1202, section 13(5)~~ Iowa Code section 17A.9.

ITEM 23. Amend subrule 1.58(1), introductory paragraph, as follows:

~~1.58(1)~~ The division shall not issue a declaratory order where prohibited by ~~1998 Iowa Acts, chapter 1202, section 13(1),~~ Iowa Code section 17A.9 and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

ITEM 24. Amend rule ~~875—1.66(17A)~~, definition of “Contested case,” as follows:

~~“Contested case” means a proceeding defined by Iowa Code section 17A.2(5) and includes a no factual dispute~~ contested case under 1998 Iowa Acts, chapter 1202, section 14 without a factual dispute pursuant to Iowa Code section 17A.10A.

ITEM 25. Amend paragraph ~~1.69(2)“j”~~ as follows:

~~j.~~ Notification of the time period in which a party may request, pursuant to ~~1998 Iowa Acts, chapter 1202, section 15(1),~~ Iowa Code section 17A.11 and rule ~~875—1.70(17A)~~, that the presiding officer be an administrative law judge.

ITEM 26. Amend subrule 1.72(2) as follows:

~~1.72(2)~~ The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other division functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by ~~1998 Iowa Acts, chapter 1202, section 19(3),~~ Iowa Code section 17A.17 and subrules 1.72(3) and 1.86(9).

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 27. Amend subrule 1.72(4) as follows:

**1.72(4)** If a party asserts disqualification on any appropriate ground, including those listed in subrule 1.72(1), the party shall file a motion supported by an affidavit pursuant to ~~1998 Iowa Acts, chapter 1202, section 19(7)~~ Iowa Code section 17A.17. The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule ~~875—1.88(17A)~~ and seek a stay under rule ~~875—1.93(17A)~~.

ITEM 28. Amend subrule 1.75(4) as follows:

**1.75(4)** When filing is required. After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be ~~filed with~~ mailed to the division at 1000 East Grand Avenue, Des Moines, Iowa 50319. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the division.

ITEM 29. Amend subrule 1.93(2) as follows:

**1.93(2)** *When granted.* In determining whether to grant a stay, the presiding officer or the commissioner shall consider the factors listed in ~~1998 Iowa Acts, chapter 1202, section 23(5c)~~ Iowa Code section 17A.19.

ITEM 30. Amend subrule 1.95(1), introductory paragraph, as follows:

**1.95(1)** *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the division may issue a written order in compliance with ~~1998 Iowa Acts, chapter 1202, section 21,~~ Iowa Code section 17A.18A to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the division by emergency adjudicative order. Before issuing an emergency adjudicative order the division shall consider factors including, but not limited to, the following:

ITEM 31. Amend subrule 1.101(1) as follows:

**1.101(1)** These rules provide general procedures for waivers and variances from division rules. Specific waiver or variance procedures must be followed when applicable. ~~No~~ Except where specific statutory authority is granted, no waiver or variance may be granted from a requirement or duty imposed by statute or when granting a waiver or variance would cause a denial of federal funds or be inconsistent with federal statute or regulation. Any waiver or variance must be consistent with statute. These waiver and variance procedures do not apply to rules that merely define the meaning of a statute or other provision of law unless the division possesses delegated authority to bind the courts with its rules.

ITEM 32. Amend rule ~~875—1.102(17A,91)~~, introductory paragraph, as follows:

**875—1.102(17A,91) Petitions.** If the petition for waiver or variance relates to a pending contested case, the petition shall be filed in the contested case proceeding. Other petitions must be ~~submitted in writing~~ mailed to Labor Commissioner, Division of Labor Services, 1000 E. East Grand Avenue, Des Moines, Iowa 50319. In either case, the petition shall include the following information where applicable:

ITEM 33. Amend ~~875—Chapter 1~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 22 and 91, ~~2000 Iowa Acts, House File 2206,~~ and Executive Order Number Eleven.

ITEM 34. Rescind and reserve ~~875—Chapter 2~~.

ITEM 35. Amend paragraph **4.3(2)“a”** as follows:

a. Completing the incident report form available at [www.iowaosha.gov](http://www.iowaosha.gov) and faxing the completed form to ~~(515)242-5076~~ (515)725-2024 or sending the completed form to [osha@iwd.iowa.gov](mailto:osha@iwd.iowa.gov);

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 36. Amend paragraph **4.3(2)“c”** as follows:

c. Visiting ~~1000 E. Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa.

ITEM 37. Amend rule 875—8.1(88), introductory paragraph, as follows:

**875—8.1(88) Purpose and scope.** This chapter contains procedures for the division of labor services, bureau of consultation and education, to provide consultation services to private and public employers. Employers seeking information regarding consultative services should visit <http://www.iowaworkforce.org/labor/iosh/consultation/index.htm> [www.iowaosha.gov](http://www.iowaosha.gov) or telephone (515)281-7629.

ITEM 38. Amend rule **875—32.2(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 92 ~~as amended by 2015 Iowa Acts, House File 397.~~

ITEM 39. Amend paragraph **32.11(1)“b”** as follows:

b. Each day that a child works without a permit, works ~~on a prohibited day~~ too many hours, works at a prohibited time, or works in a prohibited occupation shall be a separate violation.

ITEM 40. Rescind and reserve paragraph **32.11(3)“b.”**

ITEM 41. Amend subrule 32.11(4), introductory paragraph, as follows:

**32.11(4) Time Hours violations.** If a child is killed while working ~~on a prohibited day or at a prohibited time or for excessive hours~~, the civil penalty shall be \$10,000 for each instance. ~~Otherwise For other time or hour violations~~, the penalties set forth in this subrule shall be applied.

ITEM 42. Rescind paragraph **32.11(4)“b”** and adopt the following new paragraph in lieu thereof:

b. For any time or hours violation not described elsewhere in this subrule, the following civil penalty schedule shall apply:

<u>Instance</u>	<u>Penalty</u>
First	\$100 civil penalty
Second	\$250 civil penalty
Third	\$500 civil penalty
Fourth	\$1,000 civil penalty
Fifth	\$2,500 civil penalty
Sixth	\$5,000 civil penalty
Seventh	\$7,500 civil penalty
Each additional instance	\$10,000 civil penalty

ITEM 43. Amend subrule 35.3(1) as follows:

**35.3(1) Wage claim form.** A wage claim form ~~shall be available upon request~~ is available at [www.iowawage.gov](http://www.iowawage.gov). An aggrieved employee shall supply such information as required by the commissioner to commence the investigation of a claim. The claimant shall certify by signature that such information is true to the best of the claimant’s knowledge and belief. A claim for wages ~~shall may be made by submitting a complete wage claim form to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319~~ sent to the division office by mail, facsimile, or email.

ITEM 44. Amend paragraph **38.8(2)“c”** as follows:

c. All contracts and fee schedules must clearly state that the agency is licensed by the labor commissioner and that inquiries may be ~~submitted~~ made via mail to the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319, ~~or by telephone (515)281-3606 to (515)242-5870.~~

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 45. Rescind the definition of “Asbestos project” in rule **875—155.1(88B)**.

ITEM 46. Amend subrule 155.2(1) as follows:

**155.2(1) Application.** To apply for or to renew a permit, a business entity shall complete and submit a completed application, Form 309-6504, to the form provided by the division. All requested applicable information and attachments must be provided. A \$500 nonrefundable application fee shall accompany each permit application.

ITEM 47. Amend rule 875—155.4(88B), introductory paragraph, as follows:

**875—155.4(88B) Asbestos project records.** ~~The~~ In addition to meeting requirements set forth in the occupational safety and health standards of 29 CFR 1910.1020, the permittee shall keep a record of each asbestos project it performs and shall make the record available to the division at any reasonable time. Records required by this rule shall be kept for at least six years. The records shall include:

ITEM 48. Rescind and reserve subrules **155.4(7)** to **155.4(9)**.

ITEM 49. Amend paragraph **155.5(3)“d”** as follows:

*d.* The ~~anticipated~~ scheduled dates of the project’s start and end.

ITEM 50. Amend subrule 155.6(1) as follows:

**155.6(1) Forms Application form.** ~~Iowa Form 309-2068 must be used for all new and renewal asbestos license applications. The second page of the form is the respirator fit test and the third page is a physician’s certification. Forms from other states may not be substituted for the Iowa form or any part thereof. Except as noted in this subrule, the applicant must complete and submit the entire form provided by the division with the necessary attachments. Respirator fit tests and medical examinations must have occurred within the past 12 months. Only worker and contractor/supervisor license applicants must submit the respirator fit test and physician’s certification forms. Photocopies of the forms shall not be accepted.~~

ITEM 51. Amend subrule 156.4(1) as follows:

**156.4(1) Complaints.** Any person with information regarding a violation of the Act may submit a written complaint to the commissioner. Any complaint must provide the information required pursuant to subrule 156.4(2) or as much of such information as is reasonably practicable under the circumstances. The completed written complaint form shall be submitted mailed to the commissioner at Labor Services Division, 1000 East Grand Avenue, Des Moines, Iowa 50319.

**ARC 4500C**

**REVENUE DEPARTMENT[701]**

**Notice of Intended Action**

**Proposing rule making related to like-kind exchanges of personal property and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 40, “Determination of Net Income,” Chapter 53, “Determination of Net Income,” and Chapter 59, “Determination of Net Income,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 422.68.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 422.7; 2018 Iowa Acts, Senate File 2417; and 2019 Iowa Acts, House File 779.

REVENUE DEPARTMENT[701](cont'd)

*Purpose and Summary*

These proposed rules are intended to implement the temporary nonconformity of Iowa's tax laws to the federal repeal of gain or loss deferral from exchanges of like-kind personal property in tax year 2018, and to implement 2018 Iowa Acts, Senate File 2417, and 2019 Iowa Acts, House File 779, which, in part, provide an election to taxpayers to defer gain or loss from exchanges of like-kind personal property in tax year 2019.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement. The Fiscal Note for 2018 Iowa Acts, Senate File 2417, does not provide a separate estimate for the cost of these specific provisions, only an aggregate impact of all income tax changes included in that legislation. The Department can provide additional information about the fiscal impacts of that legislation related to these specific provisions upon request. The Fiscal Note for 2019 Iowa Acts, House File 779, estimates that the Iowa Code changes implemented by this rule making will decrease General Fund revenues by \$200,000 in FY 2019 and \$700,000 in FY 2020.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on July 9, 2019. Comments should be directed to:

Michael Mertens  
Iowa Department of Revenue  
Hoover State Office Building  
P.O. Box 10457  
Des Moines, Iowa 50306  
Phone: 515.281.5162  
Email: [michael.mertens@iowa.gov](mailto:michael.mertens@iowa.gov)

*Public Hearing*

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

*Review by Administrative Rules Review Committee*

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

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

The following rule-making actions are proposed:

ITEM 1. Adopt the following new rule 701—40.82(422):

**701—40.82(422) Like-kind exchanges of personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020.**

**40.82(1) *In general.*** Public Law 115-97, Section 13303, repealed the deferral of gain or loss from exchanges of like-kind personal property for federal purposes under Section 1031 of the Internal Revenue Code. This federal repeal applies to exchanges completed after December 31, 2017, unless the taxpayer began the exchange by transferring personal property or receiving replacement personal property on or before that date. Iowa did not conform to this federal repeal for Iowa individual income tax purposes for tax periods beginning before January 1, 2019. For tax years beginning on or after January 1, 2019, but before January 1, 2020, Iowa generally conforms to the federal treatment of gain or loss from exchanges of like-kind personal property, but eligible taxpayers may elect the treatment that applied under prior federal law for Iowa purposes. For tax years beginning on or after January 1, 2020, Iowa fully conforms to the federal treatment for these exchanges, and no special election is available. This rule governs exchanges of like-kind personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020. This rule does not apply to exchanges completed during any tax year beginning on or after January 1, 2020.

**40.82(2) *Qualification.*** Section 1031 of the Internal Revenue Code in effect on December 21, 2017, and any applicable federal regulations govern whether transactions involving the disposition and acquisition of personal property qualify for Iowa individual income tax purposes as a like-kind exchange of personal property subject to the deferral of gain or loss, and also govern the date and tax period during which an exchange is considered completed. The treatment of such transactions as a like-kind exchange for Iowa individual income tax purposes is either mandatory or permissive depending on the date the like-kind exchange is completed.

*a. Like-kind exchanges completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019.* Transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019, are required to be treated as a like-kind exchange for Iowa individual income tax purposes.

*b. Like-kind exchanges completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020.* For tax periods beginning on or after January 1, 2019, Iowa is conformed to the federal repeal of deferral of gain or loss from exchanges of like-kind personal property, so the federal and Iowa treatment of such transactions under Section 1031 of the Internal Revenue Code will generally be the same. However, transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020, may at the election of the taxpayer be treated as a like-kind exchange for Iowa individual income tax purposes. The election is made by completing the necessary worksheets and forms and making the required adjustments on the Iowa return as described in subrule 40.82(3). No special attachment or statement is required. The election only applies to the transactions involved in the like-kind exchange, and the taxpayer may elect or not elect to treat other qualifying transactions as a like-kind exchange for Iowa purposes.

**40.82(3) *Calculation and Iowa adjustments.*** A taxpayer required to or electing to treat qualifying transactions as a like-kind exchange for Iowa tax purposes must make certain Iowa calculations and adjustments on forms and worksheets made available on the department's website. The IA 8824 Worksheet described in this subrule need not be included with the Iowa return but must be kept with the taxpayer's records. The taxpayer is responsible for providing documentation at the department's request to substantiate a like-kind exchange under this rule.

*a. Like-kind exchange calculation.* The taxpayer must complete Parts I and II of the IA 8824 Worksheet to compute the Iowa recognized gain, if any, the Iowa deferred gain or loss, and the Iowa basis of the like-kind personal property received in the like-kind exchange.

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

EXAMPLE 1: X, a sole proprietor engaged in commercial farming and filing on a calendar-year basis, trades a tractor with a fair market value (FMV) of \$25,000 along with \$75,000 in cash to Y for a new tractor with an FMV of \$100,000. For purposes of this example it is assumed that the tractor trade occurs in 2019 and qualifies as a like-kind exchange and that X elects such treatment for Iowa individual income tax purposes under paragraph 40.82(2) "b." At the time of the trade, the adjusted basis of X's old tractor is \$0 for federal tax purposes and is \$13,680 for Iowa tax purposes. X realizes a gain for Iowa purposes on the exchange of the old tractor in the amount of \$11,320 (\$100,000 FMV of new tractor - \$75,000 cash paid - \$13,680 Iowa adjusted basis of old tractor). Because X did not receive any cash or other property that was not like-kind, or assume any liabilities from Y, the entire amount of X's \$11,320 realized gain qualifies for deferral, so X recognizes \$0 of gain on the exchange for Iowa tax purposes. As a result, X's basis in the new tractor for Iowa tax purposes is \$88,680 (\$13,680 Iowa adjusted basis of old tractor + \$75,000 cash paid by X).

*b. Iowa nonconformity adjustment.*

(1) The taxpayer must complete Part III of the IA 8824 Worksheet to adjust for the difference between any recognized Iowa gain from the exchange as calculated on the IA 8824 Worksheet, Part II, and any gain or loss (including gain or loss recaptured as ordinary income) recognized on the taxpayer's federal return.

EXAMPLE 2: Assume the same facts as given in Example 1. Because the tractor trade occurred in 2019, it will not qualify as a like-kind exchange for federal tax purposes but will instead be treated as two separate transactions: a sale of the old tractor and a purchase of the new tractor. X recognizes a gain for federal tax purposes on the sale of the old tractor in the amount of \$25,000 (\$25,000 sales price of old tractor - \$0 federal adjusted basis of old tractor), the entire amount of which is recaptured as ordinary income because of prior depreciation. X reports the \$25,000 of income on the federal return. X is required to report the same \$25,000 as income on the Iowa return but is also allowed a \$25,000 subtraction on the same Iowa return because X's recognized gain for Iowa tax purposes is \$0 as calculated in Example 1. X's nonconformity adjustment of -\$25,000 must be reported on the Iowa return in the manner prescribed on the IA 8824 Worksheet.

(2) If the total recognized federal gain is reported using the installment sale method under Section 453 of the Internal Revenue Code, the total amount of any Iowa nonconformity adjustment related to that federal gain must be claimed over the same installment period, and the proportion of the total Iowa nonconformity adjustment claimed for each tax year shall equal the same proportion that the federal gain reported for that tax year bears to the total amount of federal gain that will ultimately be reported for all tax years resulting from the disposition of the personal property. The taxpayer must complete an IA 8824 Worksheet for each tax year that an Iowa nonconformity adjustment is claimed.

*c. Cost recovery adjustments.*

(1) The taxpayer must complete the IA 4562A to account for any differences between the federal and Iowa cost recovery deductions related to the like-kind personal property involved in the like-kind exchange, including if the taxpayer's basis in the like-kind personal property received is different for federal and Iowa purposes, or if the taxpayer claimed additional first-year depreciation or a section 179 deduction for federal purposes on the like-kind property received in the exchange. See rule 701—40.60(422) for requirements related to the disallowance of additional first-year depreciation for Iowa individual income tax purposes. See rule 701—40.65(422) for the section 179 limitations imposed under the Iowa individual income tax.

(2) Treasury Regulation §1.168(i)-6 prescribes rules related to the calculation of depreciation for certain assets involved in a like-kind exchange, but a taxpayer may elect to not have those rules apply pursuant to Treasury Regulation §1.168(i)-6(i). A taxpayer may choose to make a similar election under Treasury Regulation §1.168(i)-6(i) for Iowa tax purposes with regard to a like-kind exchange under this rule if the personal property otherwise would have qualified for such federal election notwithstanding the fact that no like-kind exchange occurred for federal purposes or the fact that no election was actually made for federal tax purposes in accordance with Treasury Regulation §1.168(i)-6(j). The election is made by calculating depreciation for Iowa tax purposes on the personal property involved in the like-kind exchange using the method described in Treasury Regulation §1.168(i)-6(i) on the timely filed Iowa



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

return, including extensions, for the same tax year that the like-kind exchange was completed. No special attachment or statement is required.

EXAMPLE 3: Assume the same facts as given in Examples 1 and 2. X elects additional first-year depreciation on the new tractor and claims a depreciation deduction on the federal return of \$100,000 (100 percent of X's federal basis). X is required to add back the total amount of the federal depreciation on the Iowa return because Iowa does not allow additional first-year depreciation. But X is permitted deductions for regular depreciation on the new tractor with an Iowa basis of \$88,680 (\$13,680 carryover basis from old tractor + \$75,000 excess basis from cash paid) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k). See rule 701—40.60(422) for more information on the disallowance of additional first-year depreciation.

EXAMPLE 4: Assume the same facts as given in Examples 1 and 2. X elects to expense the entire cost of the new tractor under Section 179 of the Internal Revenue Code and claims a deduction on the federal return of \$100,000. X is also required to claim the section 179 deduction on the new tractor for Iowa tax purposes pursuant to subrule 40.65(2). However, the amount that represents the carryover basis from the old tractor (\$13,680) is not eligible for the deduction under Section 179(d)(3) of the Internal Revenue Code, so the cost of the new tractor that is eligible for the section 179 deduction for Iowa purposes is only \$75,000 (excess basis from cash paid). This is the amount of section 179 deduction that X must claim on the Iowa return, subject to the applicable Iowa dollar limitation and reduction limitations in rule 701—40.65(422). Because X is the taxpayer who placed the new tractor in service, X is permitted deductions for regular depreciation on the carryover basis in the new tractor (\$13,680) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k).

This rule is intended to implement Iowa Code section 422.7 as amended by 2018 Iowa Acts, chapter 1161 [Senate File 2417].

ITEM 2. Adopt the following **new** rule 701—53.27(422):

**701—53.27(422) Like-kind exchanges of personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020.**

**53.27(1) In general.** Public Law 115-97, Section 13303, repealed the deferral of gain or loss from exchanges of like-kind personal property for federal purposes under Section 1031 of the Internal Revenue Code. This federal repeal applies to exchanges completed after December 31, 2017, unless the taxpayer began the exchange by transferring personal property or receiving replacement personal property on or before that date. Iowa did not conform to this federal repeal for Iowa corporation income tax purposes for tax periods beginning before January 1, 2019. For tax years beginning on or after January 1, 2019, but before January 1, 2020, Iowa generally conforms to the federal treatment of gain or loss from exchanges of like-kind personal property, but eligible taxpayers may elect the treatment that applied under prior federal law for Iowa purposes. For tax years beginning on or after January 1, 2020, Iowa fully conforms to the federal treatment for these exchanges, and no special election is available. This rule governs exchanges of like-kind personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020. This rule does not apply to exchanges completed during any tax year beginning on or after January 1, 2020.

**53.27(2) Qualification.** Section 1031 of the Internal Revenue Code in effect on December 21, 2017, and any applicable federal regulations govern whether transactions involving the disposition and acquisition of personal property qualify for Iowa corporate income tax purposes as a like-kind exchange of personal property subject to the deferral of gain or loss and also govern the date and tax period during which an exchange is considered completed. The treatment of such transactions as a like-kind exchange for Iowa corporate income tax purposes is either mandatory or permissive depending on the date the like-kind exchange is completed.

*a. Like-kind exchanges completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019.* Transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019, are required to be treated as a like-kind exchange for Iowa corporate income tax purposes.

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

*b. Like-kind exchanges completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020.* For tax periods beginning on or after January 1, 2019, Iowa is conformed to the federal repeal of deferral of gain or loss from exchanges of like-kind personal property, so the federal and Iowa treatment of such transactions under Section 1031 of the Internal Revenue Code will generally be the same. However, transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020, may at the election of the taxpayer be treated as a like-kind exchange for Iowa corporate income tax purposes. The election is made by completing the necessary worksheets and forms and making the required adjustments on the Iowa return as described in subrule 53.27(3). No special attachment or statement is required. The election only applies to the transactions involved in the like-kind exchange, and the taxpayer may elect or not elect to treat other qualifying transactions as a like-kind exchange for Iowa purposes.

**53.27(3) Calculation and Iowa adjustments.** A taxpayer required to or electing to treat qualifying transactions as a like-kind exchange for Iowa tax purposes must make certain Iowa calculations and adjustments on forms and worksheets made available on the department's website. The IA 8824 Worksheet described in this subrule need not be included with the Iowa return but must be kept with the taxpayer's records. The taxpayer is responsible for providing documentation at the department's request to substantiate a like-kind exchange under this rule.

*a. Like-kind exchange calculation.* The taxpayer must complete Parts I and II of the IA 8824 Worksheet to compute the Iowa recognized gain, if any, the Iowa deferred gain or loss, and the Iowa basis of the like-kind personal property received in the like-kind exchange.

EXAMPLE 1: X, a corporation engaged in commercial farming and filing on a calendar-year basis, trades a tractor with a fair market value (FMV) of \$25,000 along with \$75,000 in cash to Y for a new tractor with an FMV of \$100,000. For purposes of this example it is assumed that the tractor trade occurs in 2019 and qualifies as a like-kind exchange and that X elects such treatment for Iowa corporate income tax purposes under paragraph 53.27(2) "b." At the time of the trade, the adjusted basis of X's old tractor is \$0 for federal tax purposes and is \$13,680 for Iowa tax purposes. X realizes a gain for Iowa purposes on the exchange of the old tractor in the amount of \$11,320 (\$100,000 FMV of new tractor - \$75,000 cash paid - \$13,680 Iowa adjusted basis of old tractor). Because X did not receive any cash or other property that was not like-kind, or assume any liabilities from Y, the entire amount of X's \$11,320 realized gain qualifies for deferral, so X recognizes \$0 of gain on the exchange for Iowa tax purposes. As a result, X's basis in the new tractor for Iowa tax purposes is \$88,680 (\$13,680 Iowa adjusted basis of old tractor + \$75,000 cash paid by X).

*b. Iowa nonconformity adjustment.*

(1) The taxpayer must complete Part III of the IA 8824 Worksheet to adjust for the difference between any recognized Iowa gain from the exchange as calculated on the IA 8824 Worksheet, Part II, and any gain or loss (including gain or loss recaptured as ordinary income) recognized on the taxpayer's federal return.

EXAMPLE 2: Assume the same facts as given in Example 1. Because the tractor trade occurred in 2019, it will not qualify as a like-kind exchange for federal tax purposes but will instead be treated as two separate transactions: a sale of the old tractor and a purchase of the new tractor. X recognizes a gain for federal tax purposes on the sale of the old tractor in the amount of \$25,000 (\$25,000 sales price of old tractor - \$0 federal adjusted basis of old tractor), the entire amount of which is recaptured as ordinary income because of prior depreciation. X reports the \$25,000 of income on the federal return. X is required to report the same \$25,000 as income on the Iowa return but is also allowed a \$25,000 subtraction on the same Iowa return because X's recognized gain for Iowa tax purposes is \$0 as calculated in Example 1. X's nonconformity adjustment of -\$25,000 must be reported on the Iowa return in the manner prescribed on the IA 8824 Worksheet.

(2) If the total recognized federal gain is reported using the installment sale method under Section 453 of the Internal Revenue Code, the total amount of any Iowa nonconformity adjustment related to that federal gain must be claimed over the same installment period, and the proportion of the total Iowa nonconformity adjustment claimed for each tax year shall equal the same proportion that the federal gain

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

reported for that tax year bears to the total amount of federal gain that will ultimately be reported for all tax years resulting from the disposition of the personal property. The taxpayer must complete an IA 8824 Worksheet for each tax year that an Iowa nonconformity adjustment is claimed.

*c. Cost recovery adjustments.*

(1) The taxpayer must complete the IA 4562A to account for any differences between the federal and Iowa cost recovery deductions related to the like-kind personal property involved in the like-kind exchange, including if the taxpayer's basis in the like-kind personal property received is different for federal and Iowa purposes, or if the taxpayer claimed additional first-year depreciation or a section 179 deduction for federal purposes on the like-kind property received in the exchange. See rule 701—53.22(422) for requirements related to the disallowance of additional first-year depreciation for Iowa corporate income tax purposes. See rule 701—53.23(422) for the section 179 limitations imposed under the Iowa corporate income tax.

(2) Treasury Regulation §1.168(i)-6 prescribes rules related to the calculation of depreciation for certain assets involved in a like-kind exchange, but a taxpayer may elect to not have those rules apply pursuant to Treasury Regulation §1.168(i)-6(i). A taxpayer may choose to make a similar election under Treasury Regulation §1.168(i)-6(i) for Iowa tax purposes with regard to a like-kind exchange under this rule if the personal property otherwise would have qualified for such federal election notwithstanding the fact that no like-kind exchange occurred for federal purposes or the fact that no election was actually made for federal tax purposes in accordance with Treasury Regulation §1.168(i)-6(j). The election is made by calculating depreciation for Iowa tax purposes on the personal property involved in the like-kind exchange using the method described in Treasury Regulation §1.168(i)-6(i) on the timely filed Iowa return, including extensions, for the same tax year that the like-kind exchange was completed. No special attachment or statement is required.

EXAMPLE 3: Assume the same facts as given in Examples 1 and 2. X elects additional first-year depreciation on the new tractor and claims a depreciation deduction on the federal return of \$100,000 (100 percent of X's federal basis). X is required to add back the total amount of the federal depreciation on the Iowa return because Iowa does not allow additional first-year depreciation. But X is permitted deductions for regular depreciation on the new tractor with an Iowa basis of \$88,680 (\$13,680 carryover basis from old tractor + \$75,000 excess basis from cash paid) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k). See rule 701—53.22(422) for more information on the disallowance of additional first-year depreciation.

EXAMPLE 4: Assume the same facts as given in Examples 1 and 2. X elects to expense the entire cost of the new tractor under Section 179 of the Internal Revenue Code and claims a deduction on the federal return of \$100,000. X is also required to claim the section 179 deduction on the new tractor for Iowa tax purposes pursuant to subrule 53.23(2). However, the amount that represents the carryover basis from the old tractor (\$13,680) is not eligible for the deduction under Section 179(d)(3) of the Internal Revenue Code, so the cost of the new tractor that is eligible for the section 179 deduction for Iowa purposes is only \$75,000 (excess basis from cash paid). This is the amount of section 179 deduction that X must claim on the Iowa return, subject to the applicable Iowa dollar limitation and reduction limitations in rule 701—53.23(422). Because X is the taxpayer who placed the new tractor in service, X is permitted deductions for regular depreciation on the carryover basis in the new tractor (\$13,680) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k).

This rule is intended to implement 2019 Iowa Acts, chapter 152 [House File 779], section 11.

ITEM 3. Adopt the following **new** rule 701—59.25(422):

**701—59.25(422) Like-kind exchanges of personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020.**

**59.25(1) In general.** Public Law 115-97, Section 13303, repealed the deferral of gain or loss from exchanges of like-kind personal property for federal purposes under Section 1031 of the Internal Revenue Code. This federal repeal applies to exchanges completed after December 31, 2017, unless the taxpayer began the exchange by transferring personal property or receiving replacement personal property on or before that date. Iowa did not conform to this federal repeal for Iowa franchise tax purposes for tax

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

periods beginning before January 1, 2019. For tax years beginning on or after January 1, 2019, but before January 1, 2020, Iowa generally conforms to the federal treatment of gain or loss from exchanges of like-kind personal property, but eligible taxpayers may elect the treatment that applied under prior federal law for Iowa purposes. For tax years beginning on or after January 1, 2020, Iowa fully conforms to the federal treatment for these exchanges, and no special election is available. This rule governs exchanges of like-kind personal property completed after December 31, 2017, but before tax periods beginning on or after January 1, 2020. This rule does not apply to exchanges completed during any tax year beginning on or after January 1, 2020.

**59.25(2) Qualification.** Section 1031 of the Internal Revenue Code in effect on December 21, 2017, and any applicable federal regulations govern whether transactions involving the disposition and acquisition of personal property qualify for Iowa franchise tax purposes as a like-kind exchange of personal property subject to the deferral of gain or loss and also govern the date and tax period during which an exchange is considered completed. The treatment of such transactions as a like-kind exchange for Iowa franchise tax purposes is either mandatory or permissive depending on the date the like-kind exchange is completed.

*a. Like-kind exchanges completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019.* Transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed after December 31, 2017, but before tax periods beginning on or after January 1, 2019, are required to be treated as a like-kind exchange for Iowa franchise tax purposes.

*b. Like-kind exchanges completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020.* For tax periods beginning on or after January 1, 2019, Iowa is conformed to the federal repeal of deferral of gain or loss from exchanges of like-kind personal property, so the federal and Iowa treatment of such transactions under Section 1031 of the Internal Revenue Code will generally be the same. However, transactions involving the disposition and acquisition of personal property that qualify under this subrule as a like-kind exchange completed during tax periods beginning on or after January 1, 2019, but before January 1, 2020, may at the election of the taxpayer be treated as a like-kind exchange for Iowa franchise tax purposes. The election is made by completing the necessary worksheets and forms and making the required adjustments on the Iowa return as described in subrule 59.25(3). No special attachment or statement is required. The election only applies to the transactions involved in the like-kind exchange, and the taxpayer may elect or not elect to treat other qualifying transactions as a like-kind exchange for Iowa purposes.

**59.25(3) Calculation and Iowa adjustments.** A taxpayer required to or electing to treat qualifying transactions as a like-kind exchange for Iowa tax purposes must make certain Iowa calculations and adjustments on forms and worksheets made available on the department's website. The IA 8824 Worksheet described in this subrule need not be included with the Iowa return but must be kept with the taxpayer's records. The taxpayer is responsible for providing documentation at the department's request to substantiate a like-kind exchange under this rule.

*a. Like-kind exchange calculation.* The taxpayer must complete Parts I and II of the IA 8824 Worksheet to compute the Iowa recognized gain, if any, the Iowa deferred gain or loss, and the Iowa basis of the like-kind personal property received in the like-kind exchange.

EXAMPLE 1: X, a financial institution filing on a calendar-year basis, trades a computer system with a fair market value (FMV) of \$25,000 along with \$75,000 in cash to Y for a new computer system with an FMV of \$100,000. For purposes of this example it is assumed that the computer system trade occurs in 2019 and qualifies as a like-kind exchange and that X elects such treatment under paragraph 59.25(2) "b." At the time of the trade, the adjusted basis of X's old computer system is \$0 for federal tax purposes and is \$13,680 for Iowa tax purposes. X realizes a gain for Iowa purposes on the exchange of the old computer system in the amount of \$11,320 (\$100,000 FMV of new computer system - \$75,000 cash paid - \$13,680 Iowa adjusted basis of old computer system). Because X did not receive any cash or other property that was not like-kind, or assume any liabilities from Y, the entire amount of X's \$11,320 realized gain qualifies for deferral, so X recognizes \$0 of gain on the exchange for Iowa tax purposes. As

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

a result, X's basis in the new computer system for Iowa tax purposes is \$88,680 (\$13,680 Iowa adjusted basis of old computer system + \$75,000 cash paid by X).

*b. Iowa nonconformity adjustment.*

(1) The taxpayer must complete Part III of the IA 8824 Worksheet to adjust for the difference between any recognized Iowa gain from the exchange as calculated on the IA 8824 Worksheet, Part II, and any gain or loss (including gain or loss recaptured as ordinary income) recognized on the taxpayer's federal return.

EXAMPLE 2: Assume the same facts as given in Example 1. Because the computer trade occurred in 2019, it will not qualify as a like-kind exchange for federal tax purposes but will instead be treated as two separate transactions: a sale of the old computer system and a purchase of the new computer system. X recognizes a gain for federal tax purposes on the sale of the old computer system in the amount of \$25,000 (\$25,000 sales price of old computer system - \$0 federal adjusted basis of old computer system), the entire amount of which is recaptured as ordinary income because of prior depreciation. X reports the \$25,000 of income on the federal return. X is required to report the same \$25,000 as income on the Iowa return but is also allowed a \$25,000 subtraction on the same Iowa return because X's recognized gain for Iowa tax purposes is \$0 as calculated in Example 1. X's nonconformity adjustment of -\$25,000 must be reported on the Iowa return in the manner prescribed on the IA 8824 Worksheet.

(2) If the total recognized federal gain is reported using the installment sale method under Section 453 of the Internal Revenue Code, the total amount of any Iowa nonconformity adjustment related to that federal gain must be claimed over the same installment period, and the proportion of the total Iowa nonconformity adjustment claimed for each tax year shall equal the same proportion that the federal gain reported for that tax year bears to the total amount of federal gain that will ultimately be reported for all tax years resulting from the disposition of the personal property. The taxpayer must complete an IA 8824 Worksheet for each tax year that an Iowa nonconformity adjustment is claimed.

*c. Cost recovery adjustments.*

(1) The taxpayer must complete the IA 4562A to account for any differences between the federal and Iowa cost recovery deductions related to the like-kind personal property involved in the like-kind exchange, including if the taxpayer's basis in the like-kind personal property received is different for federal and Iowa purposes, or if the taxpayer claimed additional first-year depreciation or a section 179 deduction for federal purposes on the like-kind property received in the exchange. See rule 701—59.23(422) for requirements related to the disallowance of additional first-year depreciation for Iowa franchise tax purposes. See rule 701—59.24(422) for the section 179 limitations imposed under the Iowa franchise tax.

(2) Treasury Regulation §1.168(i)-6 prescribes rules related to the calculation of depreciation for certain assets involved in a like-kind exchange, but a taxpayer may elect to not have those rules apply pursuant to Treasury Regulation §1.168(i)-6(i). A taxpayer may choose to make a similar election under Treasury Regulation §1.168(i)-6(i) for Iowa tax purposes with regard to a like-kind exchange under this rule if the personal property otherwise would have qualified for such federal election notwithstanding the fact that no like-kind exchange occurred for federal purposes or the fact that no election was actually made for federal tax purposes in accordance with Treasury Regulation §1.168(i)-6(j). The election is made by calculating depreciation for Iowa tax purposes on the personal property involved in the like-kind exchange using the method described in Treasury Regulation §1.168(i)-6(i) on the timely filed Iowa return, including extensions, for the same tax year that the like-kind exchange was completed. No special attachment or statement is required.

EXAMPLE 3: Assume the same facts as given in Examples 1 and 2. X elects additional first-year depreciation on the new computer system and claims a depreciation deduction on the federal return of \$100,000 (100 percent of X's federal basis). X is required to add back the total amount of the federal depreciation on the Iowa return because Iowa does not allow additional first-year depreciation. But X is permitted deductions for regular depreciation on the new computer system with an Iowa basis of \$88,680 (\$13,680 carryover basis from old computer system + \$75,000 excess basis from cash paid) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k). See rule 701—59.23(422) for more information on the disallowance of additional first-year depreciation.

REVENUE DEPARTMENT[701](cont'd)

EXAMPLE 4: Assume the same facts as given in Examples 1 and 2. X elects to expense the entire cost of the new computer system under Section 179 of the Internal Revenue Code and claims a deduction on the federal return of \$100,000. X is also required to claim the section 179 deduction on the new computer system for Iowa tax purposes pursuant to subrule 59.24(2). However, the amount that represents the carryover basis from the old computer system (\$13,680) is not eligible for the deduction under Section 179(d)(3) of the Internal Revenue Code, so the cost of the new computer system that is eligible for the section 179 deduction for Iowa purposes is only \$75,000 (excess basis from cash paid). This is the amount of section 179 deduction that X must claim on the Iowa return, subject to the applicable Iowa dollar limitation and reduction limitations in rule 701—59.24(422). Because X is the taxpayer who placed the new computer system in service, X is permitted deductions for regular depreciation on the carryover basis in the new computer system (\$13,680) under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k).

This rule is intended to implement 2019 Iowa Acts, chapter 152 [House File 779], section 11.

## TREASURER OF STATE

### Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Ronald L. Hansen, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for June is 4.50%.

#### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective June 11, 2019, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

#### TIME DEPOSITS

7-31 days .....	Minimum .40%
32-89 days .....	Minimum .40%
90-179 days .....	Minimum .50%
180-364 days .....	Minimum .70%
One year to 397 days .....	Minimum .90%
More than 397 days .....	Minimum .95%

## TREASURER OF STATE(cont'd)

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

**USURY**

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

July 1, 2018 — July 31, 2018	5.00%
August 1, 2018 — August 31, 2018	5.00%
September 1, 2018 — September 30, 2018	5.00%
October 1, 2018 — October 31, 2018	5.00%
November 1, 2018 — November 30, 2018	5.00%
December 1, 2018 — December 31, 2018	5.25%
January 1, 2019 — January 31, 2019	5.00%
February 1, 2019 — February 28, 2019	4.75%
March 1, 2019 — March 31, 2019	4.75%
April 1, 2019 — April 30, 2019	4.75%
May 1, 2019 — May 31, 2019	4.50%
June 1, 2019 — June 30, 2019	4.50%
July 1, 2019 — July 31, 2019	4.50%

**ARC 4506C****UTILITIES DIVISION[199]****Notice of Intended Action****Proposing rule making related to intrastate gas pipelines and underground storage and providing an opportunity for public comment**

The Utilities Board hereby proposes to amend Chapter 10, “Intrastate Gas and Underground Gas Storage,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 479.17.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 479.

*Purpose and Summary*

As part of a comprehensive review of its rules, the Utilities Board has reviewed its rules that establish filing requirements for companies that propose to construct, operate, and maintain natural gas pipelines. This proposed rule making updates the requirements for obtaining natural gas pipeline permits and is based upon the Board’s experience in recent years in reviewing petitions for permits. Stakeholder comments were sought during the Board’s review and have been considered in the proposed amendments to the rules in Chapter 10. In addition, the Board is updating the safety standards for natural gas pipelines

## UTILITIES DIVISION[199](cont'd)

to make them consistent with federal and industry standards since pipeline companies are required to comply with the most recent federal and industry standards.

The Board issued an order commencing rule making on May 31, 2019. The order is available on the Board's electronic filing system, [efs.iowa.gov](http://efs.iowa.gov), under Docket No. RMU-2016-0004.

*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 rule 199—1.3(17A,474,476).

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on July 9, 2019. Comments should be directed to:

Iowa Utilities Board  
Electronic Filing System (EFS) at [efs.iowa.gov](http://efs.iowa.gov)  
Phone: 515.725.7337  
Email: [efshelpdesk@iub.iowa.gov](mailto:efshelpdesk@iub.iowa.gov)

*Public Hearing*

An oral presentation at which persons may present their views orally or in writing will be held as follows:

August 1, 2019  
1 to 3 p.m.

Board Hearing Room  
1375 East Court Avenue  
Des Moines, Iowa

Persons who wish to make oral comments at the oral presentation 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 oral presentation and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

*Review by Administrative Rules Review Committee*

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

The following rule-making actions are proposed:

ITEM 1. Amend **199—Chapter 10**, title, as follows:

INTRASTATE GAS PIPELINES AND UNDERGROUND GAS STORAGE



## UTILITIES DIVISION[199](cont'd)

ITEM 2. Amend rule 199—10.1(479) as follows:

**199—10.1(479) General information.**

**10.1(1) Authority Purpose and authority.** The purpose of this chapter is to implement the requirements in Iowa Code chapter 479 and to establish procedures and filing requirements for a permit to construct, maintain, and operate an intrastate gas pipeline, for an amendment to an existing permit, and for renewal of an existing permit. This chapter also implements the requirements in Iowa Code chapter 479 for permits for underground storage of natural gas. The standards rules relating to intrastate gas pipelines and underground gas storage in this chapter are prescribed adopted by the Iowa utilities board (board) pursuant to Iowa Code section 479.17. The rules in this chapter do not apply to interstate pipe, pipes, or pipelines used in the transportation or transmission of natural gas or hazardous liquids.

**10.1(2) Purpose When a permit is required.** The purpose of this chapter is to establish standards for a petition for a permit to construct, maintain, and operate an intrastate gas pipeline and for the underground storage of gas. In addition, the rules in this chapter set forth safety standards for the construction, maintenance, and condition of pipelines, underground storage facilities, and equipment used in connection with pipelines and facilities. A pipeline permit shall be required for any pipeline which will operate at a pressure in excess of 150 pounds per square inch gauge (psig) or which, regardless of operating pressure, is a transmission line as defined in ASME B31.8 or 49 CFR 192.3. Using the factors set out in rule 199—10.14(479), the board shall determine whether a pipeline is a transmission line and requires a permit.

**10.1(3) Definitions.** Technical terms not defined in this chapter shall be as defined in the appropriate standard adopted in rule 199—10.12(479). For the administration and interpretation of this chapter, the following words and terms, ~~when used in these rules,~~ shall have the following meanings indicated below:

“Affected person” means any person with a legal right or interest in the property, including but not limited to a contract purchaser of record, a tenant occupying the property under a recorded lease, a record lienholder, and a record encumbrancer of the property.

“Amendment of permit” means that changes to the pipeline permit or pipeline required the filing of a petition to amend an existing pipeline permit as described in rule 199—10.9(479).

“Approximate right angle” means within 5 degrees of a 90 degree angle.

“Board” means the utilities board within the utilities division of the department of commerce.

“County inspector” means a professional engineer licensed under Iowa Code chapter 542B who is familiar with agricultural and environmental inspection requirements and has been employed by a county board of supervisors to do an on-site inspection of a proposed pipeline for compliance with 199—Chapter 9 and Iowa Code chapter 479.

“Multiple line crossing” means a point at which a proposed pipeline will either ~~overcross or undercross~~ cross over or under an existing pipeline.

“Negotiating” means contact between a pipeline company and a person with authority to negotiate an easement that involves the location, damages, compensation, or other matter that is prohibited by Iowa Code section 479.5(5).

“Permit” means a new, amended, or renewal permit issued after ~~appropriate application to and determination~~ by the board.

“Person” means an individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

“Pipeline” means any pipe, pipes, or pipelines used for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

“Pipeline company” means any person, ~~firm, copartnership, association, corporation, or syndicate~~ engaged in or organized for the purpose of owning, operating, or controlling pipelines for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

“Renewal permit” means the extension and reissuance of a permit after ~~appropriate application to and determination~~ by the board.

“Underground storage” means storage of natural gas in a subsurface stratum or formation of the earth.

## UTILITIES DIVISION[199](cont'd)

**10.1(4)** No change.

ITEM 3. Renumber rules **199—10.2(479)** and **199—10.3(479)** as **199—10.3(479)** and **199—10.2(479)**.

ITEM 4. Amend renumbered rule 199—10.2(479) as follows:

**199—10.2(479) Informational meetings.** Informational meetings shall be held for any proposed pipeline project ~~over~~ five miles or more in length, including both the current project and future anticipated extensions, and which is to be operated at a pressure ~~of over~~ in excess of 150 pounds per square inch. A separate informational meeting shall be held in each county in which real property or property rights ~~therein~~ would be affected.

**10.2(1) Time frame for holding meeting.** Informational meetings shall be held not less than 30 days nor more than two years prior to the filing of the petition for pipeline permit ~~and shall comply with the following:~~

~~10.2(1)~~ **10.2(2) Facilities.** ~~Prospective petitioners for a permit~~ A pipeline company shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in substantial compliance with ~~the any applicable requirements of the Americans with Disabilities Act Accessibility Guidelines, Chapter 4 Standards for Accessible Design, including both the Title III regulations at 28 CFR Part 36, Subpart D, and the 2004 Americans with Disabilities Act Accessibility Guidelines at 36 CFR Part 1191, Appendices B and D (as amended through [the effective date of this amendment]),~~ where such a building or facility is reasonably available.

~~10.2(2)~~ **10.2(3) Location.** The informational meeting location shall be reasonably accessible to all persons, ~~companies or corporations which~~ who may be affected by the granting of a permit or who have an interest in the proposed pipeline.

~~10.2(3) Route deviation.~~ ~~Prospective petitioners desiring a route corridor to permit minor route deviations beyond the proposed permanent right of way width shall include as affected all parties within the desired corridor. Prospective petitioners may also provide notice to affected parties on alternative route corridors.~~

**10.2(4) Board approval.** A pipeline company proposing to schedule an informational meeting shall file a request to schedule the informational meeting and shall include a proposed time and date for the informational meeting, an alternate time and date, and a description of the proposed project and route. The pipeline company shall be notified within ten days of the filing of the request whether the request is approved or alternate times and dates are required.

~~10.2(4)~~ **10.2(5) Notices.** ~~Announcement by mailed and published notice of the each informational meeting shall be given to affected parties of interest in real estate. Affected parties of interest in real estate are those persons, companies or corporations listed on the tax assessment roles as responsible for payment of real estate taxes and parties persons as listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property and those persons in possession of or residing on the property over which the prospective petitioner will~~ pipeline company intends to seek easements.

a. The notice shall ~~set forth the~~ include the following:

(1) The name of the applicant pipeline company; the applicant's

(2) The pipeline company's principal place of business; the

(3) The general description and purpose of the proposed project; the

(4) The general nature of the right-of-way desired; the

(5) The possibility that the right-of-way may be acquired by condemnation if approved by the board; a

(6) A map showing the route of the proposed project; a

(7) A description of the process used by the board in making a decision on whether to approve a permit, including the right to take property by eminent domain; that

## UTILITIES DIVISION[199](cont'd)

(8) That the landowner and any other affected person with a legal interest in the property, or residing on the property, has a right to be present at such the meeting and to file objections with the board; and designation

(9) Designation of the time, date and place of the meeting; and contain the

(10) A copy of the statement of damage claims as required by paragraph 10.3(3) "b"; and

(11) The following statement: Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)725-7300 in advance of the scheduled date to request that appropriate arrangements be made accommodations. Mailed notices shall also include a copy of the statement of damage claims as required by 10.2(3) "b."

b. The prospective petitioner pipeline company shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all affected parties persons with a legal right or interest in property, or persons in possession of the property, whose address is addresses are known. The certified meeting notice shall be deposited in the U.S. mails United States mail not less than 30 days prior to the date of the meeting.

c. The prospective petitioner pipeline company shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in the each county where the pipeline is proposed to be located at least one week and not more than three weeks prior to the date of the meeting. Publication shall be considered as notice to affected parties persons and landowners listed on the tax assessment rolls as responsible for paying the real estate taxes imposed on the property whose residence is addresses are not known, provided a good-faith effort to notify obtain the address can be demonstrated by the pipeline company.

d. The pipeline company shall provide notice of an informational meeting to all persons with property interests in each corridor within which the pipeline company proposes to construct a pipeline. The notice shall include all of the information required in subrule 10.2(5).

e. The pipeline company shall file an affidavit that describes the good-faith effort the pipeline company undertook to locate the addresses of all affected persons.

~~10.2(5)~~ 10.2(6) Personnel. The prospective petitioner pipeline company shall provide qualified personnel to ~~speak for it in matters relating to~~ present the following information at the informational meeting:

- a. Service requirements and planning which have resulted in the proposed project.
- b. When the pipeline will be constructed.
- c. In general terms, the elements involved in pipeline construction.
- d. In general terms, the rights which the prospective petitioner pipeline company will seek to acquire through easements.
- e. Procedures to be followed in contacting the affected parties persons for specific negotiations in acquiring voluntary easements.
- f. Methods and factors used in arriving at an offered price for voluntary easements, including the range of cash amount for each component.
- g. Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees and time of payment.
- h. Other factors or damages not included in the easement for which compensation is made, including features of interest to affected parties persons but not limited to computation of amounts and manner of payment.

~~10.2(6) Coordinating with board.~~ The date, time, and location of the informational meeting shall be selected after consultation with the board to allow for scheduling of presiding officers.

10.2(7) Notice to county board of supervisors. The pipeline company shall send notice of the request for an informational meeting to the county board of supervisors in each county where the pipeline is proposed to be located. The pipeline company shall request from the board of supervisors the name of the county inspector, a professional engineer who shall conduct the on-site inspection required in Iowa Code section 479.29(2). The pipeline company shall provide the name and contact information of the county inspector to the landowners and other affected persons at the meeting, if known.

~~This rule is intended to implement Iowa Code section 479.5.~~

## UTILITIES DIVISION[199](cont'd)

ITEM 5. Amend renumbered rule 199—10.3(479) as follows:

**199—10.3(479) Petition for permit.**

**10.3(1)** A petition for a permit shall be ~~made to~~ filed with the board upon the form prescribed and shall include all required exhibits. The petition shall be considered as filed ~~upon receipt at the office of the board~~ with the board on the date accepted by the board's electronic filing system as provided for in 199—Chapter 14. ~~An original and two copies of the petition and exhibits shall be filed, unless the petition and exhibits are filed electronically pursuant to the board's electronic filing rules at 199—Chapter 14.~~ The petition shall be attested to by an officer, official or attorney with authority to represent the pipeline company. Required exhibits shall be in the following form:

- a. Exhibit A.* A legal description showing, at a minimum, ~~the~~:
- (1) The beginning and ending points of the proposed pipeline.
  - (2) The general direction of the proposed route through each quarter section of land to be crossed, including township and range and whether.
  - (3) Whether the proposed pipeline will be located on private or public property, public highway or railroad right-of-way, together with such other.
  - (4) Other pertinent information as may be deemed pertinent. Construction deviation of 660 feet (one-eighth mile) from proposed routing will be permitted.
  - (5) When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name.

If it becomes apparent that there will be deviation of greater than 660 feet (one-eighth mile) in some area from the proposed route as filed with the board, construction of the line in that area shall be suspended. Exhibits A, B, E, and F reflecting the deviation shall be filed, and the procedures hereinafter set forth to be followed upon the filing of a petition for permit shall be followed.

*b. Exhibit B.* Maps showing the proposed routing of the pipeline. ~~Strip maps will be acceptable. Two copies of such maps shall be filed.~~ The maps may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile, and shall be legible when printed on paper no larger than 11 × 17 inches. Maps based on satellite imagery are preferred. A map of the entire route, if the route is located in more than one county or there is more than one map for a county, shall be filed in this exhibit on paper no larger than 11 × 17 inches without regard to scale. The following minimum information shall be provided on the maps:

- (1) The route of the pipeline which is the subject of the petition, including the starting and ending points, and when paralleling a road or railroad, which side it is on. Multiple pipelines on the same right-of-way shall be indicated, and the distance between paralleling pipelines shall be shown.
- (2) The name of the county, county and lines, section lines, and section numbers, township numbers, and range numbers.
- (3) The location and identity of adjacent or crossed public roads, railroads, ~~major~~ named streams or bodies of water, and other pertinent natural or man-made features influencing the route.
- (4) The name and corporate limits of cities, and the name and boundaries of any public lands or parks.
- (5) Other pipelines and the identity of the owner.
- (6) Any buildings or places of public assembly within the potential impact radius of the pipeline as defined in 49 CFR 192.903.

*c. Exhibit C.* A showing ~~on forms prescribed by this board~~ of engineering specifications covering the engineering features, materials and manner of construction of the proposed pipeline, its approximate length, diameter and the name and location of each railroad and primary highway and the number of secondary highways to be crossed, if any, and such other information as may be deemed pertinent on forms prescribed by the board, which are located on the board's website.

*d. Exhibit D.* Satisfactory attested proof of solvency and financial ability to pay damages in the sum of \$250,000 or more; or surety bond satisfactory to ~~this~~ the board in the penal sum of \$250,000 with surety approved by ~~this~~ the board, conditioned that the ~~petitioner~~ pipeline company will pay any and all damages legally recovered against it growing out of the construction and operation of its pipeline

## UTILITIES DIVISION[199](cont'd)

or gas storage facilities in the state of Iowa; security satisfactory to ~~this~~ the board as a guarantee for the payment of damages in the sum of \$250,000; or satisfactory proofs that the pipeline company has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000. The board may require additional surety or insurance policies to ensure the payment of damages growing out of the construction and operation of the pipeline.

*e. Exhibit E.*

(1) Consent or ~~other showing of right~~ documentation of appropriate public highway authorities, or railroad companies, where the pipeline will be placed longitudinally on, over or under, or at other than an approximate right angle to railroad tracks or highway, when such consent is obtained prior to filing of the petition, ~~and hearing~~ shall be filed with the petition.

(2) ~~If the exact and specific route is uncertain~~ any consent is not obtained at the time of the petition is filed, the pipeline company shall file a statement shall be made by petitioner that it will obtain all necessary consents or file other showing documentation of the right will be obtained to commence construction prior to commencement of construction of the segment of pipeline for which the consent is necessary, and that the pipeline company shall file copies filed with this the board.

*f. Exhibit F.* This exhibit shall contain the following:

(1) A statement of the purpose of the project and a description of how the services rendered by the pipeline will promote the public convenience and necessity.

(2) A general statement covering each of the following topics: ~~the~~

1. The nature of the lands, waters, and public or private facilities to be crossed; ~~the~~

2. The possible use of alternative routes; ~~the~~

3. The relationship of the proposed pipeline to present and future land use and zoning ordinances; and ~~the~~

4. The inconvenience or undue injury which may result to property owners as a result of the proposed project.

(3) For an existing pipeline, the year of original construction and a description of any amendments or reportable changes since the permit or latest renewal permit was issued.

*g. Exhibit G.* If informational meetings were required, an affidavit that such meetings were held in each county affected by the proposed project and the time and place of each meeting. Copies of the mailed notice letter, the corridor map, and the published notice(s) of the informational meeting shall be attached to the affidavit.

*h. Exhibit H.* This exhibit is required only if the petition requests the right of eminent domain. The extent of the eminent domain request may be uncertain at the time the petition is filed. However, this exhibit must be in final form before a hearing is scheduled. It shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought and for each ~~such~~ property:

(1) The legal description of the property.

(2) The legal description of the desired easement.

(3) A specific description of the easement rights being sought.

(4) The names and addresses of the owners of record and parties in possession of the property, including persons with a legal interest in the property based upon a title search conducted for the property over which eminent domain is requested.

(5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of pipelines or pipeline facilities within the proposed easement, the location of and distance to any building within 300 feet of the proposed pipeline, and any other features pertinent to the location of the ~~line~~ pipeline to the rights being sought.

(6) An overview map showing the location of the property over which eminent domain is requested filed with the property identified as required in 199—paragraph 9.2(1) “e.”

*i. Exhibit I.* If pipeline construction on agricultural land as defined in 199—subrule 9.1(3) is proposed, a land restoration plan shall be prepared and filed as provided in rule 199—9.2(479,479A,479B). The name and contact information of each county inspector designated by

## UTILITIES DIVISION[199](cont'd)

county boards of supervisors pursuant to Iowa Code section 479.29(2) shall be included in the land restoration plan.

*j. Underground storage.* If permission is sought to construct, maintain and operate facilities for underground storage of gas, the petition shall include the following information, in addition to that stated above:

(1) A description of the public or private highways, grounds and waters, streams and private lands of any kind under which the storage is proposed, together with a map.

(2) Maps showing the location of proposed machinery, appliances, fixtures, wells, and stations necessary for the construction, maintenance, and operation of the facilities.

*k. Other exhibits Exhibit K.* The pipeline company shall file additional information as follows:

(1) An affidavit affirming that the company undertook a review of land records to determine all affected persons with a legal interest in the property for all parcels over which the pipeline is proposed to be located before easements were signed or eminent domain requested.

(2) Whether any private easements will be required for the proposed pipeline and, if a private easement will be required, when the easement negotiations will be completed and whether all affected persons associated with the property have been notified.

(3) Whether there are permits that will be required from other state agencies for construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained.

(4) Whether there are any agreements or additional facilities that need to be constructed to receive natural gas.

(5) Projected date when construction of the pipeline will begin.

(6) Whether the pipeline will have pressure-relieving or pressure-limiting devices that meet the requirements of 49 CFR 192.199 and 192.201.

*l. Other exhibits.* The board may require filing of additional exhibits if further information on a particular project is deemed necessary.

**10.3(2) Construction on an existing easement.**

*a.* Petitions proposing new pipeline construction on an existing easement where the pipeline company has previously constructed a pipeline shall include a statement indicating whether any unresolved damage claims remain from the previous pipeline construction, and if so shall provide the name of each landowner or tenant, a legal description of the property involved, and the status of proceedings to settle the claim.

*b.* A petition for permit proposing a new pipeline construction on an existing easement where the pipeline company has previously constructed a pipeline ~~will~~ shall not be acted upon by the board if a damage claim from the installation of ~~its~~ the previous pipeline has not been ~~determined~~ resolved by negotiation, arbitration, or court action. ~~This paragraph will not apply~~ The board may take action on the petition if the damage claim is under litigation or arbitration.

**10.3(3) Statement of damage claims.**

*a.* A petition for permit proposing new pipeline construction ~~will~~ shall not be acted upon by the board if the pipeline company does not ~~have on~~ file with the board a written statement in compliance with Iowa Code chapter 479 as to how damages resulting from the construction of the pipeline shall be determined and paid.

*b.* The statement shall contain the following information: the type of damages which will be compensated for, how the amount of damages will be determined, the procedures by which disputes may be resolved, ~~and~~ the manner of payment, and the procedures that the affected person is required to follow to obtain a determination of damages by a county compensation commission.

*c.* The statement shall be amended as necessary to reflect changes in the law, company policy, or the needs of a specific project.

~~*b. d.*~~ *d.* A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 479.5. Where no informational meeting is required, a copy shall be provided to each affected ~~party~~ person who has a legal right or interest in the property prior to entering into negotiations for payment of damages.

## UTILITIES DIVISION[199](cont'd)

*e. e.* Nothing in this rule shall prevent a party person from negotiating with the pipeline company for terms which are different, more specific, or in addition to the statement filed with the board.

**10.3(4) *Negotiation of easements.*** The pipeline company is not prohibited from responding to inquiries concerning existing or future easements, provided that the pipeline company is not “negotiating” as defined in subrule 10.1(3).

This rule is intended to implement Iowa Code sections 479.5, 479.17, 479.26, 479.42, and 479.43.

ITEM 6. Amend rule 199—10.4(479) as follows:

**199—10.4(479) Notice of hearing.**

**10.4(1)** When a proper petition for permit is received by filed with the board, it shall be docketed for hearing and the petitioner shall be advised of the time and place of hearing, except as provided for in rule 199—10.8(479) the petition shall be reviewed by board staff for compliance with applicable laws and regulations. Once board staff has completed the review and filed a report regarding the proposed pipeline and petition, the petition shall be set for hearing. This subrule does not apply to renewal petitions filed pursuant to rule 199—10.8(479) that do not require a hearing.

**10.4(2) ~~Petitioner~~** The pipeline company shall also be furnished copies of the official notice of hearing, which ~~petitioner~~ the pipeline company shall cause to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in or through which construction is proposed. The second publication shall be not less than 10 nor more than 30 days prior to the date of the hearing. Proof of such publication shall be filed prior to ~~or at~~ the hearing.

**10.4(3)** The published notice shall include a map showing either the pipeline route or the area affected by underground gas storage, or a telephone number and an address through which interested persons ~~can~~ may obtain a copy of a map from ~~petitioner~~ the pipeline company at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy shall be filed with the petition.

**10.4(2) 10.4(4)** If a petition for permit seeks the right of eminent domain, ~~petitioner~~ the pipeline company shall, in addition to the published notice of hearing, serve a copy of the notice of hearing ~~to~~ on the ~~owners~~ landowners, any affected person as defined in subrule 10.1(3), and ~~parties~~ persons in possession of lands over which eminent domain is sought. A copy of the Exhibit H filed with the board for the affected property shall accompany the notice. Service shall be by certified United States mail, return receipt requested, addressed to ~~their~~ the person's last known address, and this notice shall be mailed ~~not no~~ later than the first day of publication of the official notice of hearing on the petition. Not less than five days prior to the date of the hearing, the petitioner shall file with the board a certificate of service showing all persons and addresses to which notice was sent by certified mail and the date of the mailing, and an affidavit that all affected persons as defined in subrule 10.1(3) or any persons in possession of the property were served.

**10.4(3) 10.4(5)** If a petition does not seek the right of eminent domain, but all required interests in private property have not yet been obtained at the time the petition is filed, a copy of the notice of hearing shall be served upon ~~the owners~~ any affected person as defined in subrule 10.1(3) and ~~parties~~ persons in possession of ~~those lands~~ the property. Service shall be by ordinary mail, addressed to the last known address, mailed ~~not no~~ later than the first day of publication of the official notice. A copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all ~~parties~~ persons to which ~~it~~ the notice was mailed, and the date of mailing, and an affidavit that all affected persons and persons in possession of the property were served, shall be filed with the board not less than five days prior to the hearing.

ITEM 7. Amend rule 199—10.5(479) as follows:

**199—10.5(479) Objections.** All whose rights or interests may be affected by the object of a petition may file written objection thereto. Such written objection Any person whose rights or interests may be affected by a proposed pipeline or underground storage facility may file a written objection with the board. Written objections shall be filed with the secretary of this board not less than five days prior to the date of hearing. This The board may, for good cause shown, permit filing of objections less than five

UTILITIES DIVISION[199](cont'd)

days prior to hearing, but in such event ~~petitioner~~ the pipeline company shall be granted a reasonable time to ~~meet such objections~~ respond to a late-filed objection.

ITEM 8. Amend rule 199—10.6(479) as follows:

**199—10.6(479) Hearing.** ~~Hearing shall be~~ A petition for a pipeline permit or amendment to a pipeline permit shall be scheduled for hearing not less than 10 or nor more than 30 days from the date of last publication of the notice of hearing.

~~Petitioner shall be represented by one or more duly authorized representatives or counsel or both. This board may examine the proposed route of the pipeline or location of the underground storage facilities which are the object of the petition or may cause examination to be made on its behalf by an engineer of its selection. One or more members of this board or a duly appointed administrative law judge shall consider the petition and any objections filed thereto and may hear testimony deemed appropriate. One or more petitions may be considered at the same hearing. Petitions may be consolidated. Hearing shall be held in the office of this board or at any other place within the state of Iowa as this board may designate. Any hearing permitted by these rules in which there are no objections, interventions or material issues in dispute may be conducted by telephonic means. Notice of the telephonic hearings shall be given to parties within a reasonable time prior to the date of hearing.~~

10.6(1) Representation of a pipeline company at a pipeline permit hearing shall comply with the requirements of 199—subrule 7.4(8).

10.6(2) The board or presiding officer may schedule a prehearing conference to consider a procedural schedule for the petition and a hearing date.

10.6(3) One or more petitions may be consolidated for hearing.

10.6(4) Hearings shall be scheduled and held in the office of the board or at any other place within the state of Iowa as the board may designate pursuant to Iowa Code section 479.8. Requests for conducting a hearing or taking testimony by telephone or electronic means may be approved by the board or presiding officer.

ITEM 9. Amend rule 199—10.7(479) as follows:

**199—10.7(479) Pipeline permit.** ~~If after hearing and appropriate findings of fact it is determined a permit should be granted, a pipeline permit shall be issued. Otherwise the petition shall be dismissed with or without prejudice. Where proposed construction has not been established definitely, the permit will be issued on the route or location as set forth in the petition, subject to deviation of up to 660 feet (one-eighth mile) on either side of the proposed route. If the proposed construction is not completed within two years from the date of issue, subject to extension at the discretion of the board, the permit shall be void and of no further force or effect. Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline shall be filed with the board.~~

~~A pipeline permit shall normally expire 25 years from date of issue. No permit shall ever be granted for a longer period than 25 years.~~

10.7(1) A pipeline permit shall be issued once an order granting the permit is final.

10.7(2) The issuance of the permit authorizes construction on the route or location as approved by the board, subject to deviation within the easement right-of-way. If a deviation outside of the easement right-of-way becomes necessary, construction of the pipeline in that location shall be suspended and the pipeline company shall follow the procedures for filing of a petition for amendment of a permit, except that pipeline company need only file Exhibits A and B reflecting the proposed deviation. In case of any deviation from the approved easement route, the pipeline company shall secure the necessary easements before construction may commence on the altered route. The right of eminent domain shall not be used to acquire any such easement except as specifically approved by the board.

10.7(3) If the construction of facilities authorized by a permit is not commenced within two years of the date the permit is granted, or within two years after final disposition of judicial review of a permit order or of condemnation proceedings, the permit shall be forfeited unless the board grants an extension of the permit filed prior to the expiration of the two-year period.



## UTILITIES DIVISION[199](cont'd)

10.7(4) Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline, in compliance with rule 199—9.11(479), and revised Exhibits A, B, and C shall be filed with the board.

10.7(5) The board shall set the term of the permit. The term of the permit may be less than, but shall not exceed, 25 years from the date of issuance.

ITEM 10. Amend rule 199—10.8(479) as follows:

**199—10.8(479) Renewal permits.**

10.8(1) A petition for renewal of an original or previously renewed pipeline permit may be filed at any time subsequent to issuance of the permit and shall be filed at least one year prior to expiration of the permit. This requirement is not applicable to renewal of permits that expire within one year of [the effective date of this amendment]. The petition shall be made on the form prescribed by the board. Instructions for the petition are included as a part of the form, and the form is available on the board's website. The petition shall include the name of the pipeline company requesting renewal of the permit, the pipeline company's principal office and place of business, and the exhibits listed below. The petition shall be considered filed with the board on the date accepted into the board's electronic filing system as provided for in 199—Chapter 14. The petition shall be attested to by an officer, official, or attorney with authority to represent the pipeline company and the same exhibits as required for a new pipeline in rule 199—10.3(479) shall be filed with the renewal petition.

10.8(2) The procedure for petition for permit shall be followed with respect to publication of notice, objections, and assessment of costs.

10.8(3) ~~If review of the petition finds there are unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the board shall set the matter will be set for hearing. If a hearing is not required, and the petition satisfies the requirements of this rule, a renewal permit will be issued upon the filing of the proof of publication required by rule 199—10.4(479).~~

10.8(4) ~~Renewal permits shall normally expire~~ The board shall set the term of a renewal permit. The term may be less than, and shall not exceed, 25 years from date of issue. ~~No permit shall be granted for a period longer than 25 years.~~ The same procedure shall be followed for subsequent renewals.

~~This rule is intended to implement Iowa Code sections 476.2 and 479.23.~~

ITEM 11. Amend rule 199—10.9(479) as follows:

**199—10.9(479) Amendment of permits.**

10.9(1) An amendment of a pipeline permit by the board is required in any of the following circumstances:

a. Construction of a an additional pipeline paralleling all or part of an existing line pipeline of petitioner; the pipeline company.

b. Extension of an existing pipeline of petitioner by more than 660 feet (one-eighth mile); the pipeline company outside of the permit easement.

c. Relocation or replacement of an existing pipeline of ~~petitioner~~ the pipeline company which:

(1) Relocates the pipeline ~~more than 660 feet (one-eighth mile) from the route~~ outside of the permit easement approved by the board; or

(2) Involves relocation or replacement requiring new or additional interests in property. If the relocation or replacement is for five miles or more of pipe to be operated at over 150 psig, informational meetings an informational meeting as provided for by rule 199—10.3(479) 199—10.2(479) shall be held for these relocations and replacements.

d. Contiguous extension of an underground storage area of ~~petitioner; or the pipeline company.~~

e. Modification of any condition or limitation placed on the construction or operation of the pipeline in the final order granting the pipeline permit or previous renewal of the permit.

10.9(2) Petition for amendment.

a. The petition for amendment of an original or renewed pipeline permit shall include the docket number and issue date of the permit for which amendment is sought and shall clearly state the purpose

## UTILITIES DIVISION[199](cont'd)

of the petition. If the petition is for construction of additional pipeline facilities or expansion of an underground storage area, the same exhibits as required for a petition for permit shall be attached.

*b.* The applicable procedures for a petition for permit, including hearing, shall be followed. Upon appropriate determination by ~~this~~ the board, an amendment to the permit ~~will~~ shall be issued. Such amendment shall be subject to the same conditions with respect to ~~completion~~ commencement of construction within two years and the filing of final routing maps as ~~attached to~~ required for pipeline permits.

~~This rule is intended to implement Iowa Code sections 476.2 and 479.23.~~

ITEM 12. Amend rule 199—10.10(479) as follows:

**199—10.10(479) Fees and expenses.**

**10.10(1) Permit expenses.** ~~The petitioner~~ pipeline company shall pay the actual unrecovered cost incurred by the board attributable to the informational meeting, processing, investigation, hearing, and inspection related to a petition requesting a pipeline permit ~~action~~.

~~Any moneys collected by the board from other sources for chargeable activities will be deducted from billings for actual expenses submitted to the petitioner.~~

**10.10(2) Construction inspection.** ~~The petitioner~~ pipeline company shall reimburse the board for the actual unrecovered expenses incurred due to inspection of pipeline construction or testing activities following from a ~~permit action~~ the granting of a pipeline permit.

~~Any moneys collected by the board from other sources for chargeable activities will be deducted from billings for actual expenses submitted to the petitioner.~~

**10.10(3) Annual inspection fee.** ~~A pipeline company shall pay an annual inspection fee on all pipelines under permit of 50 cents per mile of pipeline or fraction thereof for each inch of diameter of the pipeline located in the state of Iowa. The fee shall be paid for the calendar year in advance between January 1 and February 1 of each year. When new pipeline subject to the fee is installed, the fee shall be paid beginning the following calendar year. Pipelines removed from service shall remain subject to the fee until the calendar year following the year the board is notified of the removal from service in accordance with rule 199—10.18(479).~~

ITEM 13. Amend rule 199—10.11(479) as follows:

**199—10.11(479) Inspections.** ~~This~~ The board shall from time to time examine the construction, maintenance, and condition of pipelines, underground storage facilities, and equipment used in connection with pipelines ~~or~~ and facilities in the state of Iowa to determine ~~if the same are unsafe or dangerous and~~ whether they comply with the appropriate standards of pipeline safety. One or more members of ~~this~~ the board, or one or more duly appointed representatives of the board, may enter upon the premises of any pipeline company within the state of Iowa for the purpose of making the inspections.

ITEM 14. Amend rule 199—10.12(479) as follows:

**199—10.12(479) Standards for construction, operation and maintenance.**

**10.12(1)** All pipelines, underground storage facilities, and equipment ~~used in connection therewith~~ shall be designed, constructed, operated, and maintained in accordance with the following standards:

*a.* 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” as amended through ~~May 1, 2019~~ [the effective date of this amendment].

*b.* 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” as amended through ~~May 1, 2019~~ [the effective date of this amendment].

*c.* 49 CFR Part 199, “Drug and Alcohol Testing,” as amended through ~~May 1, 2019~~ [the effective date of this amendment].

*d.* ASME B31.8 - 2016, “Gas Transmission and Distribution Piping Systems.”

*e.* 199—Chapter 9, “Restoration of Agricultural Lands During and After Pipeline Construction.”

*f.* At railroad crossings, 199—42.7(476), “Engineering standards for pipelines.”

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Conflicts between the standards established in paragraphs 10.12(1)“a” through “f” or between the requirements of rule 199—10.12(479) and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

**10.12(2)** If review of Exhibit C, or inspection of facilities which are the subject of a permit petition, finds noncompliance with the standards adopted in this rule, ~~no final action will be taken by the board on the petition without a satisfactory showing by the petitioner that the noncompliance has been or will be corrected~~ the pipeline company shall provide satisfactory evidence showing the noncompliance has been corrected prior to the board taking final action on the petition.

**10.12(3)** Pipelines in tilled agricultural land shall be installed with a minimum cover of 48 inches.

ITEM 15. Renumber rule ~~199—10.14(479)~~ as **199—10.13(479)**.

ITEM 16. Amend renumbered rule 199—10.13(479) as follows:

**199—10.13(479) Crossings of highways, railroads, and rivers.**

**10.13(1)** Iowa Code chapter 479 gives the Iowa utilities board primary authority over the routing of pipelines. However, highway and railroad authorities and environmental agencies may have a jurisdictional interest in the routing of the pipeline, including requirements that permits or other authorizations be obtained prior to construction ~~for~~ of crossings of highway or railroad right-of-way, or rivers or other bodies of water.

**10.13(2)** Except for other than approximate right angle crossings of highway or railroad right-of-way, the approval of other authorities need not be obtained prior to petitioning the board for a pipeline permit. ~~It is recommended the appropriate~~ The pipeline company shall file with the petition information that shows the pipeline company contacted the other necessary authorities ~~be contacted well~~ in advance of ~~construction~~ filing the petition to determine what restrictions or conditions may be placed on the crossing, by those authorities and to obtain information on any proposed reconstruction or relocation of existing facilities which may impact the routing of the pipeline.

~~**10.13(2)**~~ **10.13(3)** Pipeline routes which include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on such right-of-way, shall not be constructed unless a showing of consent by the appropriate authority has been provided by the ~~petitioner~~ pipeline company as required in paragraph ~~10.2(1)“e.”~~ 10.3(1)“e.”

ITEM 17. Adopt the following new rule 199—10.14(479):

**199—10.14(479) Transmission line factors.** Factors considered by the board in determining whether a pipeline is a transmission line and is therefore required to have a permit are set out in this rule. These factors are part of the board’s consideration, especially when a request has been made to reclassify a pipeline from transmission to distribution. These factors are to provide guidance for determining whether a pipeline needs a permit under this chapter, but there may be other factors not included in this rule:

1. The definitions of a transmission line in ASME B31.8 and 49 CFR 192.3.
2. Pipeline Hazardous Material Safety Administration interpretations.
3. The location of a distribution center.
4. Interconnection with an interstate pipeline.
5. Location of distribution regulator stations downstream of a proposed distribution center.
6. Whether a proposed distribution center has more than one source of supply and the type of pipeline that provides the supply.
7. Transfer of ownership of gas.
8. Reduction in pressure of pipeline at a meter.
9. No resale of gas downstream of a distribution center.

## UTILITIES DIVISION[199](cont'd)

ITEM 18. Rescind rule ~~199—10.16(479)~~.

ITEM 19. Renumber rules ~~199—10.17(479)~~ to ~~199—10.19(479)~~ as ~~199—10.15(479)~~ to ~~199—10.17(479)~~.

ITEM 20. Amend renumbered rule 199—10.15(479) as follows:

**199—10.15(479) Reports to federal agencies.**

**10.15(1)** Upon submission of any incident, annual, or other report to the U.S. Department of Transportation pursuant to 49 CFR Part 191, or Part 192, ~~or Part 199~~, a pipeline company shall file a copy of the report shall be filed with the board. The board shall also be advised of any telephonic incident report made by the pipeline company.

**10.15(2)** In addition to incident reports required by 49 CFR Part 191, the board shall be notified of any incident or accident where the economic damage exceeds \$15,000 or which results in loss of service to 50 or more customers. The pipeline company shall notify the board, as soon as possible, of any incident by emailing the duty officer at dutyofficer@iub.iowa.gov or, if email is not available, by calling the board duty officer at (515)745-2332. The cost of gas lost due to the incident shall not be considered in calculating the economic damage of the incident.

**10.15(3)** Utilities operating in other states shall provide to the board data for Iowa only.

**10.15(4)** ~~The board shall be notified, as soon as practical, of any reportable incident by email to the duty officer at dutyofficer@iub.iowa.gov or, if email is not available, by calling the board duty officer at (515)745-2332.~~

ITEM 21. Amend renumbered rule 199—10.16(479) as follows:

**199—10.16(479) Reportable changes to pipelines under permit.**

**10.16(1)** ~~The board~~ A pipeline company shall receive file prior notice with the board of any of the following actions affecting a pipeline under permit:

*a.* Abandonment or removal from service. The pipeline company shall also notify the landowners of the abandonment or removal of the pipeline from service.

*b.* ~~Relocation of more than 300 feet from the original alignment, or any relocation that would bring the pipeline within 300 feet of an occupied residence. Relocations of 660 feet (one-eighth mile) or more shall require the filing of a petition for permit.~~

*e. b.* Pressure test, uprating, or increase in operating pressure.

*d.* ~~Change in product being transported.~~

*e. c.* Replacement of a pipeline or significant portion thereof, not including short repair sections of pipe at least as strong as the original pipe.

*f.* ~~Extensions of existing pipelines by 660 feet (one-eighth mile) or less.~~

**10.16(2)** The notice shall include the docket and permit numbers of the pipeline, the location involved, a description of the proposed activity, anticipated dates of commencement and completion, revised maps and technical specifications, where appropriate, and the name and telephone number of a person to contact for additional information.

ITEM 22. Amend renumbered rule 199—10.17(479) as follows:

**199—10.17(479) Sale or transfer of permit.**

**10.17(1)** No permit shall be sold or transferred without ~~prior~~ written approval of the board. A petition for approval of the sale or transfer shall be jointly filed by the buyer, or transferee, and the seller, or transferor, shall include assurances that the buyer, or transferee, is authorized to transact business in the state of Iowa; is willing and able to construct, operate, and maintain the pipeline in accordance with these rules; and if the sale, or transfer, is prior to completion of construction of the pipeline shall show that the buyer, or transferee, has the financial ability to pay up to \$250,000 in damages associated with construction or operation of the pipeline, or any other amount the board has determined is necessary when granting the permit.

UTILITIES DIVISION[199](cont'd)

~~10.17(2)~~ No transfer of pipeline permit prior to completion of pipeline construction shall be effective until the person to whom the permit was issued files notice with the board of the transfer. The notice shall include the date of the transfer and the name and address of the transferee.

~~10.17(3)~~ 10.17(2) The board shall receive notice from the transferor of any other transfer of a pipeline permit after completion of construction.

For the purposes of this rule, reassignment of a pipeline permit as part of a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer and requires prior board approval.

ITEM 23. Adopt the following new rule 199—10.18(479):

**199—10.18(479) Termination of petition for pipeline permit proceedings.** If a pipeline company fails to publish the official notice within 90 days after the official notice is provided by the board, the board may dismiss the petition.

**ARC 4508C**

## **VOLUNTEER SERVICE, IOWA COMMISSION ON[817]**

### **Notice of Intended Action**

#### **Proposing rule making related to future ready Iowa volunteer mentor program and providing an opportunity for public comment**

The Iowa Commission on Volunteer Service hereby proposes to adopt new Chapter 13, “Future Ready Iowa Volunteer Mentor Program,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in 2018 Iowa Acts, chapter 1067, section 6.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, 2018 Iowa Acts, chapter 1067.

#### *Purpose and Summary*

The purpose of this proposed rule making is to implement the Future Ready Iowa Volunteer Mentor Program. The Future Ready Iowa Volunteer Mentor Program is designed to support implementation of the Future Ready Iowa Skilled Workforce Last-Dollar Scholarship Program and the Future Ready Iowa Skilled Workforce Grant Program created in 2018 Iowa Acts, chapter 1067, by matching volunteer mentors with scholarship and grant recipients. The Volunteer Mentor Program is a voluntary program for scholarship and grant recipients that is designed to provide mentors to help recipients increase success in school and make meaningful career connections.

#### *Fiscal Impact*

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

#### *Jobs Impact*

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

#### *Waivers*

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

## VOLUNTEER SERVICE, IOWA COMMISSION ON[817](cont'd)

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on July 9, 2019. Comments should be directed to:

Adam Lounsbury  
Iowa Commission on Volunteer Service  
200 East Grand Avenue  
Des Moines, Iowa 50309  
Email: [adam.lounsbury@iowaeda.com](mailto:adam.lounsbury@iowaeda.com)

*Public Hearing*

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

July 9, 2019  
11 a.m.

Central First Floor Conference Room  
Economic Development Authority  
200 East 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 Commission 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:

Adopt the following **new** 817—Chapter 13:

CHAPTER 13  
FUTURE READY IOWA VOLUNTEER MENTOR PROGRAM

**817—13.1(15H) Purpose and program description.** The purpose of the future ready Iowa volunteer mentor program is to match volunteer mentors with student mentees and to support implementation of the future ready Iowa skilled workforce last-dollar scholarship program and the future ready Iowa skilled workforce grant program created in 2018 Iowa Acts, chapter 1067, sections 12 and 13. The future ready Iowa volunteer mentor program is an optional program for recipients of these scholarships and grants and is designed to provide mentors to help recipients increase success in school and make meaningful career connections. The Iowa commission on volunteer service will manage this statewide program by partnering with employers, local high schools, nonprofits, local eligible institutions of higher education and others to develop mentoring cohorts.

**817—13.2(15H) Definitions.**

“*Commission*” means the Iowa commission on volunteer service.

“*Eligible institution*” means an institution meeting the requirements outlined in 2018 Iowa Acts, chapter 1067, section 12.

## VOLUNTEER SERVICE, IOWA COMMISSION ON[817](cont'd)

“*Grant program*” means the future ready Iowa skilled workforce grant program outlined in 2018 Iowa Acts, chapter 1067, section 13.

“*Last-dollar scholarship*” means the future ready Iowa skilled workforce last-dollar scholarship program outlined in 2018 Iowa Acts, chapter 1067, section 12.

“*Program*” means the future ready Iowa volunteer mentor program as defined in 2018 Iowa Acts, chapter 1067, section 6.

“*Student mentee*” means a student who has elected to participate in the program, has agreed to program expectations, and has been matched with a volunteer mentor through the program. Student mentees must meet the criteria in 2018 Iowa Acts, chapter 1067, sections 12 and 13.

“*Volunteer mentor*” means an adult who has applied to be a mentor, has met the screening guidelines, has attended mentor training, has committed to meeting with the mentee according to program guidelines, and has been matched with a mentee in the program.

**817—13.3(15H) Program standards, guidelines, and expectations.** The commission will maintain on its website standards, guidelines, and expectations for a productive and appropriate relationship between volunteer mentors and student mentees. Standards, guidelines, and expectations are aimed at helping students meet the last-dollar scholarship or grant program requirements, identify work-based learning opportunities, and make career-related connections that are advantageous to participants in the program through a healthy mentor-mentee relationship. Failure to adhere to the program standards may result in ineligibility to participate in the program. To the extent possible, volunteer mentors and student mentees will be matched based on gender, career aspirations, geography and mentor-to-mentee ratio.

**817—13.4(15H) Mentor/mentee agreement.** All volunteer mentors and student mentees must complete and sign a written agreement issued by the commission as part of the program enrollment process. Agreements will include expectations on regular communication, appropriate conduct, utilization of the online platform and participation in any training or resources offered to improve the efficacy of the mentor-mentee relationship. Failure by either party to adhere to the agreement may result in dismissal from the program.

**817—13.5(15H) Mentor request and application process.**

**13.5(1) Mentor request process.** Students may request a volunteer mentor through the commission’s website or partner agencies, including through referrals from high schools and eligible institutions. Eligible institutions must collaborate in the facilitation of this subrule by providing information on the mentor request process to all students who meet the criteria of 2018 Iowa Acts, chapter 1067, sections 12 and 13.

**13.5(2) Mentor application process.** Prospective mentors should apply to be a volunteer mentor through the commission’s website or through high schools, eligible institutions, or partner agencies or employers. These partner agencies may also enlist employers and other partners to help make direct mentoring connections with local mentoring cohorts. Prospective mentors must complete an application, consent to an Iowa division of criminal investigation criminal background check, attend orientation training and agree to the minimum commitment and guidelines outlined in the mentor/mentee agreement.

**817—13.6(15H) Subrecipient award process.** If the commission deems it necessary, the commission may seek subrecipients to carry out components of the program through the commission’s regular grant program application processes. The commission may also work with partner state agencies to assist in the administration of this chapter.

These rules are intended to implement 2018 Iowa Acts, chapter 1067, section 6.

## ARC 4499C

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT  
DEPARTMENT[605]****Adopted and Filed Emergency****Rule making related to flood recovery fund**

The Homeland Security and Emergency Management Department hereby amends Chapter 14, “Flood Mitigation Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in 2019 Iowa Acts, Senate File 638.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 638.

*Purpose and Summary*

This rule making amends Chapter 14 by adding a new rule that deals with the creation of the Flood Recovery Fund. The fund will be administered by the Flood Mitigation Board. The fund will provide financial support to political subdivisions of the state that have experienced or will experience expenses related to flood response, flood recovery, or flood mitigation. The new rule provides details on eligible applicants, eligible projects, and the application process. This rule making was approved by the Flood Mitigation Board on May 20, 2019.

*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 statute so provides. This emergency rule making will allow for the appropriated funds to be directed to impacted eligible political subdivisions.

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a), 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 upon filing on May 22, 2019, because 2019 Iowa Acts, Senate File 638, section 29, allows for this rule making to be made effective immediately upon filing. The immediate effective date will allow for the appropriated funds to be directed to impacted eligible political subdivisions.

*Adoption of Rule Making*

This rule making was adopted by the Department on May 20, 2019.

*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 4498C** to allow for public comment.

*Fiscal Impact*

The initial balance of the fund is \$15 million. It is anticipated that the fund will be able to function as a revolving fund for some projects while also providing match funding to federally funded projects and full funding to projects that cannot be funded through other means.



*Jobs Impact*

It is anticipated that this funding will enable eligible political subdivisions to recover more fully from the impacts of recent flooding events, thereby improving the short-term and long-term sustainability of the political subdivisions.

*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.

*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 May 22, 2019.

The following rule-making action is adopted:

Adopt the following **new** rule 605—14.12(418):

**605—14.12(418) Flood recovery fund.**

**14.12(1)** Purpose. A flood recovery fund is established in the state treasury under the control of the board. The fund shall consist of moneys appropriated to the fund by the general assembly and any other moneys available to, obtained by, or accepted by the board for deposit in the fund. Moneys in the fund are appropriated to the department and shall be used for the purposes designated in this rule. Moneys in the fund shall not supplant any federal disaster recovery moneys. Moneys in the fund that remain unencumbered or unobligated at the close of a fiscal year shall not revert to the general fund of the state but shall remain available for expenditure for the purposes designated in this rule. Interest or earnings on moneys deposited in the fund shall be credited to the fund.

**14.12(2)** An eligible applicant is a political subdivision of the state located in a county designated under presidential disaster declaration DR-4421-IA and also located in a county where the federal emergency management agency's individual assistance program has been activated.

**14.12(3)** Eligible projects must support flood response, flood recovery, or flood mitigation activities. Eligible project types could include construction and reconstruction of levees, embankments, impounding reservoirs, conduits, or other means that are necessary for the protection of property from the effects of floodwaters and may include the deepening, widening, alteration, change, diversion, or other improvement of watercourses if necessary for the protection of such property from the effects of floodwaters. A project may consist of one or more phases of construction or reconstruction that are contracted for separately if the larger project, of which the project is a part, otherwise meets the requirements of this subrule.

**14.12(4)** Project applications shall be submitted to the department for consideration by the board. The board shall prescribe application instructions and forms. Applications, instructions, programmatic guidance and forms are available through the department and its website, [www.homelandsecurity.iowa.gov](http://www.homelandsecurity.iowa.gov). Project applications shall contain all of the following:

- a. A description of the project and how the project supports flood response, flood recovery, or flood mitigation activities.
- b. A description of financial assistance needed from the flood recovery fund.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

- c. A description of the necessary expense or serious need of the political subdivision.
- d. Details on any additional funds to be applied to the project.

**14.12(5)** The board shall review the project applications. When reviewing a project application, the board shall consider, at a minimum, all of the following:

- a. Whether the project supports flood response, flood recovery, or flood mitigation activities.
- b. Whether financial assistance through the flood recovery fund is essential to meet the necessary expenses or serious needs of the political subdivision related to flood response, flood recovery, and flood mitigation.

Upon review of a project application, the board shall approve, defer, or deny the project application. If a project application is approved, the board shall specify the amount of financial assistance from the flood recovery fund awarded to the political subdivision. If the board approves an application for financial assistance from the flood recovery fund, the board shall negotiate and execute on behalf of the department all necessary agreements to provide such financial assistance. If a project application is deferred or denied, the board shall state the reasons for such deferral or denial.

**14.12(6)** Reports. Following the approval of a project application, the political subdivision shall twice annually, until the project is complete, submit a report to the board detailing the following:

- a. The current status of the project.
- b. The total expenditures and types of expenditures that have been made related to the project.
- c. The amount of total project cost remaining as of the date the report is submitted.

[Filed Emergency 5/22/19, effective 5/22/19]

[Published 6/19/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/19/19.

**ARC 4495C**

## **INSURANCE DIVISION[191]**

### **Adopted and Filed Emergency**

#### **Rule making related to residential and motor vehicle services contracts**

The Insurance Division (Division) hereby amends Chapter 103, "Residential Service Contracts," and rescinds Chapter 104, "Motor Vehicle Service Contracts," Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 516E.7 and 523C.10 and 2019 Iowa Acts, Senate File 619, section 18.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 516E and 523C and 2019 Iowa Acts, Senate File 619.

#### *Purpose and Summary*

The amendments in this rule making augment 2019 Iowa Acts, Senate File 619, which became effective May 16, 2019, and which, in part, updates provisions regarding the licensing of residential service companies and motor vehicle service companies that enter into residential service contracts and motor vehicle service contracts with consumers. This rule making is intended to provide guidance to residential service companies and motor vehicle service companies regarding how their current license or registration status will be administered by the Division now that the new law has become effective.

2019 Iowa Acts, Senate File 619, consolidates Iowa Code chapters 516E and 523C and makes significant changes to the licensing of residential service companies and motor vehicle service

INSURANCE DIVISION[191](cont'd)

companies. These emergency amendments consolidate Chapters 103 and 104 and meanwhile guide service companies until the next licensing cycle begins, pursuant to 2019 Iowa Acts, Senate File 619, on September 1, 2019.

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

Pursuant to Iowa Code section 17A.4(3), the Division finds that notice and public participation are unnecessary or impractical because the statute so provides. The new law was to take effect upon enactment, according to 2019 Iowa Acts, Senate File 619, section 19. The Governor signed the law, thereby making it effective, on May 16, 2019. The Commissioner of Insurance is authorized by 2019 Iowa Acts, Senate File 619, section 18, to adopt emergency rules under Iowa Code sections 17A.4(3) and 17A.5(2)“b” to implement the provisions of Senate File 619. Senate File 619, section 18, requires that such emergency rules also be published as a Notice of Intended Action as provided in Iowa Code section 17A.4.

*Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a), the Division 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 May 20, 2019, because the new law took effect upon enactment, according to 2019 Iowa Acts, Senate File 619, section 19. The Governor signed the law, thereby making it effective, on May 16, 2019. The Commissioner of Insurance is authorized by 2019 Iowa Acts, Senate File 619, section 18, to adopt emergency rules under Iowa Code sections 17A.4(3) and 17A.5(2)“b” to implement the provisions of Senate File 619.

*Adoption of Rule Making*

This rule making was adopted by Doug Ommen, Iowa Insurance Commissioner, on May 17, 2019.

*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 in accordance with 2019 Iowa Acts, Senate File 619, section 18, and is published herein under Notice of Intended Action as **ARC 4496C** 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*

These rules do not include a provision for the waiver of a rule because the Division’s general waiver rules of 191—Chapter 4 apply.

*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).

INSURANCE DIVISION[191](cont'd)

*Effective Date*

This rule making became effective on May 20, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend **191—Chapter 103**, title, as follows:

**RESIDENTIAL AND MOTOR VEHICLE SERVICE CONTRACTS**

ITEM 2. Amend rule 191—103.1(523C) as follows:

**191—103.1(523C) Purpose.** The purpose of this chapter is to administer Iowa Code chapter 523C as amended by 2019 Iowa Acts, Senate File 619, relating to residential service contracts as defined in Iowa Code section 523C.1(9) service contracts and service companies.

ITEM 3. Amend rule 191—103.2(523C) as follows:

**191—103.2(523C) Applicability, scope, and definitions.**

~~103.2(1)~~ This chapter shall apply to any person who issues or offers to issue a residential service contract as defined in Iowa Code section 523C.1(9).

~~103.2(2)~~ **103.2(1)** This chapter shall apply when an offer to sell a residential service contract is made or accepted in this state. An offer to sell is made in this state when the offer either originates from this state or is directed by the offeror to a person in this state.

~~103.2(3)~~ **103.2(2)** The definitions in Iowa Code sections section 523C.1 and 523C.8A(3) as amended by 2019 Iowa Acts, Senate File 619, section 1, are incorporated by this reference. In addition, the following definitions shall apply to this chapter.

“*Division*” means the Iowa insurance division, supervised by the commissioner pursuant to Iowa Code section 505.8, in the division’s performance of the duties of the commissioner under Iowa Code chapter 523C as amended by 2019 Iowa Acts, Senate File 619.

“*Division’s Web site website*” means the ~~Web site~~ website of the Iowa insurance division, www.iid.iowa.gov iid.iowa.gov.

“*Guarantee or warranty*” means:

1. ~~Any written affirmation or written promise made by a manufacturer or seller in connection with the sale of structural components or any tangible personal property which relates to the nature of the material or workmanship and affirms or promises that the material or workmanship is free of defects or will meet a specified level of performance over a specified period of time; or~~

2. ~~Any written affirmation, promise or undertaking by a manufacturer or seller in connection with the sale of structural components or any tangible personal property to refund, repair, replace or take other remedial action with respect to a product if the product fails to meet the specifications set forth in the undertaking, which written affirmation, promise or undertaking becomes part of the basis of the bargain for purposes other than resale.~~

“*Residential customer,*” as used in the definition of “residential service contract” in Iowa Code section 523C.1 as amended by 2019 Iowa Acts, Senate File 619, section 1, means any person (whether or not the person is the owner of the residential property) who purchases a residential service contract relating to a residential property.

“*Residential property*” means any single- or multiple-unit structure, including a house, townhouse, condominium, mobile home, or other habitable structure, which is used primarily for residential purposes.

“*Service contract holder*” means the original purchaser of a service contract or the successor in interest or transferee entitled to services under the contract.

“*Structural components,*” as used in the definition of “residential service contract” in Iowa Code section 523C.1 as amended by 2019 Iowa Acts, Senate File 619, section 1, means the roof, foundation, basement, walls, ceiling or floors of a residential property.

INSURANCE DIVISION[191](cont'd)

ITEM 4. Rescind rule 191—103.3(523C) and adopt the following new rule in lieu thereof:

**191—103.3(523C) Filings of forms, contracts and other items.** If Iowa Code chapter 523C as amended by 2019 Iowa Acts, Senate File 619, or this chapter requires an item to be filed with the division, the applicable item shall be filed with the division's securities and regulated industries bureau, regardless of whether the applicable item has already been filed elsewhere within the division.

ITEM 5. Amend rule 191—103.4(523C) as follows:

**191—103.4(523C) Forms and instructions.** Instructions for license applications, fees, forms and other filings, and copies of all required forms are available on the division's Web site website.

ITEM 6. Rescind rule 191—103.5(523C) and adopt the following new rule in lieu thereof:

**191—103.5(523C) Financial security deposits.**

**103.5(1)** For purposes of Iowa Code section 523C.5(2)“b” as enacted by 2019 Iowa Acts, Senate File 619, section 5, “placing in trust with the commissioner” means filing a surety bond with the commissioner or creating a financial or custodial account in a manner acceptable to the commissioner.

**103.5(2) Requirements for surety bonds.**

*a.* A surety bond filed with the commissioner as a financial security deposit pursuant to Iowa Code section 523C.5(2)“b” as enacted by 2019 Iowa Acts, Senate File 619, section 5, shall be in the form directed by the division and as available on the division's website.

*b.* A surety bond filed with the commissioner as a financial security deposit pursuant to Iowa Code section 523C.5(2)“b” as enacted by 2019 Iowa Acts, Senate File 619, section 5, shall cover service contracts still outstanding that predate the effective date of the surety bond and any service contracts executed during the surety bond's period of coverage except service contracts that have been rescinded or fulfilled or that are secured by another bond.

*c.* No suit or action shall be commenced by a surety bond claimant later than one year after the expiration date of the surety bond.

*d.* The surety bond shall, in the event of the service company's failure to perform under the service contract or otherwise, either reimburse or pay on behalf of the service company any covered amounts that the service company is legally obligated to pay under the service contract.

*e.* The surety bond is for the benefit of and subject to recovery by any Iowa service contract holder sustaining actionable injury due to the failure of the service company to perform its obligations under a service contract. A holder of a service contract issued in this state may, in the event of nonperformance of the contract by the service company, maintain an action and file a claim against the surety bond filed. The surety's liability shall extend to all service contracts issued by the service company and outstanding in this state, provided, however, that the surety's aggregate liability shall not exceed the penal sum of the bond.

*f.* The surety bond cannot be canceled by the surety except upon written notice of cancellation by the surety to the commissioner by certified mail, and not prior to the expiration of 60 days after receipt of the notice by the commissioner.

*g.* A service company shall maintain an adequate surety bond and shall continuously monitor the surety amount to assure its adequacy.

ITEM 7. Amend rule 191—103.6(523C) as follows:

**191—103.6(523C) Prohibited acts or practices.**

**103.6(1)** No change.

**103.6(2) *Boycott, coercion, and intimidation.*** A service company is prohibited from entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the residential service contract industry.

**103.6(3) and 103.6(4)** No change.

INSURANCE DIVISION[191](cont'd)

**103.6(5) Misrepresentation, false advertising, and unfair practices.**

a. A service company shall not:

(1) Use in its name, contracts, or literature, any of the words “insurance,” “casualty,” “surety,” “mutual,” or any other words descriptive of the insurance, casualty or surety business or deceptively similar to the name or description of any insurance or surety corporation, or any other service company. This subparagraph does not apply to a residential service company also licensed as an insurance company.

(2) No change.

(3) Without the written consent of the residential customer, knowingly charge for duplication of coverage or duties required by state or federal law, or duplication of a warranty expressly issued by a manufacturer or seller of a product or any implied warranty enforceable against the lessor, seller or manufacturer of a product.

(4) to (7) No change.

(8) Cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation, or statement with respect to the residential service contract industry or with respect to any service company which is untrue, deceptive or misleading.

(9) Require the use of used parts in the repair of a motor vehicle covered by a motor vehicle service contract unless the service company has obtained prior written authorization by the vehicle owner or unless all of the following are true regarding any rebuilt parts:

1. The parts have been dismantled and reconstructed as necessary.

2. All of the internal and external parts have been cleaned and made free from rust and corrosion.

3. All impaired, defective, or substantially worn parts have been restored to a sound condition or replaced with new, rebuilt, or unimpaired used parts.

4. All rewinding or machining or other necessary operations have been performed.

5. The rebuilt parts have been put in working condition, using, as minimum standards, the manufacturer’s performance specifications in existence when the parts were originally manufactured if those specifications are publicly available.

~~b. A bank, savings and loan association, insurance company or other lending institution shall not require the purchase of a residential service contract as a condition of a loan and shall not sell a residential service contract to a borrower unless the borrower signs an affidavit acknowledging that the purchase is not required.~~

ITEM 8. Amend rule 191—103.7(523C) as follows:

**191—103.7(523C) Service company licenses.**

~~103.7(1) A person shall not issue a residential service contract or undertake or arrange to perform services pursuant to a residential service contract unless the person is a corporation, limited liability company, partnership or limited liability partnership and has procured a service company license from the division.~~

~~103.7(2) 103.7(1)~~ Service company licenses shall not be transferable. A service company which sells its business shall cancel its service company license, and the purchaser of the business shall apply for a new service license under the purchaser’s name.

103.7(2) A service company licensed or registered with the division on April 1, 2019, in accordance with Iowa Code chapter 516E or 523C shall be deemed licensed with the insurance division under Iowa Code chapter 523C as amended by 2019 Iowa Acts, Senate File 619, until August 31, 2019, without any additional application or filing.

ITEM 9. Rescind and reserve rule **191—103.8(523C)**.

ITEM 10. Amend rule 191—103.9(523C) as follows:

**191—103.9(523C) Financial statements and calculation of net worth.**

INSURANCE DIVISION[191](cont'd)

**103.9(1)** All financial statements, including balance statements, filed pursuant to or prepared for purposes of Iowa Code chapter 523C as amended by 2019 Iowa Acts, Senate File 619, or this chapter shall be prepared in accordance with generally accepted accounting principles and certified by an independent certified public accountant.

**103.9(2)** For purposes of Iowa Code section ~~523C.6~~ 523C.5 as enacted by 2019 Iowa Acts, Senate File 619, section 5, “net worth” means the excess of all assets over liabilities, and any required reserves shall be treated as a liability rather than as an asset.

ITEM 11. Amend rule 191—103.10(523C) as follows:

**191—103.10(523C) Records.**

**103.10(1)** All licensed service companies ~~and independent depositories~~ shall keep accurate accounts, books, and records concerning transactions regulated under Iowa Code chapter 523C as amended by 2019 Iowa Acts, Senate File 619.

**103.10(2)** A licensed service company’s accounts, books, and records shall include:

- a. Copies of all service contracts;
- b. The name and address of each ~~residential customer~~ service contract holder; and
- ~~c. The name and address of each independent depository; and~~
- ~~d. c.~~ The dates and amounts of all receipts and expenditures related to all service contracts.

**103.10(3)** A licensed service company shall retain all required accounts, books, and records pertaining to each ~~residential~~ service contract for at least two years after the expiration of the specified period of time.

**103.10(4)** All licensed service companies ~~and independent depositories~~ shall make all accounts, books, and records concerning transactions regulated under Iowa Code chapter 523C as amended by 2019 Iowa Acts, Senate File 619, available to the division for the purpose of examination.

**103.10(5)** A licensed service company discontinuing business in this state shall maintain its records until it furnishes the division satisfactory proof that it has discharged all obligations to service contract holders in this state.

ITEM 12. Amend rule 191—103.15(523C) as follows:

**191—103.15(523C) Violations.** Failure to comply with this chapter or with Iowa Code chapter 523C as amended by 2019 Iowa Acts, Senate File 619, shall be deemed a violation which shall subject a person or entity to the procedures and penalties set forth in Iowa Code chapter 523C as amended by 2019 Iowa Acts, Senate File 619.

ITEM 13. Amend **191—Chapter 103**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 523C as amended by 2019 Iowa Acts, Senate File 619.

ITEM 14. Rescind and reserve **191—Chapter 104**.

[Filed Emergency 5/20/19, effective 5/20/19]

[Published 6/19/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/19/19.

**ARC 4509C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

**Rule making related to regional sports authority districts**

The Economic Development Authority hereby amends Chapter 38, “Regional Sports Authority Districts,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 15E.321.

*Purpose and Summary*

The first amendment changes a rule regarding the composition of the regional sports authority district governing boards so that the rule now conforms to the statute. The second amendment addresses the scoring criteria for applications. The current rules require the use of marketing data that the Iowa Tourism Office no longer collects. The amendment sets forth a new formula that incorporates current and useful marketing data, to be provided to the applicant by the Iowa Tourism Office.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as **ARC 4354C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Economic Development Authority Board on May 17, 2019.

*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.

*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).



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

*Effective Date*

This rule making will become effective on July 24, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **38.3(1)“b”** as follows:

*b.* The board shall consist of seven members named by the applicant, of whom at least ~~one member~~ three members shall be a city council ~~member~~ members of ~~a city~~ any cities located in the proposed district.

ITEM 2. Amend paragraph **38.4(1)“a”** as follows:

*a.* Economic impact: 30 points. The authority will consider the amount of economic impact represented by the proposed nonprofessional sporting events and will view favorably events that have a greater economic impact. Economic impact will be determined ~~based on the information required under subrule 38.3(2), and the authority will use that information in combination with the average daily spending data from the Iowa tourism office’s most recent marketing follow-up survey to calculate the estimated economic impact of the nonprofessional sporting events proposed in the application by using the following calculation: Applicants will estimate the number of hotel room nights generated by each proposed nonprofessional sporting event and multiply the number of estimated hotel room nights by the average daily room rate for Iowa hotels. The average daily room rate will be provided by the Iowa tourism office based on information obtained from a hotel market data service.~~ Intentionally inflated estimates of attendance or a history of providing inaccurate estimates will negatively affect the scoring of an application and may result in noncertification of a district.

[Filed 5/22/19, effective 7/24/19]

[Published 6/19/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/19/19.

**ARC 4510C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

**Rule making related to workforce housing tax incentives program**

The Economic Development Authority hereby amends Chapter 48, “Workforce Housing Tax Incentives Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 15.354.

*Purpose and Summary*

This rule making amends paragraph 48.5(3)“c” to reflect 2018 Iowa Acts, House File 2500. Currently, a housing business must complete the housing project within three years from the date of registration in order to remain eligible for the tax incentives under the program. The amendment allows the Authority discretion to extend the housing project’s completion deadline once by up to 12 months upon application by the housing business.

ECONOMIC DEVELOPMENT AUTHORITY[261](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 March 27, 2019, as **ARC 4353C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Economic Development Authority Board on May 17, 2019.

*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.

*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 July 24, 2019.

The following rule-making action is adopted:

Amend paragraph **48.5(3)“c”** as follows:

c. Housing project completion deadline.

(1) A Except as provided in subparagraph 48.5(3)“c”(2), a housing business shall complete its housing project within three years from the date the housing project is registered by the authority.

(2) The authority may for good cause within the discretion of the authority extend a housing project's completion deadline once by up to 12 months upon application by the housing business, which application shall be made prior to the expiration of the three-year completion deadline in subparagraph 48.5(3)“c”(1) in the manner and form prescribed by the authority.

[Filed 5/28/19, effective 7/24/19]

[Published 6/19/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/19/19.

**ARC 4511C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

**Rule making related to brownfield and grayfield redevelopment tax credit**

The Economic Development Authority hereby amends Chapter 65, “Brownfield and Grayfield Redevelopment,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 15.293B(4) and 15.295.

*Purpose and Summary*

The rule making makes the following changes. First, it removes the application scoring criterion which gives projects an additional 25 points if the project was registered under the program in a prior year. Although this criterion may have been desirable when the credit first became competitive, the Authority has experienced an influx of applications for projects that are not ready to move forward but rather are applying only for the purpose of receiving the additional 25 points in a future application round. Second, the rule making removes the 12-month maximum extension for project completion. The removal of this language brings the rules into agreement with language in Iowa Code section 15.293B(4).

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 13, 2019, as **ARC 4281C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Economic Development Authority Board on May 17, 2019.

*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.

*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).

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

*Effective Date*

This rule making will become effective on July 24, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **65.8(2)“a”** as follows:

*a.* Each application for tax credits during each established application period will be scored according to criteria set forth in this paragraph. Points will be added together and the resulting score averaged with the scores of applications evaluated by all council members. Scoring criteria include:

(1) The project's feasibility: 25 points.

(2) The project's financial need: 25 points.

(3) The project's quality: 25 points.

(4) ~~Whether the project was formerly registered under the program but did not receive an award: 25 points.~~

ITEM 2. Amend paragraph **65.11(7)“b”** as follows:

*b.* A registered project shall be completed within 30 months of the project's approval unless the authority, with the approval of the board, provides additional time to complete the project. ~~A project shall not be provided more than 12 months of additional time.~~ If the registered project is not completed within the time required, the project is not eligible to claim a tax credit.

[Filed 5/23/19, effective 7/24/19]

[Published 6/19/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/19/19.

**ARC 4512C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

**Rule making related to sunset date extensions**

The Economic Development Authority hereby amends Chapter 71, “Targeted Jobs Withholding Tax Credit Program,” and Chapter 116, “Tax Credits for Investments in Certified Innovation Funds,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 15E.52 and 403.19A.

*Purpose and Summary*

The purpose of this rule making is to update program-specific sunset dates that were extended by 2018 Iowa Acts, Senate File 2417.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as **ARC 4355C**. No public comments were received. No changes from the Notice have been made.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*Adoption of Rule Making*

This rule making was adopted by the Economic Development Authority Board on May 17, 2019.

*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.

*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 July 24, 2019.

The following rule-making actions are adopted:

- ITEM 1. Amend paragraph **71.4(2)“e”** as follows:  
*e. Sunset date.* A pilot project city and the authority shall not enter into a withholding agreement with a business after June 30, ~~2018~~ 2019.
- ITEM 2. Amend subrule 116.3(6) as follows:  
**116.3(6)** The board will not certify an innovation fund after June 30, ~~2018~~ 2023.
- ITEM 3. Amend **261—Chapter 116**, implementation sentence, as follows:  
 These rules are intended to implement 2013 Iowa Code section 15E.52 and ~~2013 Iowa Acts, House File 615~~.

[Filed 5/23/19, effective 7/24/19]

[Published 6/19/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/19/19.

**ARC 4513C**

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Adopted and Filed**

**Rule making related to community attraction and tourism programs**

The Economic Development Authority hereby amends Chapter 211, “Community Attraction and Tourism Development (CATD) Programs,” and Chapter 213, “Vision Iowa Board: Uniform Waiver and Variance Rules,” Iowa Administrative Code.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 15.106A and 15F.104.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 15F.201 to 15F.206.

*Purpose and Summary*

Pursuant to Iowa Code section 17A.7(2), the Enhance Iowa Board and Authority staff reviewed the administrative rules for the Community Attraction and Tourism (CAT) program. Authority staff recommended amendments to Chapters 211 and 213 to clarify the rules and make the programs easier to use for CAT program applicants and award recipients.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 13, 2019, as **ARC 4329C**. No public comments were received. No changes from the Notice have been made.

*Adoption of Rule Making*

This rule making was adopted by the Economic Development Authority Board on May 17, 2019.

*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 213.

*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 July 24, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend **261—Chapter 211**, title, as follows:

COMMUNITY ATTRACTION AND  
TOURISM DEVELOPMENT (~~CATD~~) (CAT) PROGRAMS

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

ITEM 2. Amend rule 261—211.1(15F) as follows:

**261—211.1(15F) Purpose.** The community attraction and tourism development programs are designed to assist communities in the development and creation of multiple-purpose attraction and tourism facilities. The ~~CATD~~ CAT programs include the CAT fund and the RECAT fund. The rules in this division apply to all applications and awards from the CAT and RECAT funds.

ITEM 3. Amend rule 261—211.2(15F) as follows:

**261—211.2(15F) Definitions.** When used in this chapter, unless the context otherwise requires:

“*Attraction*” means a permanently located recreational, cultural, educational, or entertainment activity that is available to the general public.

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

“*Board*” means the ~~vision enhance~~ Iowa board established by Iowa Code section 15F.102.

“*CAT*” means the community attraction and tourism component of the ~~CATD~~ programs.

“*CATD*” means ~~community attraction and tourism development.~~

“*CATD programs*” means the ~~CAT fund and RECAT fund.~~

“*CAT fund*” means the community attraction and tourism fund established pursuant to Iowa Code section 15F.204.

“*Community*” or “*political subdivision*” means a city or county, or an entity established pursuant to Iowa Code chapter 28E.

“*Community attraction and tourism program review committee*” or “*CAT review committee*” means the committee established by Iowa Code section 15F.203(2) and identified as the following members of the ~~vision enhance~~ Iowa board: ~~three members of the general public, one from each of the three tourism regions; the mayor of a city with a population of less than 20,000; and the county supervisor from a county that has a population ranking in the bottom 33 counties according to the 1990 census. The chair and vice chair of the vision Iowa board may serve as ex officio members of any subcommittee of the board~~ one member from each congressional district and one member from the state at large.

“*Department*” or “*IDED*” means the Iowa department of economic development.

“*Economic development organization*” means an entity organized to position a community to take advantage of economic development opportunities and strengthen a community’s competitiveness as a place to work and live.

“*Float loan*” or “*interim financing*” means a short-term loan (maximum of 30 months) from obligated but unexpended funds.

“*Loan*” means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the award. A deferred loan is one for which the payment of principal, interest, or both is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions.

“*Local support*” means endorsement by local individuals, ~~and~~ organizations and political subdivisions that have a substantial interest in a project.

“*Nonfinancial support*” may include, but is not limited to, the value of labor and services ~~which may not total more than 25 percent of a local match.~~ Real property and personal property donated for purposes of the project are considered financial support at their fair market value.

“*Private organization*” means a corporation, partnership, or other organization that is operated for profit.

“*Public organization*” means a not-for-profit economic development organization or other not-for-profit organization, ~~including those that sponsor or support~~ one that sponsors or supports community or tourism attractions and activities.

“*RECAT*” means river enhancement community attraction and tourism.

“*RECAT fund*” means the river enhancement community attraction and tourism fund established pursuant to Iowa Code section 15F.205.

“*Recipient*” means the entity under contract with the ~~vision enhance~~ Iowa board to receive CAT or RECAT funds and undertake the funded activity.

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

*“Recreational and cultural attraction”* means an attraction that enhances the quality of life in the community.

*“River enhancement community attraction and tourism project”* means a project that creates or enhances recreational opportunities and community attractions on and near lakes or rivers or river corridors within cities across the state under the purview of the program.

*“School district”* means a school corporation organized under Iowa Code chapter 274.

*“Subrecipient”* means a private organization or other entity operating under an agreement or contract with a recipient to carry out a funded CAT or RECAT activity.

*“Tourism opportunity”* means a facility that draws people into the community from at least 50 miles (one way) away from home.

*“Vertical infrastructure”* means land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development, and recreational trails and water trails. “Vertical infrastructure” does not include routine, recurring maintenance or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement.

*“Vision Iowa program review committee”* means the committee established by Iowa Code section 15F.304(2) as amended by 2009 Iowa Acts, House File 822, and identified as the following members of the vision enhance Iowa board: four members of the general public, the mayor of a city with a population of 20,000 or more, the director of the Iowa department of economic development or designee, the treasurer of state or designee, and the auditor of state or designee. The chairperson and vice chairperson of the vision Iowa board may serve as ex officio members of any subcommittee of the board one member from each congressional district and two members from the state at large.

ITEM 4. Amend rule 261—211.3(15F) as follows:

**261—211.3(15F) Program components Forms of assistance.** There are four direct components of the CATD programs. The first component relates to community attraction, tourism or leisure projects that are sponsored by political subdivisions, public organizations, and school districts in cooperation with a city or county. This component is referred to as the community attraction component. The second component provides community attraction and tourism development funds for interim financing for eligible projects under the community attraction component. This component is referred to as the interim financing component. The third component relates to river enhancement community attraction and tourism projects. This component is referred to as the river enhancement component. The fourth component relates to marketing projects that have received funding from the vision Iowa or CATD programs. This component is referred to as the marketing component.

**211.3(1) Community attraction component and tourism—CAT.** The objective of the CAT component is to provide CAT program provides financial assistance for community-sponsored attraction and tourism projects. Community attraction projects may include but are not limited to the following: museums, theme parks, cultural and recreational centers, heritage attractions, sports arenas and other attractions.

**211.3(2) Interim financing component.**

*a.*—The objective of the interim financing component is to provide short-term financial assistance for eligible community attraction and tourism projects. Financial assistance may be provided as a float loan. A float loan may only be made for projects that can provide the vision Iowa board with an irrevocable letter of credit or equivalent security instrument from a lending institution rated AA or better, in an amount equal to or greater than the principal amount of the loan.

*b.*—Applications for float loans shall be processed, reviewed and considered on a first-come, first-served basis to the extent funds are available. Applications that are incomplete or require additional information, investigation or extended negotiation may lose funding priority. Applications for float loans shall meet all other criteria required for the community attraction component.

**211.3(3) 211.3(2) River enhancement component community attraction and tourism—RECAT.** The objective of the RECAT component is to provide program provides financial assistance for projects that are related to, closely connected with, and enhance rivers, lakes, or river corridors within cities. River enhancement projects may include but are not limited to pedestrian trails and walkways, amphitheatres, bike trails, water trails or white water courses for watercraft, and any modifications necessary for the



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

~~safe mitigation of dams create or enhance recreational opportunities and community attractions on and near lakes or rivers or river corridors within cities.~~

~~211.3(4) 211.3(3) Marketing component. The objective of the CAT marketing component is to provide provides financial assistance for the marketing of vision Iowa or CATD, CAT and RECAT projects.~~

ITEM 5. Amend rule 261—211.4(15F) as follows:

**261—211.4(15F) Eligible applicants.** Eligible applicants for CAT and RECAT funds include ~~political subdivisions,~~ cities, counties, public organizations, and school districts in cooperation with a city or county. Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants. A school district must apply jointly with a city or county.

~~211.4(1) Any eligible applicant may apply directly or on behalf of a subrecipient.~~

~~211.4(2) Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.~~

ITEM 6. Amend rule 261—211.5(15F) as follows:

**261—211.5(15F) Eligible projects and forms of assistance.**

~~211.5(1) Eligible projects include those which are related to a community or tourism attraction, and which would provide recreational, cultural, entertainment and educational opportunities. Funded projects must position a community to take advantage of economic development opportunities in tourism and strengthen a community's competitiveness as a place to work and live. Eligible projects include building construction or reconstruction, rehabilitation, conversion, acquisition, demolition for the purpose of clearing lots for development, site improvement, equipment purchases, and other projects as may be deemed appropriate by the vision Iowa board. Completed projects must be open to the public for general use.~~

~~211.5(2) Eligible forms of assistance include grants, interest-bearing loans, non-interest-bearing loans, float loans under the interim financing component, interest subsidies, deferred payment loans, forgivable loans, or other forms of assistance as may be approved by the vision Iowa board. Eligible CAT and RECAT projects must be primarily vertical infrastructure projects.~~

~~211.5(3) Financial assistance for an eligible project may be provided in the form of a multiyear award to be paid in increments over a period of years, subject to the availability of funds. The enhance Iowa board has the option of funding a component of a proposed project.~~

~~211.5(4) IDED, with the approval of the chair or vice chair of the vision Iowa board, reserves the right to make technical corrections which are within the intent of the terms of a board approved award.~~

~~211.5(5) Applicants must report other sources of funding or pending funding, public or private, for the project including the local recreation infrastructure grants program administered by the Iowa department of natural resources and the Iowa historic site preservation grant program administered by the historical division of the Iowa department of cultural affairs. IDED may consult with appropriate staff from the department of cultural affairs and the department of natural resources to coordinate the review of applications under the programs.~~

ITEM 7. Amend rule 261—211.6(15F) as follows:

**261—211.6(15F) Ineligible projects.**

~~211.6(1) The vision enhance Iowa board shall not approve an application for assistance under this program to refinance an existing loan.~~

~~211.6(2) An applicant A recipient may not receive more than one CAT or RECAT award under the CATD programs for a single project. However, previously funded projects may receive an additional award(s) if the applicant demonstrates that the funding is to be used for a significant expansion of the project, or a new project, or a project that results from previous project development assistance.~~

~~211.6(3) The vision enhance Iowa board shall not approve an application for assistance in which the combination of RECAT and CAT funding CAT or RECAT funding plus other state funds would constitute~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

more than 50 percent of the total project costs. ~~RECAT funding may constitute up to one-third of the total project cost. A portion of the resources provided by the applicant for project costs may be in the form of in-kind or nonfinancial contributions.~~

211.6(4) Work completed and costs incurred, except the acquisition of real estate, prior to the date of a potential CAT or RECAT award are ineligible for funding under the CAT programs.

ITEM 8. Amend rule 261—211.7(15F) as follows:

~~261—211.7(15F) Threshold application~~ **Application requirements.** ~~To be considered for funding under the CATD programs, an application must meet the following threshold requirements~~ At a minimum, CAT and RECAT applications must contain the following information:

~~211.7(1) There must be demonstrated local support for the proposed activity.~~ The total capital investment of the project, including but not limited to costs for construction, site acquisition, and infrastructure improvement.

~~211.7(2) A need for the CAT or RECAT funds must exist after other financial resources have been identified for the proposed project.~~ The amount or percentage of local and private matching moneys which will be or have been provided for the project. Moneys raised at any time and not yet spent may be considered as local match. Up to 25 percent of the local match may be nonfinancial support.

~~211.7(3) The proposed project must primarily involve the creation or renovation of vertical infrastructure with demonstrated substantial regional or statewide economic impact.~~ The total number of jobs to be created or retained by the project.

~~211.7(4) The project must provide and pay at least 50 percent of the cost of a standard medical insurance plan for all full-time employees working at the project after the completion of the project for which financial assistance was received.~~ The long-term tax-generating impact of the project.

~~211.7(5) A joint application from a school district in cooperation with a city or county must demonstrate that the intended future use of the project shall be by both joint applicants.~~

ITEM 9. Rescind rule 261—211.8(15F) and adopt the following **new** rule in lieu thereof:

**261—211.8(15F) Application review.**

**211.8(1)** Authority staff will review CAT and RECAT applications to ensure the applications meet the threshold requirements set forth in subrule 211.8(2). All eligible applications will be forwarded to and reviewed by the enhance Iowa board. Applications that do not meet the threshold requirements will not be forwarded to the enhance Iowa board for review.

**211.8(2)** Authority staff will review each application for the following information:

- a. Local support for the proposed activity.
- b. Whether the proposed project is primarily a vertical infrastructure project.
- c. Certification from the applicant that the applicant will provide and pay for at least 50 percent of the cost of a standard medical insurance plan for all full-time employees working at the project after the completion of the project for which financial assistance was received.
- d. At least 65 percent of the funds needed to complete the proposed project have been raised or pledged. Other state funds cannot be counted as match until the applicant can document that at least 50 percent of the funds have been raised.

**211.8(3)** The CAT and vision Iowa program review committees shall consider, at a minimum, the following:

- a. Whether the wages, benefits, including health benefits, safety, and other attributes of the project would improve the quality of life or the quality of the attraction or tourism employment in the community.
- b. The extent to which such a project would generate additional recreational and cultural attractions or tourism opportunities.
- c. The ability of the project to produce a long-term tax-generating economic impact.
- d. The location of the projects and geographic diversity of the applications.
- e. The project is primarily a vertical infrastructure project with demonstrated substantial regional or statewide economic impact.

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

- f. Whether the applicant has received financial assistance under the program for the same project.
- g. The extent to which the project has taken the following planning principles into consideration:
  - (1) Efficient and effective use of land resources and existing infrastructure by encouraging development in areas with existing infrastructure or capacity to avoid costly duplication of services and costly use of land.
  - (2) Provision for a variety of transportation choices, including pedestrian traffic.
  - (3) Maintenance of a unique sense of place by respecting local cultural and natural environmental features.
  - (4) Conservation of open space and farmland and preservation of critical environmental areas.
  - (5) Promotion of safety, livability, and revitalization of existing urban and rural communities.

ITEM 10. Amend rule 261—211.9(15F) as follows:

**261—211.9(15F) Application procedure.** Subject to availability of funds, applications ~~are reviewed by IDEED staff on an ongoing basis and reviewed at least quarterly~~ will be accepted by the board quarterly. ~~Applications will be reviewed by staff~~ Authority staff will review applications for completeness and eligibility. ~~If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information.~~ A review, analysis and evaluation from the ~~IDEED~~ authority staff will be submitted to the CAT and vision Iowa program review committees of the board, ~~who~~ which will then make a final recommendation to the complete board for final approval, denial or deferral. ~~The vision Iowa board has the option of funding a component of a proposed project if the entire project does not qualify for funding.~~

**211.9(1)** ~~Application forms shall be available upon request from IDEED, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3197; and on IDEED's Web site at [www.iowalifechanging.com](http://www.iowalifechanging.com).~~ Applicants must submit a notice of intent to apply on a form provided by the authority. The authority will send standard application forms to those applicants who have submitted a notice of intent to apply. The notice of intent to apply form will be available on the enhance Iowa web page. The authority can waive this requirement for good cause.

**211.9(2)** ~~IDEED Authority staff may provide technical assistance to applicants as necessary. IDEED Authority staff and board members may conduct on-site evaluations of proposed projects.~~

**211.9(3)** ~~Applications shall include, at a minimum, the information detailed in ~~rule 211.8(15F)~~, application review ~~criteria~~ requirements.~~

**211.9(4)** Incomplete or ineligible applications will not be forwarded to the board for review.

ITEM 11. Amend subrules 211.10(1) to 211.10(6) as follows:

**211.10(1)** *Administration of awards.*

a. A contract shall be executed between the recipient and the ~~vision~~ enhance Iowa board. These rules and applicable state laws and regulations shall be part of the contract. The board reserves the right to negotiate ~~wage rates as well as other~~ terms and conditions of the contract.

b. The recipient must execute and return the contract to the ~~vision~~ enhance Iowa board within 45 days of transmittal of the final contract from the ~~vision~~ enhance Iowa board. Failure to do so may be cause for the ~~vision~~ enhance Iowa board to terminate the award.

c. Certain projects may require that permits or clearances be obtained from other state or local agencies before the project may proceed. Awards may be conditioned upon the timely completion of these requirements.

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

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

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

f. The authority, with the approval of the chair or vice chair of the enhance Iowa board, reserves the right to make technical corrections that are within the intent of the terms of a board-approved award.

**211.10(2) *Requests for Disbursement of funds.*** Recipients shall submit requests for funds in the manner and on forms prescribed by ~~IDED~~ the authority. Individual requests for funds shall be made in an amount equal to or greater than \$500 per request, except for the final draw of funds.

**211.10(3) *Record keeping and retention.*** The recipient shall retain all financial records, supporting documents and all other records pertinent to the ~~community attraction and tourism development activity~~ funded CAT or RECAT project for three years after contract closeout. Representatives of ~~IDED~~ the authority shall have access to all records belonging to or in use by recipients pertaining to ~~community attraction and tourism development~~ CAT and RECAT funds.

**211.10(4) *Performance reports and reviews.*** ~~Recipients~~ Upon request of the authority or the enhance Iowa board, recipients shall submit performance reports to ~~IDED~~ in the manner and on forms prescribed by ~~IDED~~ the authority. Reports shall assess the use of funds and progress of activities. ~~IDED~~ The authority may perform any reviews or field inspections necessary to ensure ~~recipient~~ each recipient's performance.

**211.10(5) *Amendments to contracts.*** Any substantive change to a contract shall be considered an amendment. ~~Changes~~ Substantive changes include time extensions, budget revisions and significant ~~alteration~~ alterations of the funded project that change the scope, location, objectives or scale of the approved project. Amendments must be requested in writing by the recipient and are not considered valid until approved by the ~~vision~~ enhance Iowa board and confirmed in writing by ~~IDED~~ following the procedure specified in the contract between the recipient and ~~IDED~~.

**211.10(6) *Contract closeout.*** Upon ~~contract expiration, IDED~~ project completion, the authority shall initiate contract closeout procedures.

ITEM 12. Amend rule 261—211.51(15F) as follows:

**261—211.51(15F) Allocation of funds.**

**211.51(1)** ~~Except as otherwise noted in this rule, all CAT funds shall be awarded for projects as specified in rule 211.3(15F).~~

**211.51(2) 211.51(1)** One-third of the moneys shall be allocated to provide assistance to projects located in cities and counties which meet the following criteria:

- a. A city which has a population of 10,000 or less according to the most recently published census.
- b. A county which has a population that ranks in the bottom 33 counties according to the most recently published census.

**211.51(3) 211.51(2)** Two-thirds of the moneys shall be allocated to provide assistance to projects in any city and county in the state, which may include a city or county included under subrule 211.51(2) 211.51(1).

**211.51(4) 211.51(3)** If two or more cities or counties submit a joint project application for financial assistance from the CAT fund, all joint applicants must meet the criteria of subrule ~~211.51(2)~~ 211.51(1) in order to receive any moneys allocated under that subrule.

**211.51(5) 211.51(4)** If any portion of the allocated moneys under subrule ~~211.51(2)~~ 211.51(1) has not been awarded by April 1 of the fiscal year for which the allocation is made, the portion which has not been awarded may be utilized by the ~~vision~~ enhance Iowa board to provide financial assistance from the CAT fund to projects located in any city or county in the state.

ITEM 13. Amend rule 261—211.102(15F) as follows:

**261—211.102(15F) Allocation of funds Application contents.**

**211.102(1)** ~~Except as otherwise noted in this rule, all river enhancement community attraction and tourism funds shall be awarded for projects as specified in rule 211.3(15F).~~

**211.102(2) Application contents.** Applications for ~~river enhancement~~ RECAT projects shall include, as an exhibit to the standard CATD program application, information about the project's connection and interaction with a river, lake or river corridor. "Lake" means a lake of which the state or a political

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

subdivision owns the lake bed up to the ordinary high water line and which is open to the use of the general public.

~~211.102(3) Application review criteria. In addition to the application review criteria in rule 211.8(15F), river enhancement projects shall be reviewed using the following additional criteria:~~

~~a. Connection and interaction with a river, lake or river corridor. The extent that the project relates to, connects with, and enhances a body of water. An explanation of the relevance of the body of water with regard to the project overall (0-5 points).~~

~~b. A description of the green sustainable design and construction practices, including storm water best management practices, such as permeable pavement, bioretention cells, and bioswales that will be utilized on the project to protect from pollution the body of water enhanced by the project (0-5 points).~~

ITEM 14. Rescind and reserve rule **261—211.103(15F)**.

ITEM 15. Amend **261—Chapter 213**, title, as follows:

**VISION ENHANCE IOWA BOARD: UNIFORM WAIVER AND VARIANCE RULES**

ITEM 16. Amend subrule **213.1(1)**, definition of “Board,” as follows:

“Board” or “~~vision enhance Iowa board~~” means the vision enhance Iowa board established by 2000 Iowa Acts, chapter 1174 Iowa Code section 15F.102.

ITEM 17. Amend subrule 213.3(1) as follows:

**213.3(1) Application.** All petitions for waiver or variance must be submitted in writing to the Vision Enhance Iowa Board, 200 East Grand Avenue, Des Moines, Iowa 50309-1819. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

ITEM 18. Amend rule 261—213.6(17A,ExecOrd11) as follows:

**261—213.6(17A,ExecOrd11) Public availability.** Subject to the provisions of Iowa Code section 17A.3(1)“e,” the board shall maintain a record of all orders granting or denying waivers and variances under this chapter. All final rulings in response to requests for waivers or variances shall be indexed and available to members of the public at the Vision Enhance Iowa Board, 200 East Grand Avenue, Des Moines, Iowa 50309-1819.

ITEM 19. Amend rule 261—213.10(17A,ExecOrd11) as follows:

**261—213.10(17A,ExecOrd11) Appeals.** Granting or denying a request for waiver or variance is final agency action under Iowa Code chapter 17A. An appeal to district court shall be taken within 30 days of the issuance of the ruling in response to the request unless a contrary time is provided by rule or statute.

Exhibit A

Sample Petition (Request) for Waiver/Variance

BEFORE THE VISION ENHANCE IOWA BOARD

Petition by (insert name of petitioner)  
for the waiver of (insert rule citation)  
relating to (insert the subject matter).



PETITION FOR  
WAIVER

Requests for waiver or variance from a board rule shall include the following information in the petition for waiver or variance where applicable and known:

- a. Provide the petitioner’s (person asking for a waiver or variance) name, address, and telephone number.
- b. Describe and cite the specific rule from which a waiver or variance is requested.
- c. Describe the specific waiver or variance requested; include the exact scope and time period that the waiver or variance will extend.



**ARC 4514C**

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Adopted and Filed**

**Rule making related to surface water classification**

The Environmental Protection Commission hereby amends Chapter 61, “Water Quality Standards,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 455B.173(2), 455B.176(4) and 455B.176A(7).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 455B.105(3), 455B.173(2) and 455B.176(4).

*Purpose and Summary*

This amendment revises subrule 61.3(5) to adopt by reference a revised Surface Water Classification document. The revised Surface Water Classification document reflects use designations which have been determined through field work and the completion of a use attainability analysis (UAA).

The concept of assigning all perennial streams the highest use designation if an assessment has not been completed is referred to as the “rebuttable presumption.” The federal Clean Water Act establishes a rebuttable presumption that all Iowa streams can achieve the highest levels of use, referred to as fishable and swimmable uses. In 2006, the Commission adopted this presumption by rule for all of Iowa’s previously undesignated perennial streams. As an outcome of these efforts, all 26,000 miles of Iowa’s perennial (flowing year-round) streams are initially designated at the highest levels for recreation and warm water aquatic life uses. These stream designations provided initial protection for many miles of perennial streams that were previously not designated for aquatic life or recreational uses.

Included in the federal regulations are provisions that allow for scientific analysis of these “presumed” recreational and aquatic life uses. This analysis is known as a UAA, which requires the gathering of site-specific field data on stream features and uses. The concept of UAA is being applied by the Department of Natural Resources (Department) as a step-by-step process to gather site-specific field data on stream features and uses. The Department assesses available information to determine if the “presumed” recreational and aquatic life uses are appropriate.

Iowa Code section 455B.176A(8) prohibits the Department from renewing a National Pollutant Discharge Elimination System (NPDES) permit for a facility discharging to a stream subject to a presumed use designation until the Department conducts a UAA and ensures the stream has the appropriate designation. Prior to issuing an NPDES permit for an affected facility, the Department must complete a UAA for the receiving stream or stream network.

This batch of stream designation changes affects 105 stream segments and 78 facilities. In addition to the designation changes, there are corrections to stream names and legal descriptions in the Surface Water Classification document to correct errors from the previous version. A complete list of the stream designation changes and affected facilities, as well as the updated version of the Surface Water Classification document, can be found on the Department’s water quality standards web page at: [www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards](http://www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards). The full UAA for each stream segment can also be found in the state’s UAA database at the following web page: [programs.iowadnr.gov/uaa/search.aspx](http://programs.iowadnr.gov/uaa/search.aspx).

ENVIRONMENTAL PROTECTION COMMISSION[567](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 January 16, 2019, as **ARC 4227C**.

Public hearings were held at the following dates, times and locations:

- February 12, 2019, at 4 p.m. at the Urbandale Public Library.
- February 13, 2019, at 4 p.m. at the Nicola-Stoufer Room, Washington Public Library.
- February 14, 2019, at 4 p.m. at the Harlan Community Library.

There were a total of nine attendees combined at all three public hearings, with a total of one oral comment submitted. An additional 13 comments were submitted through email, and one comment was submitted through the online stream survey.

Based on comments received, the Department is removing four stream segments from the document that is adopted by reference in this rule making. The removal of these four segments affects three facilities. The details of these changes can be viewed in the responsiveness summary for this rule making on the Department's water quality standards web page at [www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards](http://www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards).

*Adoption of Rule Making*

This rule making was adopted by the Commission on May 21, 2019.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa. This rule making will allow for the renewal of NPDES permits for approximately 78 facilities, which may result in a cost of \$10 to \$13 million for facility upgrades at these facilities. These costs have already been accounted for in the 2006 rule making. A copy of the impact statement is available from the Department upon request.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found. A copy of the impact statement is available from the Department upon request.

*Waivers*

This rule is subject to the waiver provisions of 561—Chapter 10, as adopted by reference at rule 567—13.1(17A), to the extent such waiver is consistent with federal water quality standards requirements. 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.

*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 July 24, 2019.

The following rule-making action is adopted:



ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Amend subrule 61.3(5) as follows:

**61.3(5) Surface water classification.** The department hereby incorporates by reference “Surface Water Classification,” effective ~~June 17, 2015~~ July 24, 2019. This document may be obtained on the department’s website at [www.iowadnr.gov](http://www.iowadnr.gov).

[Filed 5/28/19, effective 7/24/19]

[Published 6/19/19]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/19/19.

**ARC 4515C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**Adopted and Filed**

**Rule making related to independent study**

The Iowa Board of Respiratory Care and Polysomnography hereby amends Chapter 262, “Continuing Education for Respiratory Care Practitioners and Polysomnographic Technologists,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapters 148G and 152B and section 272C.2.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapters 148G and 152B and section 272C.2.

*Purpose and Summary*

These amendments allow licensees to earn more hours toward license renewal via independent study. The current rules only allow licensees to earn 10 of the 24 hours required for renewal via independent study. The amendments increase to 12 the number of hours licensees can earn via independent study.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 30, 2019, as **ARC 4259C**. A public hearing was held on February 19, 2019, at 8 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received.

The amendments to Chapter 262 remain the same as noticed. The amendments to Chapter 265 that were proposed in the Notice, relating to telehealth visits, have not been adopted because the Board decided further review of the Board’s rules and scope would be necessary before moving forward with changes to Chapter 265.

*Adoption of Rule Making*

This rule making was adopted by the Board on May 21, 2019.

*Fiscal Impact*

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*Jobs Impact*

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

*Waivers*

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

*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 July 24, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **262.2(1)“a”** as follows:

*a.* For respiratory care practitioner licensees: complete a minimum of 24 hours of continuing education. ~~Fourteen~~ Twelve of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee.

ITEM 2. Amend paragraph **262.2(1)“b”** as follows:

*b.* For respiratory care and polysomnography practitioner licensees: complete a minimum of 24 hours of continuing education. ~~Fourteen~~ Twelve of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee. At least 8 hours but not more than 12 hours shall be on sleep-related topics.

ITEM 3. Amend paragraph **262.2(1)“c”** as follows:

*c.* For polysomnographic technologist licensees: complete a minimum of 24 hours of continuing education. ~~Fourteen~~ Twelve of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee.

ITEM 4. Amend **645—Chapter 262**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 272C.2 and ~~chapter~~ chapters 148G and 152B and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G].

[Filed 5/22/19, effective 7/24/19]

[Published 6/19/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/19/19.

**ARC 4516C****REVENUE DEPARTMENT[701]****Adopted and Filed****Rule making related to educational savings plan trust accounts and ABLE accounts**

The Revenue Department hereby amends Chapter 40, "Determination of Net Income," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 422.68.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2018 Iowa Acts, Senate File 2417.

*Purpose and Summary*

These amendments implement recent legislative changes to the Iowa educational savings plan trust and Iowa ABLE programs. Following similar changes to the federal statute related to educational savings accounts, 2018 Iowa Acts, Senate File 2417, amended Iowa law to allow participants in the Iowa educational savings plan trust program to withdraw up to \$10,000 per beneficiary per year from an educational savings plan trust account for certain elementary or secondary school tuition expenses tax-free. Previously, tax-free withdrawals from these accounts had been restricted to certain college-related expenses. These amendments update the Department's existing rules to administer the tax consequences of these withdrawals for elementary and secondary school tuition expenses. Several minor technical corrections are also made to the Department's rules related to Iowa educational savings plan trusts.

Recent federal and Iowa legislation also provided that taxpayers may roll over funds from an educational savings plan account to an ABLE account tax-free under certain circumstances. The Iowa legislative changes provided that a taxpayer cannot deduct an amount rolled over from an Iowa educational savings plan trust account to an Iowa ABLE account if that amount was previously deducted as a contribution to the Iowa educational savings plan account. The Iowa legislation also provided that in the event of a nonqualifying withdrawal from an Iowa ABLE account, the taxpayer must include in the taxpayer's taxable income any amount that was previously deducted as a contribution to an Iowa college savings plan trust account and was later rolled over into an Iowa ABLE account. These amendments update the Department's rules related to Iowa ABLE accounts to reflect these changes and to make minor technical corrections.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 24, 2019, as **ARC 4408C**. 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 May 29, 2019.

*Fiscal Impact*

This rule making has no fiscal impact beyond that of the legislation it is intended to implement. The Fiscal Note for 2018 Iowa Acts, Senate File 2417, does not provide a separate estimate for the cost of these specific provisions, only an aggregate impact of all income tax changes included in that legislation.

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

The Department can provide additional information about the fiscal impacts of the legislation related to these specific provisions upon request.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

*Review by Administrative Rules Review Committee*

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

*Effective Date*

This rule making will become effective on July 24, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 701—40.53(422) as follows:

**701—40.53(422) Deduction for contributions by taxpayers to the Iowa educational savings plan trust and addition to income for refunds of contributions previously deducted.** The Iowa educational savings plan trust was created so that individuals and certain other qualified participants can contribute funds on behalf of beneficiaries in accounts administered by the treasurer of state to cover ~~future higher education costs~~ qualified education expenses of the beneficiaries. The Iowa educational savings plan trust includes the college savings Iowa plan and the Iowa advisor 529 plan. The following subrules provide details on how individuals' net incomes are affected by contributions to beneficiaries' accounts, interest and any other earnings earned on beneficiaries' accounts, and refunds of contributions which were previously deducted. Definitions and other information about establishing college savings Iowa accounts may be found in rules promulgated by the treasurer of state. See 781—Chapter 16.

**40.53(1) Deduction from net income for contributions made to the Iowa educational savings plan trust on behalf of beneficiaries.**

a. and b. No change.

c. The deduction on the 1998 Iowa return cannot exceed \$2,000 per beneficiary for contributions made in 1998 or the adjusted maximum annual amount for contributions made after 1998. Note that the maximum annual amount that can be deducted per beneficiary may be adjusted or increased to an amount greater than \$2,000 for inflation on an annual basis. Rollover contributions from other states' educational savings plans will qualify for the deduction, subject to the maximum amount allowable. Starting with tax years beginning in the 2000 calendar year, a participant may contribute an amount on behalf of a beneficiary that is greater than \$2,000, but may claim a deduction on the Iowa individual return of the lesser of the amount given contributed or \$2,000 as adjusted by inflation. For example, if a taxpayer made a \$5,000 contribution on behalf of a beneficiary to the Iowa educational savings plan trust in 2000, the taxpayer may claim a deduction on the IA 1040 return for 2000 in the amount of \$2,054, as this amount is \$2,000 as adjusted for inflation in effect for 2000.

EXAMPLE: An individual has ten grandchildren from the age of six months to 12 years. In October 1998, the person became a participant in the Iowa educational savings plan trust by making \$2,000 contributions to the trust on behalf of each of the ten grandchildren. When the participant ~~files~~ files

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

the 1998 Iowa individual income tax return, the participant ~~can~~ could claim a deduction on the return for the \$20,000 contributed to the Iowa educational savings plan trust on behalf of the individual's ten grandchildren.

**40.53(2)** *Exclusion of interest and earnings on beneficiary accounts in the Iowa educational savings plan trust.* To the extent that interest or other earnings accrue on a beneficiary's account in the Iowa educational savings plan trust, the interest or other earnings are excluded for purposes of computing net income on the Iowa individual income tax return of the participant or the return of the beneficiary.

**40.53(3)** *Including on the Iowa individual return amounts refunded to the participant from the Iowa educational savings plan trust that had previously been deducted.* ~~If a~~ The refund or withdrawal of funds is to be included in net income on a participant's Iowa individual income tax return to the extent that contributions to the account had been deducted on prior Iowa individual income tax returns of the participant if the participant cancels a beneficiary's account in the Iowa educational savings plan trust and receives a refund of the funds in the account made on behalf of the beneficiary, or if a the participant makes a withdrawal from the Iowa educational savings plan trust for purposes other than the payment of qualified education expenses, the refund of the funds is to be included in net income on the participant's Iowa individual income tax return to the extent that contributions to the account had been deducted on prior state individual income tax returns of the participant. following:

*a. Qualifying higher education withdrawals.* The payment of qualified higher education expenses as defined in Section 529(e)(3) of the Internal Revenue Code. The term "qualified higher education expenses" does not include tuition expenses related to attendance at an elementary or secondary school.

*b. Qualifying elementary and secondary tuition withdrawals.* For withdrawals made on or after January 1, 2018, the payment of tuition expenses in connection with and required for enrollment or attendance at an elementary or secondary school in Iowa which is accredited under Iowa Code section 256.11, and which adheres to the provisions of the federal Civil Rights Act of 1964 and Iowa Code chapter 216. These qualified tuition expenses shall not exceed \$10,000 per beneficiary per year. This limitation is based on the beneficiary, not the participant.

Participants are responsible for tracking the amount of qualified tuition expense payments a beneficiary may receive from other participants. If a beneficiary's distributions exceed this annual limitation, the most recent payments are presumed to be the nonqualifying payments. By agreement amongst themselves, account holders are permitted to choose an alternative method for determining which payments are nonqualifying. An alternative method is presumed valid if, after the additions to income required by this paragraph, the beneficiary's total qualifying tax-free withdrawals for elementary or secondary school tuition expenses do not exceed the \$10,000 limitation. However, upon request, the account holders are responsible for providing the department with adequate documentation to substantiate the method used.

*c. Change in beneficiaries.* A change in beneficiaries under, or transfer to another account within, the Iowa educational savings plan trust.

*d. ABLE rollovers.* A transfer to the Iowa ABLE savings plan trust, provided such change or transfer is permitted under Iowa Code section 12D.6(5).

EXAMPLE: Because a beneficiary of a certain participant died in the year 2000, this participant in the Iowa educational savings plan trust canceled the participant agreement for the beneficiary with the trust and received a refund of \$4,200 of funds in the beneficiary's account. Because \$4,000 of the refund represented contributions that the participant had deducted on prior Iowa individual income tax returns, the participant was to report on the Iowa return for the tax year 2000, \$4,000 in contributions that had been deducted on the participant's Iowa returns for 1998 and 1999.

EXAMPLE: Beneficiary A is an elementary school student who attends an accredited elementary school located in Iowa. Participant B and participant C have each opened an Iowa educational savings plan trust account with A as the designated beneficiary. In January 2019, participant B withdraws \$6,000 from B's account to pay A's spring semester tuition. In August 2019, participant C withdraws \$6,000 from C's account to pay for A's fall semester tuition. Although neither B nor C has made a withdrawal in excess of \$10,000, that limitation is based on the beneficiary, A, who has received a total of \$12,000 in distributions in 2019. Because A's total distributions have exceeded the annual limitation on distributions

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

related to elementary or secondary school tuition, the participants must include the \$2,000 excess in their net income. Because C's withdrawal was made after B's, the entire excess is presumed attributable to C, and therefore C must include the entire \$2,000 excess in C's Iowa net income for 2019, unless B and C can show that they agreed to an alternative method of allocating the excess amount.

This rule is intended to implement Iowa Code section 422.7 as amended by 2015 Iowa Acts, chapter 138, sections 72 and 73, and 2016 Iowa Acts, chapter 1107.

ITEM 2. Amend rule 701—40.81(422) as follows:

**701—40.81(422) Iowa ABLE savings plan trust.** The Iowa ABLE savings plan trust was created so that individuals can contribute funds on behalf of designated beneficiaries into accounts administered by the treasurer of state. The funds contributed to the trust may be used to cover future disability-related expenses of the designated beneficiary. The funds contributed to the trust are intended to supplement, but not supplant, other benefits provided to the designated beneficiary by various federal, state, and private sources. The Iowa ABLE savings plan program is administered by the treasurer of state under the terms of Iowa Code chapter 12I. The following subrules provide details about how an individual's net income is affected by contributions to a beneficiary's account, by interest and any other earnings on a beneficiary's account, and by distributions of contributions which were previously deducted.

**40.81(1) and 40.81(2)** No change.

**40.81(3)** *Subtraction from net income for contributions made to the Iowa ABLE savings plan trust or other qualified ABLE program.* For tax years beginning on or after January 1, 2016, individuals can subtract from their Iowa net income the amount contributed to the Iowa ABLE savings plan trust or other qualified ABLE program on behalf of a designated beneficiary during the tax year, subject to the maximum contribution level for that year. This subtraction is not allowed for any contribution that is a transfer from an Iowa educational savings plan trust account and that was previously deducted as a contribution to the Iowa educational savings plan trust.

**40.81(4)** *Exclusion of interest and earnings on beneficiary accounts in the Iowa ABLE savings plan trust or other qualified ABLE program.* For tax years beginning on or after January 1, 2016, to the extent that interest or other earnings accrue on an account in the Iowa ABLE savings plan trust or other qualified ABLE program (if the account owner is an Iowa resident), the interest or other earnings are excluded for purposes of computing net income on the designated beneficiary's Iowa individual income tax return.

**40.81(5)** *Addition to net income of amounts distributed to the participant from the Iowa ABLE savings plan trust or other qualified ABLE program that had previously been deducted.*

*a.* For tax years beginning on or after January 1, 2016, if a taxpayer, as an account owner, cancels the account owner's account in the Iowa ABLE savings plan trust or other qualified ABLE program and receives a distribution of the funds in the account, the amount of the distribution shall be included in net income on the account owner's Iowa individual income tax return to the extent that contributions to the account had been deducted on prior state individual income tax returns of the account owner or any other person as a contribution to the Iowa ABLE savings plan trust or other qualified ABLE program or as a contribution to an Iowa educational savings plan trust account.

*b.* For tax years beginning on or after January 1, 2016, if a taxpayer makes a withdrawal of funds previously deducted by the taxpayer or any other person from the Iowa ABLE savings plan trust or other qualified ABLE program for purposes other than the payment of qualified disability expenses, the amount of the withdrawal shall be included in net income on the taxpayer's Iowa individual income tax return to the extent that contributions to the account had been deducted on prior ~~state~~ Iowa individual income tax returns of the taxpayer or any other person as contributions to a qualified ABLE program or an Iowa educational savings plan trust account.

**40.81(6)** *Maximum contribution level.* The amount of the deduction available for an individual taxpayer each year for contributions on behalf of any one designated beneficiary to the Iowa ABLE savings plan trust or other qualified ABLE program may not exceed the maximum contribution level for that year. The maximum contribution level is set by the treasurer of state. The maximum contribution level is indexed yearly for inflation pursuant to Iowa Code section ~~12D.3(1)“a.”~~ 12D.3(1).

REVENUE DEPARTMENT[701](cont'd)

This rule is intended to implement Iowa Code section 422.7 as amended by 2015 Iowa Acts, chapter 137.

[Filed 5/29/19, effective 7/24/19]

[Published 6/19/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/19/19.

**ARC 4517C**

**REVENUE DEPARTMENT[701]**

**Adopted and Filed**

**Rule making related to section 179 expensing**

The Revenue Department hereby amends Chapter 40, "Determination of Net Income," Chapter 53, "Determination of Net Income," and Chapter 59, "Determination of Net Income," Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 422.68.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 220.

*Purpose and Summary*

Recently enacted 2019 Iowa Acts, Senate File 220, raises to \$70,000 the 2018 Iowa section 179 deduction limitation for expensing certain depreciable business assets applicable to corporations (both C and S corporations) and other entities subject to the corporate income tax, and financial institutions subject to the franchise tax, with a reduction (phase-out) limitation of \$280,000. Prior to Senate File 220, these higher limitations applied only to individuals and entities taxed as partnerships. These amendments update the existing charts in rules 701—40.65(422), 701—53.23(422), and 701—59.24(422) for individual income tax, corporate income tax, and franchise tax to reflect the higher limitations now applicable to corporations and financial institutions for 2018. These amendments update references to the lower limits in the rules and examples to reflect the higher limits and make several technical corrections. Finally, at the time these rules were originally adopted, the federal section 179 dollar and reduction limitation amounts as indexed for inflation for 2019 were not known. The Internal Revenue Service has since released these indexed amounts, so the updated amounts have been added to the charts provided in each of the three rules.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 24, 2019, as **ARC 4406C**. 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 May 29, 2019.

*Fiscal Impact*

This rule making has no fiscal impact beyond that of the legislation it is intended to implement, as described in the Legislative Services Agency Fiscal Note for 2019 Iowa Acts, Senate File 220.

REVENUE DEPARTMENT[701](cont'd)

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, 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 July 24, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend rule 701—40.65(422) as follows:

**701—40.65(422) Section 179 expensing.**

**40.65(1) *In general.*** Iowa taxpayers who elect to expense certain depreciable business assets in the year the assets were placed in service under Section 179 of the Internal Revenue Code must also expense those same assets for Iowa income tax purposes in that year. However, for certain years, the Iowa limitations on this deduction are different from the federal limitations for the same year. This means that for some tax years, adjustments are required to determine the correct Iowa section 179 expensing deduction, as described in this rule.

**40.65(2) *Claiming the deduction.***

*a. Timing and requirement to follow federal election.* A taxpayer who takes a federal section 179 deduction must also take the deduction for the same asset in the same year for Iowa purposes, except as expressly provided by Iowa law or this rule. A taxpayer who takes a federal section 179 deduction is not permitted to opt out of taking the same deduction for Iowa purposes. A taxpayer who does not take a federal section 179 deduction on a specific qualifying asset is not permitted to take a section 179 deduction for Iowa purposes on that asset.

*b. Qualifying for the deduction.* Whether a specific business asset qualifies for a section 179 deduction is determined by the Internal Revenue Code (Title 26, U.S. Code) and applicable federal regulations for both federal and Iowa purposes.

*c. Amount of the Iowa deduction.* Generally, the Iowa deduction must equal the amount of the federal deduction taken for the same asset in the same year, subject to special Iowa limitations. The following chart provides a comparison of the Iowa and federal section 179 dollar limitations and reduction limitations. ~~For tax years beginning on or after January 1, 2018, and before January 1, 2019, the Iowa limitations applicable to individuals and corporations (both C and S corporations) are not the same; see~~ See rule 701—53.23(422) for the section 179 limitations imposed on rules applicable to corporations (both C and S corporations) and other entities subject to the corporate income tax, and see rule 701—59.24(422) for the section 179 limitations imposed on rules applicable to financial institutions subject to the franchise tax.



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

Section 179 Deduction Allowances Under Federal and Iowa Law				
	Federal		Iowa	
Tax Year	Dollar Limitation	Reduction Limitation	Dollar Limitation	Reduction Limitation
2003	\$ 100,000	\$ 400,000	\$ 100,000	\$ 400,000
2004	102,000	410,000	102,000	410,000
2005	105,000	420,000	105,000	420,000
2006	108,000	430,000	108,000	430,000
2007	125,000	500,000	125,000	500,000
2008	250,000	800,000	250,000	800,000
2009	250,000	800,000	133,000	530,000
2010	500,000	2,000,000	500,000	2,000,000
2011	500,000	2,000,000	500,000	2,000,000
2012	500,000	2,000,000	500,000	2,000,000
2013	500,000	2,000,000	500,000	2,000,000
2014	500,000	2,000,000	500,000	2,000,000
2015	500,000	2,000,000	500,000	2,000,000
2016	500,000	2,010,000	25,000	200,000
2017	510,000	2,030,000	25,000	200,000
2018	1,000,000	2,500,000	70,000*	280,000
2019	Indexed amount unknown as of 8/2/18 1,020,000	Indexed amount unknown as of 8/2/18 2,550,000	100,000	400,000
2020 and later	Iowa limitations are the same as federal			
*The Iowa limitations for 2018 are applicable to individuals and pass-through entities other than corporations or financial institutions. For Iowa limitations applicable to corporations (both C and S corporations) and entities subject to the corporate income tax, or to financial institutions subject to the franchise tax, see rules 701—53.23(422) and 701—59.24(422), respectively.				

d. to h. No change.

**40.65(3)** *Section 179 deduction received from a pass-through entity.* In some cases, an individual or entity that receives income from one or more pass-through entities may receive a section 179 deduction in excess of the Iowa deduction limitation listed in paragraph 40.65(2) “c” for a given year. The individual or entity may be eligible for a special election with regard to that excess section 179 deduction, as described in this subrule.

a. *Tax years beginning before January 1, 2018.* For tax years beginning before January 1, 2018, the amount of any section 179 deduction received in excess of the Iowa deduction limitation for that year is not eligible for the special election.

b. *Special election available for tax years 2018 and 2019.* For tax years beginning on or after January 1, 2018, but before January 1, 2020, an individual or entity, ~~other than a corporation (both C and S corporations) or an entity subject to the corporate income tax or franchise tax,~~ that receives a section 179 deduction from one or more pass-through entities in excess of the Iowa deduction limitation for that tax year may elect to deduct the excess in future years, as described in this subrule. See rule 701—53.23(422) for special rules applicable to corporations (both C and S corporations) and other entities subject to the corporate income tax, and see rule 701—59.24(422) for special rules applicable to financial institutions subject to the franchise tax.

(1) This special election applies only to section 179 deductions passed through to the individual or entity by one or more other entities.

(2) If the total Iowa section 179 deduction passed through to the individual or entity exceeds the federal section 179 deduction limitation for that year, the individual or entity may only use the amount

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

up to the federal limitation when calculating the deduction under this election. Any amount in excess of the federal limitation shall not be deducted for Iowa purposes.

c. to g. No change.

This rule is intended to implement Iowa Code section 422.7 as amended by 2018 Iowa Acts, Senate File 2417 2019 Iowa Acts, Senate File 220.

ITEM 2. Amend rule 701—53.23(422) as follows:

**701—53.23(422) Section 179 expensing.**

**53.23(1) In general.** Iowa taxpayers that elect to expense certain depreciable business assets in the year the assets were placed in service under section 179 of the Internal Revenue Code must also expense those same assets for Iowa income tax purposes in that year. However, for certain years, the Iowa limitations on this deduction are different from the federal limitations for the same year. This means that for some tax years, adjustments are required to determine the correct Iowa section 179 expensing deduction, as described in this rule.

**53.23(2) Claiming the deduction.**

a. *Timing and requirement to follow federal election.* A taxpayer that takes a federal section 179 deduction must also take the deduction for the same asset in the same year for Iowa purposes, except as expressly provided by Iowa law or this rule. A taxpayer that takes a federal section 179 deduction is not permitted to opt out of taking the same deduction for Iowa purposes. A taxpayer that does not take a federal section 179 deduction on a specific qualifying asset is not permitted to take a section 179 deduction for Iowa purposes on that asset.

b. *Qualifying for the deduction.* Whether a specific business asset qualifies for a section 179 deduction is determined by the Internal Revenue Code (Title 26, U.S. Code) and applicable federal regulations for both federal and Iowa purposes.

c. *Amount of the Iowa deduction.* Generally, the Iowa deduction must equal the amount of the federal deduction taken for the same asset in the same year, subject to special Iowa limitations. The following chart provides a comparison of the Iowa and federal section 179 dollar limitations and reduction limitations. For tax years beginning on or after January 1, 2018, and before January 1, 2019, the Iowa limitations applicable to corporations (both C and S corporations) and other entities subject to the corporate income tax and to financial institutions subject to the franchise tax are not the same as the limitations applicable to individuals and other entities; see See rule 701—40.65(422) for the section 179 limitations imposed on rules applicable to individuals and other noncorporate entities, and see rule 701—59.24(422) for the section 179 limitations subject to rules applicable to financial institutions subject to the franchise tax.

Section 179 Deduction Allowances Under Federal and Iowa Law				
Tax Year	Federal		Iowa	
	Dollar Limitation	Reduction Limitation	Dollar Limitation	Reduction Limitation
2003	\$ 100,000	\$ 400,000	\$ 100,000	\$ 400,000
2004	102,000	410,000	102,000	410,000
2005	105,000	420,000	105,000	420,000
2006	108,000	430,000	108,000	430,000
2007	125,000	500,000	125,000	500,000
2008	250,000	800,000	250,000	800,000
2009	250,000	800,000	133,000	530,000
2010	500,000	2,000,000	500,000	2,000,000
2011	500,000	2,000,000	500,000	2,000,000
2012	500,000	2,000,000	500,000	2,000,000
2013	500,000	2,000,000	500,000	2,000,000
2014	500,000	2,000,000	500,000	2,000,000

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

2015	500,000	2,000,000	500,000	2,000,000
2016	500,000	2,010,000	25,000	200,000
2017	510,000	2,030,000	25,000	200,000
2018	1,000,000	2,500,000	<del>25,000*</del> <u>70,000</u>	<del>200,000</del> <u>280,000</u>
2019	<del>Indexed amount unknown as of 8/2/18 1,020,000</del>	<del>Indexed amount unknown as of 8/2/18 2,550,000</del>	100,000	400,000
2020 and later	Iowa limitations are the same as federal			
* The Iowa limitations for 2018 are applicable to corporations (both C and S corporations), entities subject to the corporate income tax, and financial institutions subject to the franchise tax. For Iowa limitations applicable to individuals and pass-through entities which are not corporations, see rule 701—40.65(422).				

*d. Reduction.* Both the federal and the Iowa deductions for section 179 assets are reduced (phased out dollar for dollar) for taxpayers whose total section 179 assets placed in service during a given year cost more than the amount specified (reduction limitation) for that year. Like the deduction limitation, the Iowa and federal reduction limitations are different for certain years. See paragraph 53.23(2) “c” for applicable limitations.

EXAMPLE: Taxpayer, a corporation, purchases \$400,000 worth of qualifying section 179 assets and places all of them in service in 2018. Taxpayer claims a section 179 deduction of \$400,000 for the full cost of the assets on the 2018 federal return. For corporations, the Iowa section 179 deduction for 2018 is phased out dollar for dollar by the amount of section 179 assets placed in service in excess of ~~\$200,000~~ \$280,000. This means that, for 2018, the Iowa deduction is fully phased out if the taxpayer placed in service section 179 assets that cost, in total, more than ~~\$225,000~~ \$350,000. Since the cost of the qualifying assets in this example exceeds the Iowa section 179 phase-out limit, the taxpayer cannot claim any section 179 deduction on the Iowa return. However, the taxpayer may depreciate the entire cost of the assets for Iowa purposes.

*e. Amounts in excess of the Iowa limits.*

(1) Recovering the excess. Due to the differences between the Iowa and federal limitations for certain years, taxpayers may have a federal section 179 deduction that exceeds the amount allowed for Iowa purposes. This excess amount is handled in different ways depending on the source of the deduction.

1. Assets placed in service by the taxpayer or entity reporting the deduction. The cost of any section 179 assets placed in service by the taxpayer in excess of the Iowa limitation for a given year may be recovered through regular depreciation under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k). The Iowa section 179 and depreciation deductions and any basis adjustments resulting from the difference in timing of the recovery between Iowa and federal law are calculated and tracked on forms made available on the department’s website.

EXAMPLE: Taxpayer, a corporation, purchases a \$100,000 piece of equipment and places it in service in 2018. Taxpayer claims a section 179 deduction of \$100,000 for the full cost of the equipment on the 2018 federal return. Taxpayer is also required to claim a section 179 deduction of ~~\$25,000~~ \$70,000 on the 2018 Iowa return (the full amount of the federal deduction up to the Iowa limit for corporations for 2018). The taxpayer can depreciate the remaining ~~\$75,000~~ \$30,000 cost of the equipment for Iowa purposes.

2. Special election for assets placed in service by a pass-through entity when the section 179 deduction is claimed by an owner of that pass-through. See subrule 53.23(3) for information on a special election available to certain owners of pass-through entities related to any section 179 deductions passed through from a partnership or other entity that, in the aggregate, exceed the Iowa limitations.

(2) Special information for pass-throughs. In the case of pass-through entities, section 179 limitations apply at both the entity level and the owner level. Pass-through entities that are required to file an Iowa return and that actually place section 179 assets in service should follow 53.23(2) “e”(1)“1” to account for any assets for which the total federal section 179 deductions for a given year exceeded

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

the Iowa limitation. Owners of pass-throughs receiving section 179 deductions from one or more pass-throughs that, in the aggregate, exceed the Iowa limitations should follow 53.23(2) “e”(1)“2.”

EXAMPLE: A, Inc. (a corporation doing business exclusively in Iowa) owns 50 percent interests in each of three partnerships: C, D, and E. Partnership C, which also does business exclusively in Iowa, places \$200,000 worth of section 179 assets in service during tax year 2019 and claims a federal section 179 deduction for the full cost of the assets. Because C is required to file an Iowa partnership return, C is subject to the Iowa section 179 limitations for 2019 and must adjust its Iowa section 179 deduction as provided in 40.65(2) “e”(1)“1.” C passes through 50 percent of its section 179 deduction (\$100,000 for federal purposes, \$50,000 for Iowa purposes) to A, Inc. A, Inc. also receives \$50,000 each in section 179 deductions from D and E, for a total of \$150,000 in section 179 deductions (for Iowa purposes) in 2019. A, Inc. is subject to the \$100,000 Iowa section 179 deduction limitation for 2019, but because A, Inc. received total section 179 deductions from one or more pass-throughs in excess of the 2019 Iowa limitation, A, Inc. is eligible for the special election referenced in 53.23(2) “e”(1)“2.”

*f. Income limitation.* The Iowa section 179 deduction for any given year is limited to the taxpayer’s income from active conduct in a trade or business in the same manner that the section 179 deduction is limited for federal purposes. If an allowable Iowa section 179 deduction exceeds the taxpayer’s business income for a given year, any excess allowable Iowa section 179 deduction may be carried forward as described in paragraph 53.23(2) “g.”

*g. Carryforward.* This paragraph applies only to amounts that do not exceed the Iowa section 179 deduction limitations for a given year but do exceed the taxpayer’s business income for that year. As with the federal deduction, allowable Iowa section 179 deductions claimed in a given year that exceed a taxpayer’s business income may be carried forward and claimed in future years. This carryforward, if any, is calculated using only amounts up to the Iowa limit. Any federal section 179 deduction the taxpayer claimed in excess of the Iowa limit is not an Iowa section 179 deduction and therefore is not eligible for the carryforward described in this paragraph. Such amounts must instead be recovered as described in paragraph 53.23(2) “e,” or in subrule 53.23(3) for taxpayers receiving the deduction from one or more pass-through entities and making the special election as described in that subrule.

*h. Difference in basis.* Iowa adjustments for differences between the Iowa and federal section 179 deduction limitations may cause the taxpayer to have a different basis in the same asset for Iowa and federal purposes. Taxpayers are required to use forms made available on the department’s website to calculate and track these differences.

**53.23(3) Section 179 deduction received from a pass-through entity.** In some cases, an entity that receives income from one or more pass-through entities may receive a section 179 deduction in excess of the Iowa deduction limitation listed in paragraph 53.23(2) “c” for a given year. The entity may be eligible for a special election with regard to that excess section 179 deduction, as described in this subrule.

*a. Tax years beginning before January 1, 2019 2018.* For tax years beginning before January 1, 2019 2018, the amount of any section 179 deduction received by a corporation (both C and S corporations) or an entity subject to the corporate income tax in excess of the Iowa deduction limitation for that year is not eligible for the special election.

*b. Special election available for tax year 2019 years 2018 and 2019.* For tax years beginning on or after January 1, 2019 2018, but before January 1, 2020, a corporation (both C and S corporations) or an entity subject to the corporate income tax that receives a section 179 deduction from one or more pass-through entities in excess of the Iowa deduction limitation for that tax year may elect to deduct the excess in future years, as described in this subrule. See rule 701—40.65(422) for special rules applicable to individuals and other noncorporate entities, and see rule 701—59.24(422) for special rules applicable to financial institutions subject to the franchise tax.

(1) This special election applies only to section 179 deductions passed through to the corporation or entity subject to the corporate income tax by one or more other entities.

(2) If the total Iowa section 179 deduction passed through to the corporation or entity subject to the corporate income tax exceeds the federal section 179 deduction limitation for that year, the corporation or other entity may only use the amount up to the federal limitation when calculating the deduction under this election. Any amount in excess of the federal limitation shall not be deducted for Iowa purposes.

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

c. to g. No change.

This rule is intended to implement Iowa Code section 422.35 as amended by ~~2018 Iowa Acts, Senate File 2417~~ 2019 Iowa Acts, Senate File 220.

ITEM 3. Amend rule 701—59.24(422) as follows:

**701—59.24(422) Section 179 expensing.**

**59.24(1) In general.** Iowa taxpayers that elect to expense certain depreciable business assets in the year the assets were placed in service under Section 179 of the Internal Revenue Code must also expense those same assets for Iowa income tax purposes in that year. However, for certain years, the Iowa limitations on this deduction are different from the federal limitations for the same year. This means that for some tax years, adjustments are required to determine the correct Iowa section 179 expensing deduction, as described in this rule.

**59.24(2) Claiming the deduction.**

a. *Timing and requirement to follow federal election.* A taxpayer that takes a federal section 179 deduction must also take the deduction for the same asset in the same year for Iowa purposes, except as expressly provided by Iowa law or this rule. A taxpayer that takes a federal section 179 deduction is not permitted to opt out of taking the same deduction for Iowa purposes. A taxpayer that does not take a federal section 179 deduction on a specific qualifying asset is not permitted to take a section 179 deduction for Iowa purposes on that asset.

b. *Qualifying for the deduction.* Whether a specific business asset qualifies for a section 179 deduction is determined by the Internal Revenue Code (Title 26, U.S. Code) and applicable federal regulations for both federal and Iowa purposes.

c. *Amount of the Iowa deduction.* Generally, the Iowa deduction must equal the amount of the federal deduction taken for the same asset in the same year, subject to special Iowa limitations. The following chart provides a comparison of the Iowa and federal section 179 dollar limitations and reduction limitations. For tax years beginning on or after January 1, 2018, and before January 1, 2019, ~~the Iowa limitations applicable to financial institutions subject to the franchise tax and to corporations (both C and S corporations) and other entities subject to the corporate income tax are not the same as the limitations applicable to individuals and other entities; see See rule 701—40.65(422) for the section 179 limitations imposed on rules applicable to individuals and other noncorporate entities, and see rule 701—53.23(422) for the section 179 limitations imposed on rules applicable to corporations (both C and S corporations) and other entities subject to the corporate income tax.~~

Section 179 Deduction Allowances Under Federal and Iowa Law				
Tax Year	Federal		Iowa	
	Dollar Limitation	Reduction Limitation	Dollar Limitation	Reduction Limitation
2003	\$ 100,000	\$ 400,000	\$ 100,000	\$ 400,000
2004	102,000	410,000	102,000	410,000
2005	105,000	420,000	105,000	420,000
2006	108,000	430,000	108,000	430,000
2007	125,000	500,000	125,000	500,000
2008	250,000	800,000	250,000	800,000
2009	250,000	800,000	133,000	530,000
2010	500,000	2,000,000	500,000	2,000,000
2011	500,000	2,000,000	500,000	2,000,000
2012	500,000	2,000,000	500,000	2,000,000
2013	500,000	2,000,000	500,000	2,000,000
2014	500,000	2,000,000	500,000	2,000,000
2015	500,000	2,000,000	500,000	2,000,000

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

2016	500,000	2,010,000	25,000	200,000
2017	510,000	2,030,000	25,000	200,000
2018	1,000,000	2,500,000	<del>25,000</del> * 70,000	<del>200,000</del> 280,000
2019	<del>Indexed amount</del> unknown as of 8/2/18 1,020,000	<del>Indexed amount</del> unknown as of 8/2/18 2,550,000	100,000	400,000
2020 and later	Iowa limitations are the same as federal			
* These Iowa limitations for 2018 are applicable to financial institutions subject to the franchise tax, corporations (both C and S corporations), and entities subject to the corporate income tax. For Iowa limitations applicable to individuals and pass-through entities which are not financial institutions or corporations, see rule 701—40.65(422).				

*d. Reduction.* Both the federal and the Iowa deductions for section 179 assets are reduced (phased out dollar for dollar) for taxpayers whose total section 179 assets placed in service during a given year cost more than the amount specified (reduction limitation) for that year. Like the deduction limitation, the Iowa and federal reduction limitations are different for certain years. See paragraph 59.24(2) “c” for applicable limitations.

EXAMPLE: Taxpayer, a financial institution doing business in Iowa, purchases \$400,000 worth of qualifying section 179 assets and places all of them in service in 2018. Taxpayer claims a section 179 deduction of \$400,000 for the full cost of the assets on the 2018 federal return. For financial institutions, the Iowa section 179 deduction for 2018 is phased out dollar for dollar by the amount of section 179 assets placed in service in excess of ~~\$200,000~~ \$280,000. This means that for 2018, the Iowa deduction is fully phased out if the taxpayer placed in service section 179 assets that cost, in total, more than ~~\$225,000~~ \$350,000. Since the cost of the qualifying assets in this example exceeds the Iowa section 179 phase-out limit, the taxpayer cannot claim any section 179 deduction on the Iowa return. However, the taxpayer may depreciate the entire cost of the assets for Iowa purposes.

*e. Amounts in excess of the Iowa limits.*

(1) Recovering the excess. Due to the differences between the Iowa and federal limitations for certain years, taxpayers may have a federal section 179 deduction that exceeds the amount allowed for Iowa purposes. This excess amount is handled in different ways depending on the source of the deduction.

1. Assets placed in service by the taxpayer or entity reporting the deduction. The cost of any section 179 assets placed in service by the taxpayer in excess of the Iowa limitation for a given year may be recovered through regular depreciation under Section 168 of the Internal Revenue Code, without regard to bonus depreciation under Section 168(k). The Iowa section 179 and depreciation deductions and any basis adjustments resulting from the difference in timing of the recovery between Iowa and federal law are calculated and tracked on forms made available on the department’s website.

EXAMPLE: Taxpayer, a financial institution doing business in Iowa, purchases a \$100,000 piece of equipment and places it in service in 2018. Taxpayer claims a section 179 deduction of \$100,000 for the full cost of the equipment on the 2018 federal return. Taxpayer is also required to claim a section 179 deduction of ~~\$25,000~~ \$70,000 on the 2018 Iowa return (the full amount of the federal deduction up to the Iowa limit for financial institutions for 2018). The taxpayer can depreciate the remaining ~~\$75,000~~ \$30,000 cost of the equipment for Iowa purposes.

2. Special election for assets placed in service by a pass-through entity when the section 179 deduction is claimed by an owner of that pass-through. See subrule 59.24(3) for information on a special election available to certain owners of pass-through entities related to any section 179 deductions passed through from a partnership or other entity that, in the aggregate, exceed the Iowa limitations.

(2) Special information for pass-throughs. In the case of pass-through entities, section 179 limitations apply at both the entity level and the owner level. Pass-through entities that are required to file an Iowa return and that actually place section 179 assets in service should follow 59.24(2) “e”(1)“1” to account for any assets for which the total federal section 179 deductions for a given year exceeded the Iowa limitation. Owners of pass-throughs receiving section 179 deductions from one or more pass-throughs that, in the aggregate, exceed the Iowa limitations should follow 59.24(2) “e”(1)“2.”

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

EXAMPLE: Bank A (a financial institution doing business exclusively in Iowa) owns 50 percent interests in each of three partnerships: C, D, and E. Partnership C, which also does business exclusively in Iowa, places \$200,000 worth of section 179 assets in service during tax year 2019 and claims a federal section 179 deduction for the full cost of the assets. Because C is required to file an Iowa partnership return, C is subject to the Iowa section 179 limitations for 2019 and must adjust its Iowa section 179 deduction as provided in 40.65(2)“e”(1)“1.” C passes through 50 percent of its section 179 deduction (\$100,000 for federal purposes, \$50,000 for Iowa purposes) to Bank A. Bank A also receives \$50,000 each in section 179 deductions from D and E, for a total of \$150,000 in section 179 deductions (for Iowa purposes) in 2019. Bank A is subject to the \$100,000 Iowa section 179 deduction limitation for 2019, but because Bank A received total section 179 deductions from one or more pass-throughs in excess of the 2019 Iowa limitation, Bank A is eligible for the special election referenced in 59.24(2)“e”(1)“2.”

*f. Income limitation.* The Iowa section 179 deduction for any given year is limited to the taxpayer’s income from active conduct in a trade or business in the same manner that the section 179 deduction is limited for federal purposes. If an allowable Iowa section 179 deduction exceeds the taxpayer’s business income for a given year, any excess allowable Iowa section 179 deduction may be carried forward as described in paragraph 59.24(2)“g.”

*g. Carryforward.* This paragraph applies only to amounts that do not exceed the Iowa section 179 deduction limitations for a given year but do exceed the taxpayer’s business income for that year. As with the federal deduction, allowable Iowa section 179 deductions claimed in a given year that exceed a taxpayer’s business income may be carried forward and claimed in future years. This carryforward, if any, is calculated using only amounts up to the Iowa limit. Any federal section 179 deduction the taxpayer claimed in excess of the Iowa limit is not an Iowa section 179 deduction and therefore is not eligible for the carryforward described in this paragraph. Such amounts must instead be recovered as described in paragraph 59.24(2)“e,” or in subrule 59.24(3) for taxpayers receiving the deduction from one or more pass-through entities and making the special election as described in that subrule.

*h. Difference in basis.* Iowa adjustments for differences between the Iowa and federal section 179 deduction limitations may cause the taxpayer to have a different basis in the same asset for Iowa and federal purposes. Taxpayers are required to use forms made available on the department’s website to calculate and track these differences.

**59.24(3) Section 179 deduction received from a pass-through entity.** In some cases, a financial institution that receives income from one or more pass-through entities may receive a section 179 deduction in excess of the Iowa deduction limitation listed in paragraph 59.24(2)“c” for a given year. The financial institution may be eligible for a special election with regard to that excess section 179 deduction, as described in this subrule.

*a. Tax years beginning before January 1, 2019 2018.* For tax years beginning before January 1, 2019 2018, the amount of any section 179 deduction received by a financial institution subject to the franchise tax in excess of the Iowa deduction limitation for that year is not eligible for the special election.

*b. Special election available for tax year ~~2019~~ years 2018 and 2019.* For tax years beginning on or after January 1, ~~2019~~ 2018, but before January 1, 2020, a financial institution subject to the franchise tax that receives a section 179 deduction from one or more pass-through entities in excess of the Iowa deduction limitation for that tax year may elect to deduct the excess in future years, as described in this subrule. See rule 701—40.65(422) for special rules applicable to individuals and other noncorporate entities, and see rule 701—53.23(422) for special rules applicable to corporations (both C and S corporations) and other entities subject to the corporate income tax.

(1) This special election applies only to section 179 deductions passed through to the financial institution by one or more other entities.

(2) If the total Iowa section 179 deduction passed through to the financial institution exceeds the federal section 179 deduction limitation for that year, the financial institution may only use the amount up to the federal limitation when calculating the deduction under this election. Any amount in excess of the federal limitation shall not be deducted for Iowa purposes.

REVENUE DEPARTMENT[701](cont'd)

*c. to g.* No change.

This rule is intended to implement Iowa Code section 422.35 as amended by ~~2018 Iowa Acts, Senate File 2417~~ 2019 Iowa Acts, Senate File 220.

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