



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rulemaking 2023

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

PRINTING SCHEDULE FOR IAB

| <u>ISSUE NUMBER</u> | <u>SUBMISSION DEADLINE</u> | <u>ISSUE DATE</u> |
|---------------------|----------------------------|--------------------|
| 4 | Friday, August 4, 2023 | August 23, 2023 |
| 5 | Wednesday, August 16, 2023 | September 6, 2023 |
| 6 | Friday, September 1, 2023 | September 20, 2023 |

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, August 15, 2023, at 10:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. For more information, contact Jack Ewing at jack.ewing@legis.iowa.gov. The following rules will be reviewed:

ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]“umbrella”

Retail alcohol licenses, amend chs 1, 4, 5, 8, 18; rescind ch 17 Notice **ARC 7049C** 7/26/23

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Iowa hazard mitigation plan, 9.3 Notice **ARC 7045C**..... 7/12/23

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PHARMACY BOARD[657]

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Controlled substances, 10.39(6), 12.1(1) Notice **ARC 7048C**..... 7/26/23

REVENUE DEPARTMENT[701]

Capital gain deduction for certain types of net capital gains; net income from a farm tenancy agreement covering real property, 302.38, 302.87, 302.88 Notice **ARC 7050C**..... 7/26/23

Capital gain exclusion for elected employee-owned stock in a qualified corporation, 301.41 Notice **ARC 7051C** 7/26/23

TRANSPORTATION DEPARTMENT[761]

Special permits for operation and movement of vehicles and loads of excess size and weight, amendments to ch 511 Notice **ARC 7046C** 7/12/23

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WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER

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Iowa office of apprenticeship, ch 29 Notice **ARC 7052C**..... 7/26/23

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 Mike Klimesh
Vice Chair
Senate District 32

Senator Nate Boulton
Senate District 20

Senator Mike Bousset
Senate District 21

Senator Waylon Brown
Senate District 30

Senator Cindy Winckler
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House District 6

Representative Amy Nielsen
House District 85

Representative Rick Olson
House District 39

Representative Mike Sexton
House District 7

Representative David Young
House District 28

Nate Ristow
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone: 515.281.5211

ALCOHOLIC BEVERAGES DIVISION[185]

| | | |
|---|--|---------------------------------|
| Retail alcohol licenses, amend chs 1, 4, 5, 8, 18; rescind ch 17 IAB 7/26/23 ARC 7049C | Alcoholic Beverages Division Boardroom 1918 Hulsizer Rd. Ankeny, Iowa Video/conference call: meet.google.com/ukf-yhcd-gux | August 15, 2023 2 to 3 p.m. |
| | Alcoholic Beverages Division Boardroom 1918 Hulsizer Rd. Ankeny, Iowa Video/conference call: meet.google.com/juv-hiog-okj | August 16, 2023 9 to 10 a.m. |

COLLEGE STUDENT AID COMMISSION[283]

| | | |
|--|--|---------------------------|
| Workforce grant and incentive program, 10.2, 10.3, ch 34 IAB 7/12/23 Regulatory Analysis | 475 S.W. Fifth Street, Suite D Des Moines, Iowa | August 2, 2023 4 p.m. |
| Future ready Iowa skilled workforce grant program, ch 16 IAB 7/26/23 Regulatory Analysis | 475 S.W. Fifth Street, Suite D Des Moines, Iowa | August 16, 2023 4 p.m. |

ECONOMIC DEVELOPMENT AUTHORITY[261]

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| Tax credit programs, 43.3, 47.3(3), 48.4(1), 116.3(6), 116.6 IAB 7/26/23 Regulatory Analysis | 1963 Bell Ave. Des Moines, Iowa | August 16, 2023 10 to 10:30 a.m. |
| Renewable chemical production tax credit, ch 81 IAB 7/26/23 Regulatory Analysis | 1963 Bell Ave. Des Moines, Iowa | August 16, 2023 9:30 to 10 a.m. |

EDUCATION DEPARTMENT[281]

| | | |
|---|--|--------------------------------|
| Organization and operation, ch 1 IAB 7/12/23 Regulatory Analysis | ICN Room Grimes State Office Building Des Moines, Iowa | August 1, 2023 9 to 10 a.m. |
| Agency procedure for rulemaking and petitions for rulemaking, ch 2 IAB 7/12/23 Regulatory Analysis | ICN Room Grimes State Office Building Des Moines, Iowa | August 1, 2023 9 to 10 a.m. |
| Declaratory orders, ch 3 IAB 7/12/23 Regulatory Analysis | ICN Room Grimes State Office Building Des Moines, Iowa | August 1, 2023 9 to 10 a.m. |
| Waivers from administrative rules, ch 4 IAB 7/12/23 Regulatory Analysis | ICN Room Grimes State Office Building Des Moines, Iowa | August 1, 2023 9 to 10 a.m. |

EDUCATION DEPARTMENT[281]

| | | |
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| Appeal procedures, ch 6 IAB 7/12/23 Regulatory Analysis | ICN Room Grimes State Office Building Des Moines, Iowa | August 1, 2023 9 to 10 a.m. |
| Statewide voluntary preschool program, ch 16 IAB 7/12/23 Regulatory Analysis | ICN Room Grimes State Office Building Des Moines, Iowa | August 1, 2023 9 to 10 a.m. |
| School fees, ch 18 IAB 7/12/23 Regulatory Analysis | ICN Room Grimes State Office Building Des Moines, Iowa | August 1, 2023 9 to 10 a.m. |
| Charter schools, chs 19, 68 IAB 7/12/23 Regulatory Analysis | ICN Room Grimes State Office Building Des Moines, Iowa | August 1, 2023 9 to 10 a.m. |
| Veterans' education and training, chs 51, 52 IAB 7/12/23 Regulatory Analysis | ICN Room Grimes State Office Building Des Moines, Iowa | August 1, 2023 9 to 10 a.m. |
| Financial incentives for national board certification, ch 84 IAB 7/12/23 Regulatory Analysis | ICN Room Grimes State Office Building Des Moines, Iowa | August 1, 2023 9 to 10 a.m. |
| Equal employment opportunity and affirmative action in educational agencies, ch 95 IAB 7/12/23 Regulatory Analysis | ICN Room Grimes State Office Building Des Moines, Iowa | August 1, 2023 9 to 10 a.m. |

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

| | | |
|--|--|---------------------------------------|
| Iowa hazard mitigation plan, 9.3 IAB 7/12/23 ARC 7045C | Goldfinch Room 7900 Hickman Rd. Windsor Heights, Iowa Via video/conference call: meet.google.com/fqq-wozf-fex | August 2, 2023 10:30 to 11:30 a.m. |
|--|--|---------------------------------------|

REVENUE DEPARTMENT[701]

| | | |
|---|--|--|
| Capital gain deduction; net income from a farm tenancy agreement covering real property, 302.38, 302.87, 302.88 IAB 7/26/23 ARC 7050C | Via video/conference call Contact Kurt Konek Email: kurt.konek@iowa.gov | August 17, 2023 2 to 3 p.m. (If requested) |
|---|--|--|

TRANSPORTATION DEPARTMENT[761]

| | | |
|--|---|--|
| Special permits for operation and movement of vehicles and loads of excess size and weight, amendments to ch 511 IAB 7/12/23 ARC 7046C | Department of Transportation Motor Vehicle Division 6320 SE Convenience Blvd. Ankeny, Iowa | August 3, 2023 9 to 10 a.m. (If requested) |
|--|---|--|

The following list will be updated as changes occur.

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

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

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

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Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 283—Chapter 16
“Future Ready Iowa Skilled Workforce Grant Program”

Iowa Code section authorizing rulemaking: 261.132

State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 560, division VIII

Public Hearing

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

August 16, 2023
4 p.m.

475 S.W. Fifth Street, Suite D
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Commission no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Mark Wiederspan
Executive Director
Iowa College Student Aid Commission
475 SW Fifth Street, Suite D
Des Moines, Iowa 50309-4608
Email: mark.wiederspan@iowa.gov

Purpose and Summary

Statutory amendments were made to the Future Ready Iowa Skilled Workforce Grant Program (program) in 2023 Iowa Acts, Senate File 560, division VIII. Given the extent of the statutory amendments, the Commission plans to rescind and adopt a new Chapter 16, pursuant to Executive Order 10.

New Chapter 16 is proposed to ensure the Commission meets the requirements set forth in law by adopting rules for the administration of the program. The proposed rulemaking establishes the eligibility criteria and awarding of funds for the program; describes the process, procedures and duties of the Commission, applicants, and institutions; and provides the priority criteria for awarding in the event that all eligible applicants cannot receive the award. The rulemaking also establishes definitions for use under the program, many of which are proposed to be added to existing Chapter 10, “Uniform Policies,” in the Regulatory Analysis published on 7/12/23. As part of the review pursuant to Executive Order 10, the Commission intends to utilize Chapter 10 for definitions and policies that are consistently utilized across most state financial aid programs in order to streamline and reduce redundancies in administrative rules.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:

In general, the proposed rulemaking does not impose requirements that would add administrative burden beyond the provisions already established in law. The rulemaking defines the processes that will be utilized to ensure eligible applicants receive program grants, articulates priority criteria and general provisions of eligibility to align with other state-funded scholarships and grants, and demonstrates the

alignment between high-demand jobs and eligible programs of study. The Commission will use existing staff to administer the program.

The rulemaking stipulates that the Commission will periodically review compliance of the eligible institutions participating in the program (paragraph 16.4(4)“g”). This requirement is not specifically established in law. The Commission currently performs compliance reviews based on a risk assessment of all colleges/universities participating in all state-funded scholarship and grant programs. Typically, the Commission reviews the three to five colleges/universities that score highest on the risk assessment. The number of eligible institutions that will be selected for a compliance review is not increasing. Thus, there would be no significant additional enforcement cost tied to this provision. However, the Commission and eligible institutions bear the costs involved with compliance reviews.

- Classes of persons that will benefit from the proposed rulemaking:

Iowa residents, eligible institutions, and the Commission will benefit from the rulemaking since it clarifies the processes by which Iowans will apply for and qualify for the program, while also illustrating the duties of the eligible institutions, the Commission, and applicants in the administration of the program.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Other than compliance reviews, the rulemaking does not impose measurable costs beyond those imposed by law.

Compliance reviews are performed at the institution level, covering all state-funded financial aid programs for which an institution disburses funds. Since the review itself covers multiple programs, the Commission cannot assign a direct cost to a specific program. Staff spend an estimated cumulative total of 40 hours on a compliance review for an institution, a fraction of which could be assigned to a specific program. Data obtained from institutions suggests that institutional staff spend under ten hours collecting the required documents, transmitting them to the Commission, answering questions, responding to findings, and developing corrective action plans, a fraction of which could be assigned to an individual program.

- Qualitative description of impact:

Performing compliance reviews is a core tenant of any program administered by the State of Iowa. Compliance reviews add accountability for all partners participating in a program, ensure proper communication and understanding of any requirement under the program, and can generally enhance the integrity of the program. While some costs are imposed by such a requirement, the qualitative impact is positive because compliance reviews ensure the funds are being disbursed to the target audience in a manner that is consistent across all participating institutions.

The proposed rulemaking leverages existing official public data aligning high-demand jobs to eligible programs of study, ensuring that an administratively burdensome process to recreate a crosswalk that aligns high-demand jobs to programs of study is not necessary.

The proposed rulemaking requires an applicant institution to apply by October 1 prior to the academic year in which the institution plans to participate in the program. This application deadline will allow the Commission with adequate time to update systems, train institutional staff who will be involved in the administration of the program, and for students who may attend the applicant institution to apply for funding.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The Commission estimates that it takes approximately 40 hours to perform a compliance review. Given the average hourly wage of individuals involved in this process, the review would cost approximately \$1,600 annually. Since a compliance review covers multiple programs, only a fraction of this cost could be assigned to a specific program. The Commission will utilize existing staff to administer the program and compliance reviews.

- Anticipated effect on state revenues:

The proposed rulemaking is not anticipated to have any effect on state revenues beyond that of the legislation it is intended to implement.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The benefit of the proposed rulemaking is to publicly illustrate the process that will be used to administer and disburse the program awards/payments, articulate priority criteria and general provisions of eligibility, and ensure the future integrity of the program through periodic compliance reviews.

The cost of inaction would be confusion in the process and criteria to be used in the application and awarding of funds under the program, as well as errors and irregularities in the award process that would remain unchecked without periodic compliance reviews.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The rulemaking proposes an efficient administrative method of collecting applications and disbursing funding, reducing any administrative burden that otherwise might be introduced. The rulemaking leverages existing public data aligning high-demand jobs to eligible programs of study, ensuring that an administratively burdensome process to recreate a crosswalk that aligns high-demand jobs to programs of study is not necessary.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

No other methods were seriously considered by the Commission, since the method proposed is the most cost-efficient and seamless for all entities involved.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The alternative methods were rejected because they would lead to additional burden on students, eligible institutions, and the Commission.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking is not expected to impact small businesses.

Text of Proposed Rulemaking

ITEM 1. Rescind 283—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16
FUTURE READY IOWA SKILLED WORKFORCE GRANT PROGRAM

283—16.1(261) Basis for aid. Assistance available under the future ready Iowa skilled workforce grant program is for Iowa residents who are aged 25 or older and are enrolled in approved programs aligned with high-demand jobs.

283—16.2(261) Definitions. As used in this chapter:

“*Approved program*” means an eligible program of study approved through the process described in rule 283—16.6(261).

“*Continuous enrollment*” means an eligible student is enrolled on a full-time or part-time basis in successive fall and spring semesters, or the equivalent, after receiving the award. Enrollment in the summer semester is not required to meet this condition.

“*Eligible institution*” meets the criteria in Iowa Code section 261.132(1)“c” as amended by 2023 Iowa Acts, Senate File 560, and the provisions of rule 283—16.7(261).

“*Full-time*” means the same as defined in rule 283—10.2(261).

“*Iowa resident*” means the same as defined in rule 283—10.2(261).

“*Part-time*” means enrollment in at least 6 but less than 12 hours per semester, or the equivalent. An eligible student may enroll in fewer than six semester hours, or the equivalent, in the semester that the credential will be completed if part-time enrollment is not required to complete the program of study.

“*Satisfactory academic progress*” means the same as defined in rule 283—10.2(261).

“*Semester*” means the fall, spring, or summer term of enrollment at an eligible institution, if the eligible institution is on a semester system, or the equivalent, if the institution is on a system other than a semester system.

283—16.3(261) Eligible applicant. An eligible applicant is an Iowa resident enrolled full-time or part-time in an approved program at an eligible institution and meets the eligibility criteria in Iowa Code section 261.132 as amended by 2023 Iowa Acts, Senate File 560, and the following provisions:

1. Annually completes the applications required by the college student aid commission (commission) by the date established by the commission and meets all other conditions specified in Iowa Code section 261.132(1)“e” as amended by 2023 Iowa Acts, Senate File 560.

2. Meets satisfactory academic progress standards, does not meet a condition in 283—subrule 10.3(1), and upon receipt of the grant, maintains continuous full-time or part-time enrollment during successive fall and spring semesters.

3. Is aged 25 or older as of July 1 prior to the year of enrollment.

283—16.4(261) Awarding of funds.

16.4(1) Selection criteria. All eligible applicants will be considered for an award.

16.4(2) Extent of award and maximum award. Eligible applicants may receive no more than the equivalent of four full-time awards. The maximum award will be established annually by the commission but will not be less than \$1,000 for a full-time student over the course of the fall and spring semesters.

16.4(3) Priority for awards. In the event that funds available are insufficient to provide maximum awards to all eligible applicants, awards are prioritized in the following order:

a. Eligible applicants who received the grant in the prior state fiscal year, by application date.

b. Eligible applicants who did not receive the grant in the prior state fiscal year, by application date.

16.4(4) Awarding process.

a. The commission will provide notice of the eligibility criteria and maximum award to participating eligible institutions annually to authorize awarding.

b. The commission will designate eligible applicants for awards and provide eligible institutions with rosters of designated eligible applicants.

c. Eligible institutions will notify recipients of the awards, clearly indicating the award amount and the state program from which funding is being provided and stating that the award is contingent on the availability of state funds.

d. Eligible institutions will apply awards directly to student accounts to cover items included in the cost of attendance, as defined in Title IV, Part B, of the federal Higher Education Act of 1965, as amended.

e. Eligible institutions will provide information about eligible applicants to the commission in a format specified by the commission. Eligible institutions will make necessary changes to awards due to a change in enrollment, program of study, and financial situation, and promptly report those changes to the commission.

f. Eligible institutions will complete necessary verification and coordinate other aid to ensure compliance with student eligibility requirements and allowable award amounts. Eligible institutions will report changes in student eligibility to the commission.

g. The commission will periodically investigate and review compliance of eligible institutions participating in this program with the criteria established in Iowa Code section 261.132 as amended by 2023 Iowa Acts, Senate File 560, and this rule.

283—16.5(261) Exceptions. If an eligible applicant discontinues enrollment at the eligible institution due to military deployment, a temporary medical incapacity, in relation to a declaration of a national or state emergency, or other exceptional circumstances approved by the commission, the eligible applicant may apply for a waiver. If the waiver is approved, the eligible applicant is not required to maintain continuous enrollment during the period covered by the waiver.

283—16.6(261) Determination of programs of study aligned with high-demand jobs.

16.6(1) High-demand jobs. The commission will utilize the department of workforce development's most recent list of statewide high-demand jobs pursuant to Iowa Code section 84A.1B(14) and align those jobs to eligible programs of study.

16.6(2) Eligible programs of study. The eligible institution will offer a baccalaureate degree that is aligned with a high-demand job. The classification of instructional program code and the standard occupation code will be used to align eligible programs of study to high-demand jobs.

16.6(3) Designation. Eligible institutions will designate the eligible programs of study offered in the corresponding academic year.

16.6(4) Approved program. Before an eligible program of study is considered an approved program of study, the department of workforce development and the commission will jointly certify that the program of study is aligned with a high-demand job pursuant to Iowa Code section 84A.1B(14).

16.6(5) Grandfather clause. If the state workforce development board removes a high-demand job from a list created pursuant to Iowa Code section 84A.1B(14), an eligible applicant who received an award in a program of study aligned with that high-demand job will continue to receive the award as long as the eligible applicant continues to meet all other eligibility criteria.

283—16.7(261) Institution eligibility requirements.

16.7(1) Application process. An institution requesting to participate in the program may apply to the commission using the commission's designated application. An applicant institution will provide the commission with documentation establishing the applicant institution's eligibility as an eligible institution that offers eligible programs of study. Applicant institutions will submit the application and documentation establishing the applicant institution's eligibility by October 1 of the year prior to the beginning of the academic year for which the applicant institution is applying for participation.

16.7(2) *Public information.* A list of all eligible programs of study, as well as the required courses and the suggested course sequence, will be available in a prominent location on the eligible institution's website.

These rules are intended to implement Iowa Code section 261.132.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 261—Chapters 43, 47, 48, and 116

“Economic Development Authority Tax Credits Programs”

Iowa Code sections authorizing rulemaking: 15.356, 15E.52, 15E.305, and 15E.364

State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, House File 703, House File 710, and Senate File 575

Public Hearing

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

August 16, 2023
10 to 10:30 a.m.

1963 Bell Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Economic Development Authority (IEDA) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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

Purpose and Summary

The proposed rulemaking implements changes to multiple tax credit programs administered by IEDA (affected tax credits) to conform to 2023 Iowa Acts, House File 703, House File 710, and Senate File 575. The changes in the legislation include:

- House File 703 extends the availability of the Hoover presidential library tax credit until the end of calendar year 2024.
- House File 710 increases the allocation of available endow Iowa tax credits from \$6 million to \$13 million for tax year 2023. House File 710 also changes the applicability of 2022 Iowa Acts, chapter 1002, division VIII, to specify that the change to the maximum amount of tax credits granted to a taxpayer applied to endowment gifts made to an endow Iowa-qualified community foundation on or after January 1, 2023.
- Senate File 575 changes the workforce housing tax incentives program by adding construction of new dwelling units in urban areas as an eligible project type. Previously, greenfield development was an eligible project type in only small cities.
- Senate File 575 also changes the innovation investment tax credit by removing the requirement for IEDA to establish a wait list for fiscal years in which the amount of tax credit certificates applied for exceeds the amount allocated. Senate File 575 also extends the authority of IEDA to continue certifying new funds for the innovation fund tax credit until June 30, 2028. Previously, new certifications would have ceased as of June 30, 2023.

The proposed rulemaking would update the rules for each affected program to be consistent with the Iowa Code and, pursuant to Executive Order 10, remove statutory language.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
The rulemaking does not impose any meaningful additional costs on applicants for or recipients of the affected tax credits.
 - Classes of persons that will benefit from the proposed rulemaking:
Businesses and donors that apply for and are approved for the affected tax credits will benefit from clarity in the rules and consistency with the Iowa Code.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:
 - Quantitative description of impact:
The rulemaking does not impose any meaningful additional costs on applicants for or recipients of the affected tax credits. Businesses interested in applying for the affected tax credits require staff time to complete applications and provide other documentation required by IEDA to receive the affected tax credits. Some businesses and donors may choose to rely on external service providers, such as accountants, to complete applications or submit other documents. The amount of the costs will vary depending on the compensation of such staff or service provider. The rulemaking is not expected to impact tax credit applications or documentation required.
 - Qualitative description of impact:
Updating rules to maintain consistency with the Iowa Code will benefit those seeking information about the affected tax credits.

3. Costs to the State:
 - Implementation and enforcement costs borne by the agency or any other agency:
The changes are not expected to impact the time it takes IEDA staff to administer the affected tax credits. The program changes are not expected to impact the time or cost for the Iowa Department of Revenue to process tax credit claims.
 - Anticipated effect on state revenues:
The amendments have no anticipated fiscal impact beyond that of the legislation implemented.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:
Current rules are inconsistent with the Iowa Code as amended by 2023 Iowa Acts, House File 703, House File 710, and Senate File 575. The rulemaking does not impose any meaningful additional costs on applicants for or recipients of the affected tax credits. The only businesses and donors that bear the costs of the current rules as well as the amendments are those that will potentially benefit from the tax credit.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:
IEDA has not identified less costly methods or less intrusive methods of administering the affected tax credits.

6. Alternative methods considered by the agency:
 - Description of any alternative methods that were seriously considered by the agency:
IEDA did not consider any other methods.
 - Reasons why alternative methods were rejected in favor of the proposed rulemaking:
IEDA did not consider any other methods.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking’s compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking does not have a substantial impact on small business. The compliance and reporting requirements relating to the tax credit programs are no greater than necessary to administer the programs and are not impacted by the rulemaking. The rulemaking does not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Amend rule 261—43.3(15E) as follows:

261—43.3(15E) Authorization of tax credits.

43.3(1) For tax years beginning on or after January 1, 2021, but before January 1, ~~2024~~ 2025, a tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, equal to 25 percent of a donor’s charitable donation made on or after July 1, 2021, to the Hoover presidential foundation for the Hoover presidential library and museum renovation project fund.

43.3(2) A donor shall not claim a tax credit for a donation made during a tax year beginning before January 1, 2021, or after December 31, ~~2023~~ 2024.

43.3(3) No change.

ITEM 2. Amend subrule 47.3(3) as follows:

47.3(3) ~~The aggregate amount of tax credits available under this rule annually is \$6 million. For tax credits issued on or before December 31, 2022, the maximum amount of tax credit that may be granted to an individual taxpayer is limited to 5 percent of the aggregate amount available each year. For tax credits issued on or after January 1, 2023, the maximum amount of tax credit that may be granted to an individual taxpayer is limited to \$100,000.~~ If the authority receives applications for tax credits in excess of the amount available, the applications shall be prioritized by the date the authority received the applications. Applications received on or before June 30, 2023, will be placed on a waitlist for a subsequent year’s allocation of tax credits if the number of applications exceeds the amount of annual tax credits available. Applications placed on the waitlist shall first be funded in the order listed on the waitlist. Applications received on or after July 1, 2023, in excess of the amount of tax credits available will not be placed on the waitlist and will be denied by the authority. For endowment gifts made on or after June 30, 2023, a taxpayer shall submit an application to the authority for the tax credit no later than 12 months from the date of the donation which qualifies the taxpayer for the tax credit.

ITEM 3. Rescind subrule 48.4(1) and adopt the following new subrule in lieu thereof:

48.4(1) Eligible project types.

a. To receive workforce housing tax incentives pursuant to the program, a proposed housing project shall meet all of the requirements of Iowa Code section 15.353. Projects located in a 100-year floodplain are not eligible.

b. Whether a dwelling unit should be classified as a single-family dwelling unit for the purposes of this subrule shall be as determined by the authority. Factors the authority may consider include, but are not limited to, the following:

- (1) Whether a unit is separated from other units by a ground-to-roof wall;
- (2) Whether the unit has a separate heating system;
- (3) Whether the unit has an individual meter for public utilities; and
- (4) Whether the unit has other units above or below.

ITEM 4. Rescind subrule **116.3(6)**.

ITEM 5. Rescind rule 261—116.6(15E) and adopt the following **new** rule in lieu thereof:

261—116.6(15E) Approval, issuance and distribution of investment tax credits.

116.6(1) Approval. Upon certification and registration by the authority of an innovation fund and approval of the taxpayer's application, the board will approve the issuance of a tax credit certificate to the applicant.

116.6(2) Preparation of the certificate. The tax credit certificate shall be in a form approved by the authority and shall contain the taxpayer's name, address, and tax identification number; the amount of credit; the name of the innovation fund; the year in which the investment was made and any other information that may be required by the department of revenue. In addition, the tax credit certificate shall contain the following statement:

Neither the authority nor the board has recommended or approved this investment or passed on the merits or risks of such investment. Investors should rely solely on their own investigation and analysis and seek investment, financial, legal and tax advice before making their own decision regarding investment in this fund.

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 261—Chapter 81
“Renewable Chemical Production Tax Credit”

Iowa Code section authorizing rulemaking: 15.321
State or federal law(s) implemented by the rulemaking: 2023 Iowa Acts, Senate File 575, and Iowa Code sections 15.318 through 15.322

Public Hearing

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

August 16, 2023
9:30 to 10 a.m.

1963 Bell Avenue
Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Economic Development Authority (IEDA) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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

Purpose and Summary

The proposed rulemaking implements changes to the Renewable Chemical Production Tax Credit Program in 2023 Iowa Acts, Senate File 575. Changes in the legislation include:

- The maximum tax credit amount is now \$1 million for all businesses. Previously, businesses that have been in operation for more than five years were eligible for a maximum tax credit of \$500,000 and businesses in operation for five years or less were eligible for a maximum tax credit of \$1 million.
- The requirement that the Economic Development Authority (IEDA) maintains a wait list if demand for credits exceeds the annual allocation was eliminated.
- A requirement that IEDA award credits via a competitive process was created.
- The definition of “building block chemical” was amended to exclude serine, threonine, and lysine. Production of those chemicals will no longer be eligible for a tax credit.
- The credit will be allowed for renewable chemical production until 2035. Previously, the credit was allowed only for production until 2026.

The proposed amendments eliminate rule language that is duplicative of statutory language and Iowa Department of Revenue (IDR) rules. Other nonsubstantive clarifying amendments are also proposed.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
The rulemaking does not impose any meaningful additional costs on applicants for or recipients of the tax credit.
 - Classes of persons that will benefit from the proposed rulemaking:

Businesses that apply for and are approved for the tax credit will benefit from clarity in the rules and consistency with the Iowa Code.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

The rulemaking does not impose any meaningful additional costs on applicants for or recipients of the tax credit. Businesses interested in applying for the tax credit require staff time to complete an application and provide other documentation required by IEDA to receive the tax credit. Some businesses may also choose to rely on an external service provider, such as an accountant, to complete the application or submit other documents. The amount of the costs will vary, depending on the compensation of such staff or service provider. The existing application requires minimal time to complete. IEDA will require additional information from future applicants to facilitate a competitive application process as required by 2023 Iowa Acts, Senate File 575, but this is not expected to significantly increase the time to complete.

- Qualitative description of impact:

Updating rules to provide clarity about the division of administrative responsibilities between IEDA and IDR and consistency with Iowa Code will benefit those seeking information about the program.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

IEDA staff time will be required to update the application form, as well as review, score, and approve applications. Because IEDA has historically received only one to two applications per year for this tax credit, the additional time implementing a competitive process will not significantly increase staff time spent on administration of the program. The program changes are not expected to impact the time or cost for IDR to process tax credit claims.

- Anticipated effect on state revenues:

The amendments have no anticipated fiscal impact. Iowa Code section 15.119(1)“h” limits the aggregate amount of tax credits that the authority may approve to \$5 million per fiscal year.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Current rules are inconsistent with the Iowa Code as amended by 2023 Iowa Acts, Senate File 575. The rulemaking does not impose any meaningful additional costs on applicants for or recipients of the tax credit. The only businesses that bear the costs of the current rules as well as the amendments are those that will potentially benefit from the tax credit.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

IEDA has not identified less costly methods or less intrusive methods of administering the tax credit.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

IEDA did not consider any other methods.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

IEDA did not consider any other methods.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking’s compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The rules do not have a substantial impact on small business. The compliance and reporting requirements relating to the tax credit are no more than is necessary to administer the program and are not impacted by the rulemaking. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 261—Chapter 81 and adopt the following new chapter in lieu thereof:

CHAPTER 81
RENEWABLE CHEMICAL PRODUCTION TAX CREDIT PROGRAM

261—81.1(15) Purpose. The purpose of this chapter is to encourage development of the renewable chemicals industry and stimulate job growth using the renewable chemical production tax credit program to incentivize new and existing businesses to produce high-value renewable chemicals in Iowa from biomass feedstock.

261—81.2(15) Definitions. As used in this chapter, unless the context otherwise requires:

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

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

“*Biomass feedstock*” means the same as defined in Iowa Code section 15.316(2).

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

“*Building block chemical*” means the same as defined in Iowa Code section 15.316(3) as amended by 2023 Iowa Acts, Senate File 575, and also includes benzene, toluene, xylene, ethylbenzene, butanoic acid, hexanoic acid, octanoic acid, pentanoic acid, heptanoic acid, ethylene glycol, and 1,4 butanediol, or such additional molecules as may be included by the authority following the procedure in rule 261—81.8(15).

“*Director*” means the director of the authority.

“*Eligible business*” means the same as defined in Iowa Code section 15.316(5).

“*Pre-eligibility production threshold*” means the same as defined in Iowa Code section 15.316(8).

“*Production year*” means any calendar year after the year in which the eligible business’s pre-eligibility production threshold was established and in which the eligible business produces renewable chemicals.

“*Program*” means the renewable chemical production tax credit program administered pursuant to Iowa Code sections 15.315 through 15.322 and this chapter.

“*Renewable chemical*” means the same as defined in Iowa Code section 15.316(10).

261—81.3(15) Eligibility requirements. To be eligible to receive the renewable chemical production tax credit pursuant to the program, a business shall meet all of the eligibility requirements in Iowa Code section 15.317.

261—81.4(15) Application process and review.

81.4(1) Applications for tax credits may be submitted to the authority electronically by eligible businesses from February 15 to March 15 of each calendar year. The authority may adjust the annual filing window dates under extenuating circumstances and will provide notice of adjustments on the authority's website.

81.4(2) The application shall include all information required by Iowa Code section 15.318(1) "e" and all of the following information:

a. The name of the qualifying building block chemical produced by the eligible business for which the business is claiming a tax credit.

b. The amount of renewable chemicals produced in the state from biomass feedstock by the eligible business during the calendar year prior to the year in which the business first qualified as an eligible business under the program.

c. The city or county where the plant producing renewable chemicals is located.

d. The type of feedstock used to produce the renewable chemicals.

e. The date on which the eligible business organized, expanded or located in the state.

f. Any other information reasonably required by the authority in order to establish and verify the amount of the tax credit under the program.

81.4(3) Applications will be reviewed and scored on a competitive basis by a review committee established by the authority with relevant expertise and experience. If the authority deems that additional information is needed before reviewing and scoring can be completed, and the authority makes a written request for additional information from the applicant, the applicant must provide the requested information within 30 days of the date that the written request from the authority was made. If an applicant does not provide the requested information within 30 days, the application may be rejected by the authority.

81.4(4) Applications determined by the authority to be complete and eligible will be reviewed and scored using criteria established by the authority to evaluate the economic impact of an eligible business's production of renewable chemicals.

81.4(5) The authority will notify an applicant when the applicant has been approved by the director to receive a tax credit.

261—81.5(15) Agreement and fees. An eligible business approved to receive a tax credit shall enter into an agreement and pay applicable fees pursuant to Iowa Code section 15.318(2) as amended by 2023 Iowa Acts, Senate File 575. Eligible businesses must sign the agreement within 60 days of being notified of approval for the tax credit. Upon request by an eligible business, the authority may extend the time period for signing the agreement by an additional 30 days.

261—81.6(15) Renewable chemical production tax credit.

81.6(1) *Calculation of tax credit amount.*

a. An eligible business that has entered into an agreement pursuant to rule 261—81.5(15) may be issued a tax credit certificate in an amount calculated as described in Iowa Code section 15.319(1). For example, if an eligible business produced three million pounds of renewable chemicals during calendar year 2016 and first became an eligible business under this chapter in calendar year 2017, the pre-eligibility production threshold for the business is three million pounds. If the same eligible business produced ten million pounds of renewable chemicals during calendar year 2017, the eligible business could receive a tax credit for the amount produced over the pre-eligibility production threshold, which in this example equals seven million pounds.

b. If a business has facilities located in more than one state, only those renewable chemicals produced at facilities physically located in the state of Iowa may be counted for the purpose of calculating the tax credit.

c. If the same eligible business has an ownership or equity interest in multiple facilities at which renewable chemicals are produced, the facilities under common ownership will be considered a single eligible business for purposes of calculating the maximum tax credit amount. In calculating the

maximum tax credit amount, only the pro rata share of each eligible business's ownership in a facility will be attributed to that eligible business.

d. The maximum amount of tax credit that may be issued under the program to an eligible business for the production of renewable chemicals in a calendar year shall not exceed the amount authorized by Iowa Code section 15.318(3) "a" as amended by 2023 Iowa Acts, Senate File 575.

81.6(2) *Eligible business only.* An eligible business shall not receive a tax credit for renewable chemicals produced before the date the business first qualified as an eligible business pursuant to rule 261—81.3(15).

81.6(3) *Maximum number of credits.* An eligible business shall not receive more tax credit certificates under the program than specified in Iowa Code section 15.318(3) "d" as amended by 2023 Iowa Acts, Senate File 575. Each tax credit must be applied for separately, and each application will be reviewed independently of past tax credits. Receipt of a tax credit in one year does not guarantee receipt of a tax credit in a subsequent year.

81.6(4) *Termination and repayment.* Tax credits may be reduced, terminated, or rescinded pursuant to Iowa Code section 15.318(4).

261—81.7(15) Claiming the tax credit.

81.7(1) *Maximum tax credit claimed.* An eligible business that has entered into an agreement pursuant to rule 261—81.5(15) and been issued a tax credit certificate pursuant to subrule 81.6(1) may claim a tax credit as described in Iowa Code section 15.319(1) as amended by 2023 Iowa Acts, Senate File 575.

81.7(2) *Claiming the credit.* To receive the tax credit, an eligible business shall file a claim in accordance with any applicable administrative rules adopted by the department of revenue.

261—81.8(15) Process to add building block chemicals.

81.8(1) *General process.* The authority may add additional molecules to the definition of "building block chemical" in rule 261—81.2(15) pursuant to Iowa Code section 15.316(3) as amended by 2023 Iowa Acts, Senate File 575. The authority may initiate the administrative rulemaking process for the addition of such molecules to this chapter.

81.8(2) *Request to include additional molecules.* Any individual or business may request that an additional molecule be added to the definition of "building block chemical" by submitting a written request to the authority. Such requests shall be made in the form prescribed by the authority and may be submitted to the authority between April 1 and May 1 of each calendar year and October 1 and November 1 of each calendar year. The authority may adjust these dates under extenuating circumstances and will provide notice of adjustments on the authority's website.

81.8(3) *Consultation with experts.* Prior to initiating a rulemaking to add molecules to the definition of "building block chemical" in rule 261—81.2(15), the authority shall consult with appropriate experts from Iowa state university, including but not limited to the Iowa state university center for biorenewable chemicals. The authority shall conduct an initial staff review of any requests received by the authority pursuant to subrule 81.8(2). Following the initial staff review, the authority shall consult with the experts at Iowa state university regarding the molecules that the authority believes are consistent with the definitions under this chapter. The experts at Iowa state university shall provide a written recommendation to the authority indicating which chemicals, in the experts' opinion, meet the definition of "building block chemical" consistent with this chapter.

81.8(4) *Initiation of rulemaking proceedings.* Following the consultation and review process set forth in subrule 81.8(3), the authority may initiate the administrative rulemaking process to amend the definition of "building block chemical" to add molecules that the authority, in the authority's sole discretion, finds to be consistent with the definitions in this chapter.

261—81.9(15) Additional information. The authority may at any time request additional information and documentation from an eligible business regarding the operations, job creation, and economic impact of the eligible business, and the authority may use the information in preparing and publishing any reports

to be provided to the governor and the general assembly to the extent consistent with Iowa Code section 15.318(5).

These rules are intended to implement Iowa Code sections 15.315 through 15.322 as amended by 2023 Iowa Acts, Senate File 575.

ARC 7049C**ALCOHOLIC BEVERAGES DIVISION[185]****Notice of Intended Action****Proposing rulemaking related to retail alcohol licenses
and providing an opportunity for public comment**

The Alcoholic Beverages Division hereby proposes to amend Chapter 1, “Organization and Operation,” Chapter 4, “Liquor Licenses—Beer Permits—Wine Permits,” Chapter 5, “License and Permit Division,” and Chapter 8, “Transportation and Warehouse”; rescind Chapter 17, “Class “E” Liquor Control Licenses”; and amend Chapter 18, “Public Records and Fair Information Practices,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 123.10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2022 Iowa Acts, Senate File 2374.

Purpose and Summary

The proposed amendments to these rules, which are now administered by the Department of Revenue (Department), are in response to 2022 Iowa Acts, Senate File 2374. The legislation revised alcoholic beverage license and permit classifications and fees, removed the additional privilege of Sunday sales, removed the \$5,000 bond requirement for wine direct shipper permittees that are not native wineries, and removed the 100,000-proof gallon production cap on native distilleries.

Additionally, this rulemaking aligns with current agency practices by updating the methods of payment accepted by class “E” retail alcohol licensees for alcoholic liquor, and also by promoting the Department’s electronic licensing system for license transfers, bond endorsement, and wine gallonage tax report filing requirements. The proposed amendments also eliminate outdated and redundant language instances, including where rule language is duplicative of statutory language. Other nonsubstantive clarifying amendments are also proposed.

A Regulatory Analysis, including the proposed rule text, was published on May 31, 2023. A public hearing was held on June 20, 2023. No public comments on the Regulatory Analysis were received at the hearing or in writing. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on July 6, 2023.

One change from the proposed amendments as published in the Regulatory Analysis has been made. After receiving an informal comment from an external stakeholder, one additional sentence was stricken in rule 185—4.25(123) regarding age requirements to adhere to changes enacted by legislation in 2023 Iowa Acts, Senate File 542.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 185—Chapter 19.

Public Comment

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on August 16, 2023. Comments should be directed to:

Madelyn Cutler
Iowa Department of Revenue
Alcoholic Beverages Division
1918 SE Hulsizer Road
Ankeny, Iowa 50021
Email: cutler@iowaabd.com

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

August 15, 2023
2 to 3 p.m.

Alcoholic Beverages Division Boardroom
1918 SE Hulsizer Road
Ankeny, Iowa
Video/conference call:
meet.google.com/ukf-yhcd-gux

August 16, 2023
9 to 10 a.m.

Alcoholic Beverages Division Boardroom
1918 SE Hulsizer Road
Ankeny, Iowa
Video/conference call:
meet.google.com/juv-hiog-okj

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

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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Amend rule 185—1.2(123,17A) as follows:

185—1.2(123,17A) Scope and rules. Promulgated under Iowa Code chapters 17A and 123, these rules shall apply to all matters before the alcoholic beverages division. No rule shall in any way relieve a certificate of compliance holder, manufacturer, ~~micro-distiller~~ native distiller, vintner, brewer, wholesaler, alcohol carrier, wine direct shipper, ~~liquor control~~ retail alcohol licensee or wine permittee or beer permittee, or an agent or employee thereof from any duty under the laws of this state.

This rule is intended to implement Iowa Code section 123.4.

ITEM 2. Amend **185—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 123.4, 123.5, 123.6, 123.9, 123.10, ~~123.21(10)~~, and 17A.3.

ITEM 3. Amend **185—Chapter 4**, title, as follows:

~~LIQUOR~~ RETAIL ALCOHOL LICENSES—BEER PERMITS—WINE PERMITS

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

ITEM 4. Amend rule 185—4.1(123) as follows:

185—4.1(123) Definitions.

“*Act*” means the alcoholic beverage control Act.

“*Administrator*” means the chief administrative officer of the alcoholic beverages division or a designee.

“*Beverages*” as used in Iowa Code section ~~123.3(18)~~ 123.3(21) does not include ~~alcoholic liquor, wine, or beer as defined in Iowa Code sections 123.3(4), 123.3(5), 123.3(7), 123.3(19), 123.3(28), 123.3(30), 123.3(43) and 123.3(47)~~ any alcoholic beverage as defined in Iowa Code section 123.3(4).

“*Division*” means the alcoholic beverages division of the department of commerce.

This rule is intended to implement Iowa Code sections 123.3 and 123.4.

ITEM 5. Amend subparagraph 4.2(4)“b”(8) as follows:

(8) A pattern or practice by the licensee, ~~or~~ permittee, or certificate of compliance holder of failing to report any change in the ownership or interest of the business pursuant to Iowa Code section 123.39(1)“b”(3).

ITEM 6. Amend rule 185—4.4(123) as follows:

185—4.4(123) Licensed premises. The following criteria must be met before a “place” (as used in Iowa Code section ~~123.3(25)~~ 123.3(29)) may be licensed as a “place susceptible of precise description satisfactory to the administrator.”

4.4(1) The “place” must be owned by or under the control of the prospective licensee, permittee, or certificate of compliance holder.

4.4(2) The “place” must be solely within the jurisdiction of one local approving authority.

4.4(3) The “place” must be described by a sketch of the “premises” as defined in Iowa Code section ~~123.3(25)~~ 123.3(29) and showing the boundaries of the proposed “place”; showing the locations of selling/serving areas within the confines of the “place”; showing all entrances and exits; and indicating the measurements of the “place” and distances between selling/serving areas.

4.4(4) The “place” must satisfy the health, safety, fire and seating requirements of the division, local authorities and the Iowa department of inspections and appeals.

4.4(5) Any other criteria as required by the administrator.

This rule is intended to implement Iowa Code sections ~~123.3(25)~~ 123.3(29) and 123.4.

ITEM 7. Amend rule 185—4.5(123) as follows:

185—4.5(123) Mixed drinks or cocktails not for immediate consumption. ~~An on-premises liquor control~~ A class “C,” class “D,” or class “F” retail alcohol licensee may mix, store, and allow the consumption of mixed drinks or cocktails which are not for immediate consumption for up to 72 hours, subject to the requirements and restrictions provided in 2012 Iowa Acts, House File 2465, section 22, Iowa Code section 123.49(2)“d” and this rule.

4.5(1) Definitions.

“*Immediate consumption.*” ~~For purposes of Iowa Code section 123.49(2)“d” as amended by 2012 Iowa Acts, House File 2465, section 22, and this rule, “immediate consumption” is defined as~~ for the purposes of this rule, means the compounding and fulfillment of a mixed drink or cocktail order upon receipt of the order for the mixed drink or cocktail.

“*Mixed drink or cocktail.*” ~~A mixed drink or cocktail is a beverage composed in whole or in part of alcoholic liquors, combined with other alcoholic beverages or nonalcoholic beverages or ingredients including but not limited to ice, water, soft drinks, or flavorings~~ for the purposes of this rule, means an alcoholic beverage as defined in Iowa Code section 123.3(32).

4.5(2) Location. Mixed drinks or cocktails which are not for immediate consumption shall be mixed, stored, and consumed on the ~~liquor control~~ retail alcohol licensed premises. Mixed drinks or cocktails shall not be removed from the licensed premises.

4.5(3) No change.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

4.5(4) Container. A mixed drink or cocktail which is not for immediate consumption shall at all times be in a container compliant with applicable state and federal food safety statutes and regulations.

a. to c. No change.

d. An original package of alcoholic liquor as purchased from the division or an original package of wine shall not be used to mix, store, or dispense a mixed drink or cocktail, pursuant to Iowa Code section 123.49(2) "*d*" as amended by 2012 Iowa Acts, House File 2465, section 22, and section 123.49(2) "*e*." and "*e*."

e. No change.

4.5(5) to 4.5(7) No change.

4.5(8) Records. A licensee shall maintain accurate and legible records for each prepared batch of mixed drinks or cocktails which is not for immediate consumption.

a. and b. No change.

c. Records shall be maintained on the licensed premises for a period of three years and shall be open to inspection pursuant to Iowa Code section ~~123.30(1)~~ 123.33.

4.5(9) to 4.5(12) No change.

This rule is intended to implement Iowa Code ~~subsection~~ section 123.49(2) as amended by 2012 Iowa Acts, House File 2465, section 22.

ITEM 8. Amend rule 185—4.6(123) as follows:

185—4.6(123) Filling and selling of beer in a container other than the original container. Class "B," class "C," and special class "C₂" liquor control and class "E" retail alcohol licensees, ~~class "B" and class "C" beer permittees,~~ and the licensee's or ~~permittee's~~ employees may fill, refill, and sell beer in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code section ~~123.131 as amended by 2020 Iowa Acts, House File 2540, section 14; Iowa Code section 123.132;~~ 123.31A and this rule.

4.6(1) to 4.6(3) No change.

4.6(4) Restrictions.

a. to f. No change.

g. An original container shall only be opened on the premises of a class "~~C~~" beer permittee "B" or class "E" retail alcohol licensee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

h. ~~A class "C" beer permittee shall only fill a growler at the time of an in-person sale.~~

4.6(5) No change.

This rule is intended to implement Iowa Code ~~sections 123.123, 123.131, and 123.132~~ section 123.31A.

ITEM 9. Amend rule 185—4.7(123) as follows:

185—4.7(123) Improper conduct.

4.7(1) Illegality on premises. ~~Illegality on premises.~~ No retail alcohol licensee, ~~permittee, their or the licensee's~~ agent or employee, shall engage in any illegal occupation or illegal act on the licensed ~~premise premises.~~

4.7(2) Cooperation with law enforcement officers. ~~Cooperation with law enforcement officers.~~ No retail alcohol licensee, ~~permittee, their or the licensee's~~ agent or employee, shall refuse, fail or neglect to cooperate with any law enforcement officer in the performance of such officer's duties to enforce the provisions of the Act.

4.7(3) Illegal activities. ~~Illegal activities.~~ No retail alcohol licensee, ~~permittee, their or the licensee's~~ agent or employee, shall knowingly allow in or upon the licensed premises any conduct as defined in Iowa Code sections 725.1, 725.2, 725.3, 728.2, 728.3 and 728.5.

4.7(4) Frequenting premises. ~~Frequenting premises.~~ No retail alcohol licensee, ~~permittee, their or the licensee's~~ agent or employee, shall knowingly permit the licensed premises to be frequented by; or become the meeting place, hangout or rendezvous for known pimps, panhandlers or prostitutes, or those

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

who are known to engage in the use, sale or distribution of narcotics, or in any other illegal occupation or business.

~~4.7(5) Prohibited interest in business of licensee. Rescinded IAB 5/15/91, effective 6/19/91.~~

~~4.7(6) 4.7(5) Open containers of alcoholic beverages.~~ No retail alcohol licensee, ~~permittee, its agents or employees~~ or the licensee's agent or employee, shall allow any filled, partially filled, or empty liquor glasses or liquor bottles, including miniature liquor bottles during the holiday season, to be taken off the licensed premises. However, unopened and opened containers and glasses of beer may be allowed to be taken off the licensed premises. A class "E" ~~liquor control~~ retail alcohol licensee, its ~~agents or employees~~ or the licensee's agent or employee, shall not permit other ~~liquor control~~ licensees or consumers to remove partially filled, empty, open or unsealed containers of alcoholic liquor from the class "E" retail alcohol licensed premises.

~~4.7(7) 4.7(6) Identifying markers.~~ Identifying markers. A licensee shall not keep on the licensed premises nor use for resale alcoholic liquor which does not bear identifying markers as prescribed by the administrator of ~~this~~ the division. Identifying markers shall demonstrate that the alcoholic liquor was lawfully purchased from ~~this~~ the division.

~~4.7(8) A licensee or permittee, or an agent or employee of a licensee or permittee, who sells, gives or otherwise supplies alcoholic liquor, wine or beer to a person 19 or 20 years old does not subject the license or permit to suspension or revocation. The division or the local authority shall not impose any administrative sanction, including license suspension or revocation, upon a licensee or permittee who is convicted of a violation of Iowa Code section 123.47A, nor shall administrative proceedings pursuant to Iowa Code chapter 17A and Iowa Code section 123.39 be commenced against a licensee or permittee for a violation of Iowa Code section 123.47A.~~

~~4.7(9) The holder of a class "E" liquor control license shall sell alcoholic liquor in original, sealed and unopened containers only for off-premises consumption.~~

This rule is intended to implement Iowa Code ~~subsection~~ section 123.49(2).

ITEM 10. Amend rule 185—4.8(123) as follows:

185—4.8(123) Violation by agent, servant or employee. Any violation of the Act or the rules of the division by any employee, agent or servant of a licensee ~~or permittee~~ shall be deemed to be the act of the licensee ~~or permittee~~ and shall subject the license ~~or permit~~ of said licensee ~~or permittee~~ to suspension or revocation.

This rule is intended to implement Iowa Code sections 123.4 and 123.49(2).

ITEM 11. Amend rule 185—4.9(123) as follows:

185—4.9(123) Gambling evidence. The intentional possession or willful keeping of any gambling device, ~~machine or apparatus~~ as defined in Iowa Code section ~~99A.1~~ 725.9 upon the premises of any establishment licensed by the division shall be prima facie evidence of a violation of Iowa Code section 123.49(2) "a" and subject the license of said licensee ~~or permittee~~ to suspension or revocation.

This rule is intended to implement Iowa Code sections 123.4 and 123.49.

ITEM 12. Amend rule 185—4.11(123) as follows:

185—4.11(123) Filling and selling of wine and native wine in a container other than the original container. Class "C" liquor control licensees; class "B," class "B" native, and class "C" native wine ~~permittees~~ Class "B," class "C," special class "C," and class "E" retail alcohol licensees; special class "B" retail native wine licensees; and the licensee's ~~or permittee's~~ employees may fill, refill, and sell wine or native wine in a container other than the original container, otherwise known as a growler, subject to the requirements and restrictions provided in Iowa Code sections 123.178, 123.178A, and 123.178B as amended by 2020 Iowa Acts, House File 2540, sections 4, 5, 6, 7, 8, and 9, 123.30, 123.31A, and 123.31B and in this rule.

4.11(1) Definitions.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

“*Growler*,” for the purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold wine or native wine.

“*Native wine*,” for the purposes of this rule, means ~~wine manufactured in Iowa by fermentation of fruit, vegetables, dandelions, clover, honey, or any combination of these ingredients by a class “A” wine permittee~~ the same as defined in Iowa Code section 123.3(36).

“*Original container*,” for the purposes of this rule, means a vessel containing wine or native wine that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

“*Wine*,” for the purposes of this rule, means ~~“wine”~~ the same as defined in Iowa Code section ~~123.3(54)~~ 123.3(53).

4.11(2) Filling and refilling requirements.

- a. No change.
- b. A growler shall be filled or refilled only by the licensee ~~or permittee~~ or the licensee’s ~~or permittee’s~~ employees who are 18 years of age or older.
- c. and d. No change.
- e. ~~Class “B” native and class “C” native wine permittees~~ Special class “B” retail native wine licensees shall fill a growler with only native wine.
- f. and g. No change.

4.11(3) Sealing requirements. A filled or refilled growler shall be securely sealed at the time of the sale by the licensee ~~or permittee~~ or the licensee’s ~~or permittee’s~~ employees in the following manner:

- a. to d. No change.

4.11(4) Restrictions.

- a. to c. No change.
- d. A licensee ~~or permittee~~ or a licensee’s ~~or permittee’s~~ employees shall not allow a consumer to fill or refill a growler.
- e. and f. No change.
- g. An original container shall only be opened on the premises of a class “B” ~~or class “B” native wine permittee~~ and class “E” retail alcohol licensee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 185—16.7(123).

4.11(5) Violations. Failure to comply with the requirements and restrictions of this rule shall subject the licensee ~~or permittee~~ to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections ~~123.172, 123.178, 123.178A, and 123.178B~~ 123.30, 123.31A, and 123.31B.

ITEM 13. Amend rule 185—4.13(123) as follows:

185—4.13(123) Outdoor service. Any licensee ~~or permittee~~ having an outdoor, contiguous, discernible area on the same property on which their licensed establishment is located may serve the type of alcoholic ~~liquor or beer~~ beverage permitted by the license ~~or permit~~ in the outdoor area. After a licensee ~~or permittee~~ satisfies the requirements of this rule, ~~they~~ the licensee may serve and sell ~~beer or liquor~~ alcoholic beverages in both ~~their~~ the licensee’s indoor licensed establishment and in ~~their~~ the licensee’s outdoor area at the same time because an outdoor area is merely an extension of ~~their~~ the licensee’s licensed ~~premise~~ premises and is not a transfer of their license. A licensee ~~or permittee~~, prior to serving in the outdoor area, must file with ~~this~~ the division:

1. A new diagram showing the discernible outdoor area.
- ~~2. A letter from licensee or permittee telling what dates the outdoor area will be used.~~
- ~~3. 2. A letter from local Local authority approving approval of the outdoor area.~~
- ~~4. 3. A letter from the insurance and bonding companies acknowledging Insurance company acknowledgment that the outdoor area is covered by the dramshop insurance policy and the bond.~~

This rule is intended to implement Iowa Code sections ~~123.3(20)~~ 123.3(29), 123.4 and 123.38.

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ITEM 14. Amend rule 185—4.14(123) as follows:

185—4.14(123) Revocation or suspension by local authority. When the local authority revokes or suspends a ~~beer permit, wine permit, or liquor control~~ retail alcohol license, ~~they~~ the local authority shall notify the division in written form stating the reasons for the revocation or suspension and in the case of a suspension, the length of time of the suspension.

This rule is intended to implement Iowa Code sections 123.4, 123.32, and 123.39.

ITEM 15. Amend rule 185—4.15(123) as follows:

185—4.15(123) Suspension of liquor control retail alcohol license, wine permit, or beer permit. At the time of the suspension of any retail alcohol license, wine permit, or beer permit by the division, there shall be placed, in a conspicuous place in the front door or window of the licensed establishment, a placard furnished by the division showing that the license or permit of that establishment has been suspended by the division and such placard shall also show the number of days and reason for the suspension. No licensee or permittee shall remove, alter, obscure or destroy said placard without the express written approval of the division.

This rule is intended to implement Iowa Code sections 123.4 and 123.39.

ITEM 16. Rescind and reserve rule **185—4.16(123)**.

ITEM 17. Amend rule 185—4.17(123) as follows:

185—4.17(123) Prohibited storage of alcoholic beverages and wine. No licensee shall permit alcoholic beverages ~~and wine~~, purchased under authority of a retail alcohol license ~~or retail permit~~, to be kept or stored upon any premises other than those licensed. However, under special circumstances, the administrator may authorize the storage of alcoholic beverages ~~and wine~~ on premises other than those covered by the license ~~or permit~~. The administrator may allow class “D” ~~liquor control retail alcohol~~ licensees to store alcoholic liquor and wine in a bonded warehouse to be used for consumption in Iowa, under the authority of a class “D” ~~liquor control retail alcohol~~ license.

This rule is intended to implement Iowa Code sections 123.4 and ~~123.21(11)~~ 123.10(11).

ITEM 18. Amend rule 185—4.18(123) as follows:

185—4.18(123) Transfer of license or permit to another location. A licensee or permittee cannot transfer to anyone else the right to use the ~~liquor retail alcohol~~ license, wine permit, or beer permit of the licensee or permittee; the right of transfer is merely an opportunity for a licensee or permittee to use the licensee’s or permittee’s ~~liquor retail alcohol~~ license, wine permit, or beer permit at a different location. A ~~liquor retail alcohol~~ license, wine permit, or a beer permit may only be transferred within the boundaries of the local authority which approved the license or permit.

4.18(1) Permanent transfers. A person may ~~obtain an application~~ apply for a permanent transfer ~~from the local authority or the division~~. The application must be approved by the local authority and ~~sent to the division prior to the transfer~~. ~~An endorsement from the~~ The insurance company holding the dramshop policy listing the new address must be sent to the division endorse the application prior to the transfer. When the above requirements are met, the division shall issue an amended license or permit showing the new permanent address.

4.18(2) Temporary transfers. If the transfer of a retail alcohol license or permit is for the purpose of accommodating a special event or circumstance temporary in nature, the minimum time of transfer is hereby set at 24 hours and transfer time shall not exceed seven days. ~~A letter from person may apply for a temporary transfer. The application must be approved by the local authority granting the temporary transfer must be sent to and the division. The insurance company holding the dramshop policy must be notified of any change of address endorse the application prior to the transfer.~~

This rule is intended to implement Iowa Code sections 123.4 and 123.38.

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ITEM 19. Amend rule 185—4.19(123) as follows:

185—4.19(123) Execution and levy on alcoholic liquor, wine, and beer. Judgments or orders requiring the payment of money or the delivery of the possession of property may be enforced against ~~liquor control retail alcohol licensees, and beer permittees, and wine permittees~~ by execution pursuant to the provisions of Iowa Code chapter 626, ~~entitled “Executions.”~~

4.19(1) A secured party as defined in Iowa Code section ~~554.9105(1) “m”~~ 554.9102(1) “by” may take possession of and dispose of a ~~liquor control retail alcohol licensee’s or permittee’s~~ alcoholic liquor, wine, and beer in which the secured party has a security interest in such collateral pursuant to the provisions of Iowa Code chapter 554. The secured party may operate under the ~~liquor control retail alcohol license or permit of its debtor as defined in Iowa Code section 554.9105(1) “d”~~ 554.9102(1) “ad” for the purpose of disposing of the alcoholic liquor, wine, and beer. However, if the debtor is a class “E” ~~liquor control retail alcohol licensee~~, the secured party may not purchase alcoholic liquor from the division to continue to operate its debtor’s business. A secured party operating under the ~~liquor control retail alcohol license or permit of its debtor~~ shall dispose of the alcoholic liquor, wine, and beer by sale only to persons authorized under Iowa Code chapter 123 to purchase alcoholic liquor, wine, and beer from the debtor. When a secured party takes possession of a ~~liquor control retail alcohol licensee’s or permittee’s~~ alcoholic liquor, wine, and beer, the secured party shall notify the division in writing of such action. A secured party shall further inform the division of the manner in which it intends to dispose of the alcoholic liquor, wine, and beer and shall state the reasonable length of time in which it intends to operate under the ~~liquor control retail alcohol license or permit of its debtor~~. The secured party shall notify the division in writing when the disposition of its collateral has been completed, and the secured party shall cease operating under the ~~liquor control retail alcohol license or permit of its debtor~~.

4.19(2) A sheriff or other officer acting pursuant to Iowa Code chapter 626 may take possession of a ~~liquor control retail alcohol licensee’s or permittee’s~~ alcoholic liquor, wine, and beer and may dispose of such inventory according to the provisions of Iowa Code chapter 626; however, the sheriff or other officer must sell the alcoholic liquor, wine and beer only to those persons authorized by Iowa Code chapter 123 to purchase alcoholic liquor, wine, and beer from the ~~liquor control retail alcohol licensee or permittee~~ whose inventory is subject to the execution and levy. The sheriff or other officer shall notify the division in writing at the time the sheriff or officer takes possession of a ~~liquor control retail alcohol licensee’s or permittee’s~~ alcoholic liquor, wine, and beer and shall further notify the division of the time and place of the sale of such property.

This rule is intended to implement Iowa Code sections 123.4, ~~123.21(3)~~ 123.10, and 123.38.

ITEM 20. Amend rule 185—4.20(123) as follows:

185—4.20(123) ~~Liquor store checks~~ Class “E” retail alcohol licensee methods of payment accepted. ~~The Iowa state liquor stores and the division may accept personal or business checks from holders of a retail liquor control license, including a class “E” licensee, under the following conditions: a class “E” retail alcohol licensee made payable to the division for the amount of the purchase which has been certified by the bank on which the check is drawn. Bank drafts, signed by the licensee, will be accepted.~~

1. ~~The check must be either the personal check of the licensee or the business check of the licensee. The business check must be the named establishment on the license and cannot be a check on another business owned or operated by the licensee.~~

2. ~~The check must be signed by the licensee. (For all holders of liquor control licenses this is interpreted as those persons whose authorized signatures are on file with the bank for the licensee’s account). However, this does not preclude an agent of the licensee from presenting a check signed by the licensee in the normal transaction of buying liquor.~~

3. ~~Traveler’s checks and bank drafts, signed by the licensee, will be accepted.~~

4. ~~Personal checks or traveler’s checks may be accepted as payment for purchases in state liquor stores. Second party checks shall not be accepted as payment for purchases in state liquor stores. Vendors~~

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

shall follow the policy established by the administrator of the division for accepting personal checks and traveler's checks for the purchase of alcoholic beverages.

~~4.20(1)~~ If a licensee presents this division with a check which is subsequently dishonored by the licensee's bank, the administrator of this division shall cause a written notice of nonpayment and penalty to be served upon the licensee. If the licensee fails to satisfy the obligation within ten days after service of the notice, the administrator or designee shall hold a hearing as in other contested cases pursuant to Iowa Code chapter 17A to determine whether or not the licensee failed to satisfy the obligation within ten days after service of the notice of nonpayment and penalty. If the administrator determines that the licensee has failed to satisfy the obligation, after notice and an opportunity to be heard, the administrator shall suspend the licensee's liquor control license for a period of not less than 3 and not more than 30 days.

~~4.20(2)~~ **4.20(1)** A retail liquor alcohol licensed establishment which tenders the division one insufficient funds check bank draft for the purchase of alcoholic liquor will lose its ~~check-writing bank draft~~ privilege for 90 days from the date the establishment pays the division even though the division does not suspend the liquor license because the establishment paid the division within the 10-day demand period. A retail liquor alcohol licensed establishment which tenders the division more than one insufficient funds check bank draft for the purchase of alcoholic liquor will lose its ~~check-writing bank draft~~ privilege for 180 days from the date the establishment pays the division even though the division does not suspend the liquor license because the establishment paid the division within the 10-day demand period.

During the period that a licensee may not tender checks bank drafts to the state liquor stores or this division in payment for alcoholic liquor, ~~state liquor stores and this~~ the division may accept from the licensee: ~~cash,~~ a money order payable to the division for the amount of the purchase, a bank cashier's check signed by a bank official and made payable to the division for the amount of the purchase, or the licensee's personal or business check made payable to the division for the amount of the purchase which has been certified by the bank on which the check is drawn.

~~4.20(3)~~ **4.20(2)** The division may collect from the licensee a \$10 fee for each dishonored ~~check bank draft~~ tendered to the division by a licensee for the purchase of alcoholic beverages.

~~4.20(4)~~ The division may accept from the general public for alcoholic beverages ~~traveler's checks issued in a foreign country if payment is in U.S. dollars.~~

~~4.20(5)~~ **4.20(3)** The division may require, at the discretion of the administrator, that a licensee submit a letter of credit in a reasonable amount to be determined by the administrator for future purchases of alcoholic liquor from the division, when a licensee tenders to the division a ~~check bank draft~~ which is subsequently dishonored by the bank ~~on which the check is drawn~~ if the licensee fails to satisfy the obligation within ten days after service of notice of nonpayment and penalty.

This rule is intended to implement Iowa Code sections 123.4 and 123.24.

ITEM 21. Rescind and reserve rule ~~185—4.21(123)~~.

ITEM 22. Rescind and reserve rule ~~185—4.22(123)~~.

ITEM 23. Amend rule ~~185—4.25(123)~~ as follows:

185—4.25(123) Age requirements. Persons 21 years of age or older may hold a liquor retail alcohol license, wine permit, or beer permit; ~~however, persons who are between the ages of 18 and 21 and hold a liquor license, wine permit, or beer permit before September 1, 1986, are not affected by or subject to this rule, and may hold such license or permit even though the licensee or permittee has not attained the age of 21. Persons 18 years of age and older may be bartenders, waiters, waitresses, and may handle alcoholic beverages, wine, and beer during the course of the person's employment for a licensee or permittee in establishments in which alcoholic beverages, wine, and beer are consumed. Persons 16 years of age and older may sell beer and wine alcoholic beverages in off-premises beer and wine establishments. Persons must be 18 years of age or older to work in a state liquor store.~~

This rule is intended to implement Iowa Code sections 123.30, ~~123.47A~~ and 123.49.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

ITEM 24. Amend rule 185—4.26(123) as follows:

185—4.26(123) Timely filed status.

4.26(1) In addition to the requirements which may be imposed by a local authority upon the holder of ~~an alcoholic beverages license or permit~~ a retail alcohol license to obtain timely filed status of a renewal application, the division may grant timely filed status if the applicant complies with the following conditions:

a. The applicant ~~files~~ submits a completed application with the local authority or the division as required by applicable law.

b. ~~The applicant files a~~ A current ~~dram shop~~ dramshop liability certificate ~~with the local authority or the division~~ has been endorsed by the insurance company if proof of ~~dram shop~~ dramshop liability is required as a condition precedent to the issuance of the license ~~or permit~~.

c. The applicant pays the appropriate license ~~or permit~~ fee in full to the local authority or the division as required by applicable law.

d. ~~The applicant files a~~ A bond ~~with the local authority or the division~~ has been certified by the carrier if a bond is required as a condition precedent to the issuance of the license ~~or permit~~ under applicable law.

4.26(2) Timely filed status allows the holder of the license ~~or permit~~ to continue to operate under a license ~~or permit~~ after its expiration and until the local authority and the division have finally determined whether the license ~~or permit~~ should be issued. If the application for the license ~~or permit~~ is denied, timely filed status continues until the last day for seeking judicial review of the division's action.

4.26(3) An applicant for a new ~~alcoholic beverages~~ retail alcohol license ~~or permit~~ may not sell alcoholic liquor, wine or beer in the proposed establishment until a license ~~or permit~~ has been granted by the division.

This rule is intended to implement Iowa Code sections 123.32, 123.35 and 17A.18.

ITEM 25. Amend rule 185—4.28(123) as follows:

185—4.28(123) Use of establishment during hours alcoholic liquor, wine, and beer beverages cannot be consumed. No one, including a retail alcohol licensee, ~~permittee~~, and employees the licensee's employee, can consume ~~beer, wine, or~~ alcoholic beverages in their licensed establishment during hours which ~~beer, wine, and~~ alcoholic beverages cannot be sold. An establishment covered by a liquor retail alcohol license, ~~wine permit, or beer permit~~ can be used as a restaurant or any other lawful purpose during hours which ~~beer, wine, or alcoholic liquor~~ alcoholic beverages cannot be sold as long as ~~beer, wine, or~~ alcoholic beverages are not consumed during these hours.

This rule is intended to implement Iowa Code section 123.49.

ITEM 26. Rescind and reserve rule **185—4.31(123)**.

ITEM 27. Rescind and reserve rule **185—4.33(123)**.

ITEM 28. Amend rule 185—4.34(123) as follows:

185—4.34(123) Determination of population. Decennial Censuses and Special Censuses done by the U.S. Census Bureau are recognized as being the official population of a town for the purpose of deciding the price of licenses ~~and permits~~ in that town, but estimates done by the U.S. Census Bureau cannot be viewed as being the official population when deciding the price of licenses ~~and permits~~.

This rule is intended to implement Iowa Code ~~subsection 123.21(11)~~ section 123.10(11).

ITEM 29. Amend rule 185—4.36(123) as follows:

185—4.36(123) Sale of alcoholic liquor and wine beverages stock when licensee or permittee sells business. When a retail alcohol licensee ~~or permittee~~ goes out of business, the licensee ~~or permittee~~ may sell the licensee's ~~or permittee's~~ stock of alcoholic ~~liquor and wine~~ beverages to the person who is going to operate a licensed establishment in the same location.

This rule is intended to implement Iowa Code ~~subsection 123.21(5)~~ section 123.10.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

ITEM 30. Rescind and reserve rule **185—4.37(123)**.

ITEM 31. Rescind and reserve rule **185—4.38(123)**.

ITEM 32. Amend rule 185—4.40(123) as follows:

185—4.40(123) Warehousing of beer and wine. A person holding a class “A” wine permit or a class “A” or “F” beer permit shall warehouse their wine or beer inventory within the state of Iowa. ~~Persons issued a class “A” wine permit or class “A” or “F” beer permit prior to June 10, 1987, shall comply upon renewal or November 1, 1987, whichever date occurs first.~~ A warehouse of a person holding a class “A” wine permit or a class “A” or “F” beer permit shall be considered a licensed premises.

This rule is intended to implement Iowa Code ~~section~~ sections 123.127 and 123.175.

ITEM 33. Amend rule 185—4.41(123) as follows:

185—4.41(123) Vending machines to dispense alcoholic beverages prohibited. A ~~liquor control retail alcohol licensee or beer or wine permittee~~ shall not install or permit the installation of vending machines on the licensed premises for the purpose of selling, dispensing or serving alcoholic beverages. A vending machine is defined as a ~~slug, coin, currency or credit card operated~~ slug-, coin-, currency- or credit card-operated mechanical device used for dispensing merchandise, including single cans of beer or other alcoholic beverages, and includes a mechanical device operated by remote control and used for dispensing single cans of beer or other alcoholic beverages. A vending machine is not a unit installed in individual hotel or motel rooms used for the storage of alcoholic beverages and intended for the personal use of hotel or motel guests within the privacy of the guests’ rooms.

This rule is intended to implement Iowa Code ~~sections 123.47, 123.47A, 123.49(1), 123.49(2) “b,” 123.49(2) “h,” and 123.49(2) “k.”~~ section 123.49.

ITEM 34. Amend rule 185—5.1(123) as follows:

185—5.1(123) Manufacture and sale of native wine. Manufacturers of native wine ~~from grapes, cherries, other fruits or other fruit juices, vegetables, vegetable juices, dandelions, clover, honey, or any combination of these ingredients,~~ as defined in Iowa Code section 123.3(36) may sell, keep or offer for sale and deliver their native wine subject to the following regulations and restrictions.

5.1(1) Manufacturer of native wine defined. ~~A manufacturer of native wine is a person in Iowa who processes grapes, cherries, other fruits or other fruit juices, vegetables, vegetable juices, dandelions, clover, honey, or any combination of these ingredients, by fermentation into wine.~~

5.1(2) Residency requirements. ~~A manufacturer of native wine who is a sole proprietor must be a resident of Iowa. At least one of the partners of a partnership which is a manufacturer of native wine must be a resident of Iowa. A corporation which is a manufacturer of native wine must be registered to do business in Iowa with the Iowa secretary of state’s office in lieu of any other residency requirements.~~

5.1(3) 5.1(1) Licenses required.

a. Class “A” native wine permit. ~~Before selling its wine to the division, class “A” wine wholesalers, retail wine permittees, and liquor control licensees, a manufacturer of native wine shall apply for and shall obtain from the division one class “A” native wine permit and a \$5,000 bond for its wineries and for its retail establishments. A class “A” native wine permit obtained for a native winery and for retail establishments costs \$25 a year. A manufacturer of native wine may obtain an application for a class “A” native wine permit from the division and may submit the completed application and the \$25 fee to the division without having to get the application approved by a local authority. Each class “A” native wine permit is valid for one year from the effective date and must be renewed each year. A manufacturer of native wine must display the original or a copy of its class “A” native wine permit in each of its native wineries and in each of its retail establishments. The \$25 fee paid for a class “A” native winery is not refundable. A manufacturer of native wine must register its retail establishment on forms or systems provided by the division. The division shall issue a manufacturer of native wine duplicate copies of its class “A” native wine permit so that a copy of it can be posted in each winery and retail establishment.~~

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

b. — Vintner's certificate of compliance. In order for a manufacturer of native wine to be able to sell its wine to the division, it must obtain an application for a vintner's certificate of compliance from the division and must obtain a vintner's certificate from the division at no expense in addition to obtaining from the division its one class "A" native wine permit.

c. — Class "B" wine permit. In order for a manufacturer of native wine to sell wine it did not manufacture, it must obtain a class "B" wine permit and a \$1,000 bond for each native winery or retail establishment.

~~5.1(4) Exclusive operation of retail establishments.~~ No person except a manufacturer of native wine can operate a class "A" native wine retail establishment.

~~5.1(5) Distance a retail establishment must be from a native winery.~~ A manufacturer of native wine cannot have a retail establishment within five miles of a native winery not operated by the manufacturer of native wine.

~~5.1(6) Sale of native wine only.~~ A manufacturer of native wine may sell wine it did not manufacture only if it obtains an appropriate retail wine permit for each location.

~~5.1(7) Hours of sale.~~ A manufacturer of native wine can sell its native wine in its native winery and in its retail establishments on Mondays through Saturdays between the hours of 9 a.m. and 10 p.m. and on Sundays between the hours of 10 a.m. and 12 midnight.

~~5.1(8) Premises, books of account and records available for inspection.~~ A manufacturer of native wine shall cause the premises, books of account, and records to be accessible and available at all reasonable times for inspection by representatives of the division, the law enforcement division of the Iowa department of public safety, or members of local police authority.

~~5.1(9) Delivery of native wine.~~ A manufacturer of native wine may ship its native wine in closed containers to individual purchasers inside and outside Iowa.

~~5.1(10) 5.1(2) Reports required.~~

a. Monthly combined wine production and wine gallonage tax report. A monthly report is required showing the amount of wine on hand at the beginning of the month, the amount produced, the amount sold, the amount of wine gallonage tax due, and any other information requested. Report forms shall be furnished by the division. A manufacturer of native wine shall submit a report along with any wine gallonage tax payment to in the division's licensing division system by the tenth of each month for the preceding month's business. Reports and wine gallonage tax payments ~~postmarked~~ submitted by the tenth of each month for the preceding month shall be considered timely. This report must be mailed submitted for each month even if no wine sales were made during the month.

b. Annual report. A manufacturer of native wine shall, in January of each year, deliver to the division a complete report, sworn to under oath by the owner, a partner or corporate officer, showing the number of gallons of wine produced by the winery in the preceding year. Report forms shall be furnished by the division.

~~5.1(11) Wine gallonage tax.~~ A manufacturer of native wine must pay to the division a \$1.75 wine gallonage tax on its native wine it sells at wholesale: (1) to retail liquor licensees, (2) to retail beer permittees, (3) to retail wine permittees, and (4) to the division. A manufacturer of native wine does not pay the \$1.75 wine gallonage tax on its native wine it: (1) sells at retail in Iowa in its winery and in its retail establishments, (2) ships to individuals inside and outside Iowa, and (3) sells to other class "A" wine permittees and to class "F" beer permittees.

This rule is intended to implement Iowa Code sections 123.4, ~~123.56~~ 123.49, 123.176, and 123.183.

ITEM 35. Amend rule 185—5.2(123) as follows:

185—5.2(123) Annual production Production of a native distillery.

5.2(1) Native distillery. A native distillery is a business with an operating still which produces and manufactures native distilled spirits and holds a class "A" native distilled spirits license as defined in Iowa Code section 123.3(35). The total number of proof gallons of native distilled spirits produced and manufactured by a native distillery on an annual basis shall be used to determine the amount of native distilled spirits that may be sold per person per day from the native distillery's licensed premises for

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

~~off-premises consumption and to determine eligibility to obtain a class “C” native distilled spirits liquor control license.~~

~~5.2(1)~~ **5.2(2)** *Definitions.*

~~“Annual basis,” for the purpose of this rule, means a year as defined in Iowa Code section 4.1(40) beginning January 1 and ending December 31.~~

~~“Native distilled spirits” means an alcoholic beverage as defined in Iowa Code section 123.3(28) 123.3(34).~~

~~“Operating still,” for the purpose of this rule, means a still that is registered with the Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 CFR 19.75(b) and is actively used to manufacture spirits.~~

~~“Proof gallon,” for the purpose of this rule, means a United States gallon of proof spirits, or the alcoholic equivalent thereof, as defined by the Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 CFR 30.11.~~

~~5.2(2) The total number of proof gallons of native distilled spirits produced and manufactured by a native distillery on an annual basis shall combine all production facilities of the business and shall be determined based on the 12-month sum of line 26 of Alcohol and Tobacco Tax and Trade Bureau Form 5110.28, Monthly Report of Processing Operations, filed monthly by the native distillery with the division, pursuant to Iowa Code section 123.43A(5).~~

~~5.2(3) The amount of native distilled spirits that may be sold per person per day from a native distillery’s licensed premises for off-premises consumption shall be determined based on the total number of proof gallons of native distilled spirits as determined in subrule 5.2(2) for the preceding calendar year beginning January 1 and ending December 31.~~

~~5.2(4) As a condition of obtaining a class “C” native distilled spirits liquor control license, a native distillery shall report to the division, at the time of application, the total number of proof gallons of native distilled spirits as determined in subrule 5.2(2) for the preceding calendar year beginning January 1 and ending December 31.~~

~~This rule is intended to implement Iowa Code sections 123.3(29), 123.30(3) “c”(3), 123.31(6) 123.43 and 123.43A.~~

ITEM 36. Rescind and reserve rule **185—5.3(123)**.

ITEM 37. Rescind and reserve rule **185—5.4(123)**.

ITEM 38. Rescind and reserve rule **185—5.6(123)**.

ITEM 39. Amend rule **185—5.7(123)**, implementation sentence, as follows:

~~This rule is intended to implement Iowa Code sections 123.4, 123.21(11) 123.10, 123.31 and 123.56 123.49.~~

ITEM 40. Amend rule 185—5.8(123) as follows:

185—5.8(123) Dramshop liability insurance requirements. For the purpose of providing proof of financial responsibility, as required under the provisions of Iowa Code section 123.92, a liability insurance policy shall meet the following requirements.

5.8(1) Current certificate required. The dramshop liability certificate of insurance shall be issued by a company holding a current certificate of authority from the Iowa insurance commissioner authorizing the company to issue dramshop liability insurance in Iowa or issued under the authority and requirements of Iowa Code sections 515.120 and 515.122. The dramshop policy shall take effect the day the license or permit takes effect and shall continue until the expiration date of the license or permit. A new dramshop liability certificate of insurance shall be provided each time the division issues a new license. The dramshop liability certificate of insurance shall contain the following: the name of the insurance provider; the policy number; the name and address of the insured; the license or permit number of the insured, if applicable; and the policy effective dates. Upon request, an insurance company or an insured shall provide to the division a duplicate original of the policy and all pertinent endorsements.

5.8(2) and 5.8(3) No change.

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5.8(4) Cancellation. An insurance company or an insured may cancel a liability policy by giving a minimum of 30 days' prior written notice to the division of the party's intent to cancel the liability policy. The 30-day period shall begin on the date that the division receives the notice of cancellation. The party seeking to cancel a liability policy shall mail written notice of such cancellation to the division in Ankeny, Iowa, by certified mail, or other method deemed acceptable by the division, and shall mail a copy of the notice of cancellation to the licensee ~~or permittee~~ at that party's post office address. The notice of cancellation shall contain the following: the name of the party to whom the copy of the notice of cancellation was mailed, the address to which the copy of the notice of cancellation was sent, the date on which the notice of cancellation was mailed, the date the liability policy is being canceled, and the ~~liquor control retail alcohol~~ license ~~or permit~~ number of the licensee ~~or permittee~~ to be affected by such cancellation.

5.8(5) No change.

5.8(6) Proof of financial responsibility. A licensee ~~or permittee~~ shall be deemed to have furnished proof of financial responsibility as contemplated under the provisions of Iowa Code sections 123.92, 123.93, and 123.94 when the licensee ~~or permittee~~ has filed with the division at its offices in Ankeny, Iowa, a properly executed form as described by subrule 5.8(1), or by other method deemed acceptable by the division.

5.8(7) to 5.8(9) No change.

5.8(10) Implementation dates. ~~During the 12-month period commencing on September 1, 2003, all licensees and permittees applying for or renewing a license or permit shall obtain a dramshop insurance policy that conforms to the provisions of rule 5.8(123).~~

This rule is intended to implement Iowa Code sections 123.92, 123.93 and 123.94.

ITEM 41. Amend rule 185—5.9(123) as follows:

185—5.9(123) Surety bond requirements. ~~A \$5,000 surety bond shall be filed with the division with each application for a class "A" wine permit and with each application for a wine direct shipper license unless the applicant for the wine direct shipper license posted a surety bond as part of obtaining a class "A" wine permit. A \$10,000 surety bond shall be filed with the division for each application for a class "A" beer permit or special class "A" beer permit. A surety bond in an amount of at least \$5,000 but not more than \$15,000 shall be filed with the division with each application for a class "E" liquor control license. Each surety bond shall meet the following requirements.~~

5.9(1) and 5.9(2) No change.

5.9(3) Cancellation. A surety company or a principal may cancel a bond by giving a minimum of 30 days' written notice to ~~this the~~ the division of the party's intent to cancel the bond. The 30-day period shall commence on the date that ~~this the~~ the division receives the notice of cancellation. The party seeking to cancel a bond shall submit written notice of such cancellation to the division in Ankeny, Iowa, and further shall submit a copy of the notice of cancellation to the other party. The notice of cancellation shall contain the following: the name of the party to whom the copy of the notice of cancellation was submitted, the date on which the notice of cancellation was submitted, the date the bond is being canceled, and the license or permit number of the licensee or permittee to be affected by such cancellation.

5.9(4) Proof of bond. A licensee or permittee shall be deemed to have furnished a surety bond when the licensee or permittee has:

a. ~~filed~~ Filed with the division a form prescribed by the division containing the following: the name of the bond provider; the city and state where the bond provider is located; the bond number, the names of the principal, and the city and state where the principal is located; the amount of the bond; the type of license or permit guaranteed by the bond; the effective date of the bond; signatures of the principal and the bond provider; and any other information the administrator of the division may require;
or

b. Met this requirement by any other method deemed acceptable by the administrator of the division or a designee.

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5.9(5) to 5.9(7) No change.

This rule is intended to implement Iowa Code sections 123.30, 123.50, 123.127, and 123.175, ~~and 123.187~~.

ITEM 42. Amend subrule 8.2(4) as follows:

8.2(4) *Special order.* Products that are not currently listed for sale by the division may be purchased through a special order placed with the supplier of the product.

a. A request for a special order will be placed with the division by a class “E” ~~liquor control~~ retail alcohol licensee. Special order requests shall be submitted electronically or in a manner prescribed by the administrator or the administrator’s designee. The administrator, or the administrator’s designee, may reject a special order request if it is determined that the requested product is in violation of the requirements set out in subparagraphs 8.3(3) “a”(1) and 8.3(3) “a”(2).

b. No change.

c. All special order products shall be sold and distributed by the division to class “E” ~~liquor control~~ retail alcohol licensees by the case only.

d. Special order products are not eligible for return to the division by a class “E” ~~liquor control~~ retail alcohol licensee without approval from the administrator or the administrator’s designee.

ITEM 43. Amend subrule 8.2(7) as follows:

8.2(7) *Quantity limitations.* Quantities of listed products available for purchase by class “E” ~~liquor control~~ retail alcohol licensees may be limited at the administrator’s, or the administrator’s designee’s, discretion.

ITEM 44. Amend subrule 8.6(3) as follows:

8.6(3) *Price lists.* The division shall publish a price list electronically on a monthly basis showing the price to be paid by class “E” ~~liquor control~~ retail alcohol licensees for each brand, variety, and category of product available for sale by the division. The price list shall be published on the division’s website at shop.iowaabd.com and may be distributed to class “E” ~~liquor control~~ retail alcohol licensees as deemed necessary by the administrator or the administrator’s designee.

ITEM 45. Amend rule 185—8.8(123) as follows:

185—8.8(123) *Barrel programs.* A supplier may offer a barrel program, allowing a class “E” ~~liquor control~~ retail alcohol licensee to purchase the bottled contents of a barrel-aged product along with the aging barrel.

8.8(1) Barrel programs shall be uniformly offered to all class “E” ~~liquor control~~ retail alcohol licensees.

8.8(2) and 8.8(3) No change.

8.8(4) Products purchased as part of a barrel program shall be sold and delivered to the individual class “E” ~~liquor control~~ retail alcohol licensee that placed the special order. Barrel program special orders and products shall not be split between two or more class “E” ~~liquor control~~ retail alcohol licensees.

8.8(5) and 8.8(6) No change.

ITEM 46. Rescind and reserve **185—Chapter 17**.

ITEM 47. Amend 185—Chapter 18, introductory paragraph, as follows:

CHAPTER 18 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The alcoholic beverages division hereby adopts, with the following exceptions and amendments, rules of the Governor’s Task Force on Uniform Rules of on Agency Procedure relating to public records and fair information practices, which are ~~printed in the first Volume of the Iowa Administrative Code~~ published at www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf on the general assembly’s website.

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

ITEM 48. Amend subparagraph **18.10(2)“g”(2)** as follows:

(2) Information collected and maintained on licensees' ~~and permittees'~~ dramshop liability insurance.

ITEM 49. Amend rule 185—18.14(123,22) as follows:

185—18.14(123,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule ~~185—18.1~~(123,22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

18.14(1) Licensing records. Licensing records include, but are not limited to, information identifying ownership, location, form of business entity and statements concerning eligibility of applicants to hold ~~liquor~~ retail alcohol licenses and permits. These records are collected and maintained pursuant to Iowa Code sections ~~423.19~~ 123.23, 123.29, 123.30, 123.33, 123.42, ~~423.56~~ 123.49, 123.124, 123.125, 123.127 ~~to 423.129~~, 123.135, 123.173, 123.175, 123.176, and 123.180. Licensing records are stored on microfiche, in an automated data processing system, and in extant form. The information stored in the automated data system does not match, collate or permit comparison with other data processing systems. The information contained in licensing records is public information.

18.14(2) and 18.14(3) No change.

18.14(4) Purchase orders, invoices, account numbers and personal identification numbers. Purchase orders and invoices include, but are not limited to, records of purchases of alcoholic liquor made by ~~Class class “E” liquor control~~ retail alcohol licensees from the agency and related shipping and transmittal documents. Account numbers and personal identification numbers identify individual ~~Class class “E” liquor control~~ retail alcohol licensees and provide the agency with a method of filling orders, shipping and obtaining payment for liquor from telephone orders by ~~Class class “E” liquor control~~ retail alcohol licensees. These records are collected and maintained pursuant to Iowa Code sections 123.16, 123.24 and 123.30. Purchase orders are stored in extant form and in automated data processing systems. The automated data processing systems used to store these records do not match, collate, or permit comparison with other data processing systems except to the extent that such records may be used by warehouse personnel for inventory control, movement of alcoholic liquor within the warehouse, and filling and shipping orders to ~~Class class “E” liquor control~~ retail alcohol licensees. The information contained in these records which identifies purchases made by individual ~~Class class “E” liquor control~~ licenses retail alcohol licensees is confidential pursuant to Iowa Code section 22.7.

18.14(5) Bailment shipments. Records of bailment shipments include, but are not limited to, information derived from suppliers concerning shipments of alcoholic liquor into the state warehouse facility, information generated internally concerning alcoholic liquor received from suppliers, information generated by the agency for accounting purposes concerning liquor purchases from suppliers, and information generated by the agency for purposes of inventory control. Records of bailment shipments may contain personally identifiable information on ~~Class class “E” liquor control~~ retail alcohol licensees, and to the extent that such record contains information on purchases of liquor by individual ~~Class class “E” liquor control~~ retail alcohol licensees, the record is confidential. These records are collected and maintained pursuant to Iowa Code section 123.30. Records of bailment shipments are stored in extant form and in automated data processing systems. The method of storage does not match, collate, or permit comparison with other data processing systems, except that comparisons may be made for purposes of agency tracking or auditing liquor inventory.

18.14(6) and 18.14(7) No change.

18.14(8) Inspections and audits of licensees' books and records. Inspections and audits of licensees' books and records contain personally identifiable information relating to the operation of licensed establishments and beer and wine wholesalers' operations. These records are collected and maintained pursuant to Iowa Code sections 123.33; and 123.138; ~~and 123.185~~. These records are stored in extant

ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

form, and the manner of storage does not permit comparison with automated data processing systems. The information is public information, except to the extent that the records concerning purchases of liquor made by ~~Class class~~ "E" ~~liquor control~~ retail alcohol licensees from the agency are confidential. To the extent that these records may be used in anticipation of formal administrative proceedings, criminal or civil proceedings against a licensee or permittee, this chapter does not apply to these records.

18.14(9) and **18.14(10)** No change.

ARC 7048C

PHARMACY BOARD[657]

Notice of Intended Action

**Proposing rulemaking related to controlled substances
and providing an opportunity for public comment**

The Board of Pharmacy hereby proposes to amend Chapter 10, "Controlled Substances," and Chapter 12, "Precursor Substances," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 124.201 and 124B.2(2).

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 124.201 and 124B.2(2).

Purpose and Summary

This proposed rulemaking temporarily adds one List 1 chemical (a substance used to manufacture illicit fentanyl) to the list of precursor substances in Iowa Code chapter 124B and one hallucinogen to Schedule I of the Controlled Substances Act in response to similar action taken by the federal Drug Enforcement Administration.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by the Board no later than 4:30 p.m. on August 15, 2023. Comments should be directed to:

Sue Mears
Board of Pharmacy
400 S.W. 8th Street, Suite E
Des Moines, Iowa 50309
Email: sue.mears@iowa.gov

PHARMACY BOARD[657](cont'd)

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Amend subrule 10.39(6) as follows:

10.39(6) Amend Iowa Code section 124.204(4) by adding the following new ~~paragraph~~ paragraphs:

cl. No change.

cm. 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)butan-1-one. Other names: eutylone, bk-EBDB.

ITEM 2. Amend subrule 12.1(1) as follows:

12.1(1) Amend Iowa Code section 124B.2(1) by adding the following new paragraphs:

ah. and *ai.* No change.

aj. 4-piperidone (piperidin-4-one), its acetals, its amides, its carbamates, its salts, and salts of its acetals, its amides, and its carbamates, and any combination thereof, whenever the existence of such is possible.

ARC 7050C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rulemaking related to capital gain deduction, farm tenancy income, and exclusion and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 302, “Determination of Net Income,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 421.14, 422.7(13), 422.7(14) and 422.68.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2022 Iowa Acts, House File 2317.

Purpose and Summary

The purpose of this proposed rulemaking is to implement the deductions for farm tenancy agreement income and farm capital gains enacted by 2022 Iowa Acts, House File 2317, divisions II and III. The legislation repealed the previous Iowa capital gain deduction for gains resulting from the sale of a business, the sale of real property used in a business, the sale of timber, and the sale of employer securities to an Iowa employee stock ownership plan. The legislation provided a capital gain deduction for taxpayers who have held real property used in a farming business for ten years and who have materially participated in a farming business for ten years. The legislation also provided an election for retired farmers and eligible individuals to elect to deduct capital gains from the sale of cattle or horses,

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breeding livestock, and real property used in a farming business or to deduct income from a farm tenancy agreement covering real property. These deductions are effective for tax years beginning on or after January 1, 2023. This rulemaking also rescinds and replaces the rule for capital gains according to the law prior to the legislation.

Fiscal Impact

This rulemaking has no known fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement. The final Fiscal Note for 2022 Iowa Acts, House File 2317, found that division II is projected to reduce the General Fund revenue by \$2.1 million for fiscal year 2024, \$2.0 million for fiscal year 2025, \$1.8 million for fiscal year 2026, \$1.5 million for fiscal year 2027, \$1.6 million for fiscal year 2028, and increasing each year at the rate of inflation for fiscal years beyond. The final Fiscal Note for 2022 Iowa Acts, House File 2317, found that division III is projected to reduce the General Fund revenue by \$7.2 million for fiscal year 2024, \$6.9 million for fiscal year 2025, \$6.1 million for fiscal year 2026, \$5.4 million for fiscal year 2027, \$5.7 million for fiscal year 2028, and increasing each year at the rate of inflation for fiscal years beyond.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on August 25, 2023. Comments should be directed to:

Kurt Konek
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.587.0440
Email: kurt.konek@iowa.gov

Public Hearing

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

August 17, 2023
2 to 3 p.m.

Via video/conference call

Persons who wish to participate in the video/conference call should contact Kurt Konek before 4:30 p.m. on August 16, 2023, to facilitate an orderly hearing. A video link and conference call number will be provided to participants prior to the hearing.

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

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.

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Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Rescind and reserve rule **701—302.38(422)**.

ITEM 2. Adopt the following **new** rule 701—302.87(422):

701—302.87(422) Capital gain deduction for certain types of net capital gains. Information relating to the Iowa capital gain deduction available for tax years prior to January 1, 2023, can be found in prior versions of rule 701—302.38(422). Prior versions of the Iowa Administrative Code are located here: www.legis.iowa.gov/law/administrativeRules/agencies. For tax years beginning on or after January 1, 2023, net capital gains from the sale of real property used in a farming business and the sale of certain livestock described in subrules 302.87(5) and 302.87(6) may be excluded in the computation of net income for qualified individual taxpayers. To exclude qualifying capital gains, a taxpayer has to meet certain holding period and material participation requirements, unless otherwise indicated in this rule.

302.87(1) Definitions. Unless otherwise indicated in this rule or required by the context, all words and phrases used in this rule that are defined under Iowa Code section 422.7(13) shall have the same meaning as provided to them under that Iowa Code section.

302.87(2) Material participation. If the taxpayer has regular, continuous, and substantial involvement in the operations of a farming business that meets the criteria for material participation in an activity under Section 469(h) of the Internal Revenue Code and the federal tax regulations for material participation in 26 CFR Sections 1.469-5 and 1.469-5T for the applicable number of years required under Iowa law for the deduction, the taxpayer has met the material participation requirement. Section 469(h)(3) of the Internal Revenue Code does not apply when determining material participation for the purposes of this rule.

a. Work done in connection with an activity is not participation in the activity if the work is not of a type that is customarily done by an owner and one of the principal purposes for the performance of the work is to avoid the disallowance of any loss or credit from the activity.

b. Work done in an activity by an individual in the individual's capacity as an investor is not material participation in the business or activity unless the investor is directly involved in the day-to-day management or operations of the activity or business. Investor-type activities include the study and review of financial statements or reports on operations of the activity, preparing or compiling summaries or analyses of finances or operations of the activity for the individual's own use, and monitoring the finances or operations of the activity in a nonmanagerial capacity.

c. A highly relevant factor in material participation in a business is how regularly the taxpayer is present at the place where the principal operations of a business are conducted. In addition, a taxpayer is likely to have material participation in a business if the taxpayer performs all functions of the business. The fact that the taxpayer utilizes employees or contracts for services to perform daily functions in a business will not prevent the taxpayer from qualifying as materially participating in the business, but the services will not be attributed to the taxpayer.

d. In determining whether a particular taxpayer has material participation in a business, participation of the taxpayer's spouse in a business must also be taken into account. Activity done by a taxpayer's spouse is considered activity done by the taxpayer. The spouse's participation in the business must be taken into account even if the spouse does not file a joint state return with the taxpayer or if the spouse has no ownership interest in the business. The activities of other family members, employees, or consultants are not attributed to the taxpayer to determine material participation.

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e. Generally, an individual will be considered as materially participating in a tax year if the taxpayer satisfies or meets any of the following tests:

- (1) The individual participates in the farming business for more than 500 hours in the taxable year.
- (2) The individual's participation in the farming business constitutes substantially all of the participation of all individuals in the business (including individuals who are not owners of interests in the business) for the tax year.

EXAMPLE: Taxpayer A is a teacher in a small town in southeast Iowa. Taxpayer A owns 20 acres of farmland. Taxpayer A grows various crops on this land and is the only one who works on the farm. In the summer of 2023, there was a drought killing most of Taxpayer A's crops so Taxpayer A spent only 80 hours in 2023 growing crops. Taxpayer A is deemed to have materially participated in the farming business in 2023.

(3) The individual participates in the farming business for more than 100 hours in the tax year, and no other individual (including individuals who are not owners of interests in the business) participates more in the business than the taxpayer during the tax year.

(4) The individual participates in two or more businesses, excluding rental businesses, in the tax year and participates for more than 500 hours in all of the businesses and more than 100 hours in each of the businesses, and the participation is not material participation within the meaning of one of the tests in subparagraphs 302.87(2) "e"(1) through (3), (5) and (6).

EXAMPLE: Taxpayer B is a full-time CPA. Taxpayer B owns a restaurant and a farm. In 2023, Taxpayer B spent 400 hours working on the farm and 150 hours at the restaurant, and other individuals spent more time in the business activity than Taxpayer B did. Taxpayer B is treated as a material participant in each of the businesses in 2023.

(5) The individual materially participated (determined without regard to this subparagraph) in a farming business for five of the ten years preceding the applicable tax year.

EXAMPLE: Taxpayer C is the co-owner of a farming business. Taxpayer C stopped farming in 2018 after 15 years of farming. Since Taxpayer C stopped farming, Taxpayer C has retained interest in the farming business. Taxpayer C is considered to be materially participating in the business through 2023, i.e., five years after the year of no longer farming.

(6) The individual participates in the business activity for more than 100 hours and, based on all the facts and circumstances, the individual participates on a regular, continuous, and substantial basis. Management activities of a taxpayer are not considered for purposes of determining if there was material participation if either of the following applies: any person other than the taxpayer is compensated for management services or any person provides more hours of management services than the taxpayer.

f. The following paragraphs provide additional information regarding material participation:

(1) Limited partners of a limited partnership. The limited partners will not be treated as materially participating in any activity of a limited partnership except in a situation where the limited partner would be treated as materially participating under the material participation tests in subparagraphs 302.87(2) "e"(1) or 302.87(2) "e"(5) above if the taxpayer were not a limited partner for the tax year.

(2) Cash farm lease. A farmer who rents out farmland on a cash basis as the only activity in the farming business will generally not be considered to be materially participating in the farming activity. The burden is on the farmer landlord to show that the farmer landlord materially participated in the cash-rent farm activity.

(3) Farmer landlord involved in crop-share arrangement. A farmer landlord is subject to self-employment tax on net income from a crop-share arrangement with a tenant. The landlord is considered to be materially participating with the tenant in the crop-share activity if the landlord meets one of the four following tests:

TEST 1: The landlord does any three of the following: (1) pays or is obligated to pay for at least half the direct costs of producing the crop; (2) furnishes at least half the tools, equipment, and livestock used in producing the crop; (3) consults with the tenant; and (4) inspects the production activities periodically.

TEST 2: The landlord regularly and frequently makes, or takes part in making, management decisions substantially contributing to or affecting the success of the enterprise.

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TEST 3: The landlord worked 100 hours or more spread over a period of five weeks or more in activities connected with crop production.

TEST 4: The landlord has done tasks or performed duties which, considered in their total effect, show that the landlord was materially and significantly involved in the production of the farm commodities.

(4) Conservation reserve program (CRP) payments. Farmers entering into long-term contracts providing for less intensive use of highly erodible or other specified cropland can receive compensation for conversion of such land in the form of an annualized rental payment. Although the CRP payments are referred to as rental payments, the payments are considered to be receipts from farm operations and not rental payments from real estate. If an individual is receiving CRP payments and is not considered to be retired from farming, the CRP payments are subject to self-employment tax. If individuals actively manage farmland placed in the CRP program by directly participating in seeding, mowing, and planting the farmland or by overseeing these activities and the individual is paying self-employment tax, the owner will be considered to be materially participating in the farming activity. However, if an individual's only activity in the farming business is participation in a conservation reserve program, then that activity will not be considered when determining if the individual is a retired farmer.

(5) Recordkeeping requirements. Taxpayers are required to provide proof of services performed and the hours attributable to those services. Detailed records should be maintained by the taxpayer, on as close to a daily basis as possible at or near the time of the performance of the activity, to verify that the material participation test has been met. However, material participation can be established by any other reasonable means, such as approximating the number of hours based on appointment books, calendars, or narrative summaries. Records prepared long after the activity, in preparation of an audit or proceeding, are insufficient to establish participation in an activity.

302.87(3) Lifetime election. A retired farmer may make a single lifetime election on a form prescribed by the department to exclude all qualifying capital gains from the sale of real property used in a farming business and the sale of certain livestock described in subrules 302.87(5) and 302.87(6). If a retired farmer makes the election described in this subrule, the retired farmer is not eligible to make the election to exclude the net income received pursuant to a farm tenancy agreement covering real property under Iowa Code section 422.7(14) and rule 701—302.88(422) or claim the beginning farmer tax credit under Iowa Code section 422.11E in the same tax year or any subsequent tax year. The election is irrevocable once made.

a. Beginning farmer tax credit. A retired farmer may not utilize an unclaimed amount of a beginning farmer tax credit in the same tax year they are making an election described in this subrule or in subrule 302.88(3) or in any subsequent tax year.

b. Surviving spouses. A surviving spouse of a deceased retired farmer may be eligible to make the election described in this subrule or the election described in subrule 302.88(3) or exclude the qualifying income pursuant to the election made by the retired farmer prior to death.

(1) A surviving spouse of a deceased retired farmer may make the election described in this subrule or the election described in subrule 302.88(3) on behalf of the deceased retired farmer that the retired farmer would have been eligible to make prior to death.

EXAMPLE 1: Farmer A, a retired farmer, owned real property used in a farming business, Plot 1. Farmer A was married to Spouse B. Farmer A sold Plot 1 which generated a capital gain. Farmer A died later that tax year. Farmer A qualified to make an election to exclude qualifying capital gains from the calculation of net income prior to death but did not make an election before death. Spouse B can make an election on behalf of Farmer A on the final tax return.

(2) If a retired farmer made the election described in this subrule or the election described in subrule 302.88(3) prior to death, the surviving spouse of the deceased retired farmer may exclude the qualifying income pursuant to the election made by the retired farmer prior to death. A surviving spouse cannot change the election the deceased retired farmer made. Any election made by the retired farmer prior to death is binding on all real property used in a farming business owned by the retired farmer at the time of death. This election is only binding on the retired farmer and the surviving spouse.

EXAMPLE 2: Farmer C, a retired farmer, owned real property used in a farming business, Plot 2. Farmer C was married to Spouse D. Farmer C met the material participation and holding period

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requirements. Farmer C made the election to exclude net income from a farm tenancy agreement described in subrule 302.88(3) from Plot 2. Farmer C then died. Spouse D inherited Plot 2 from Farmer C. Spouse D does not qualify to make an election. Spouse D may exclude net income from a farm tenancy agreement from Plot 2 pursuant to the election Farmer C made before death. Spouse D may not change the election to exclude qualifying capital gains or claim the beginning farmer tax credit.

EXAMPLE 3: Farmer E, a retired farmer, owned real property used in a farming business, Plot 3, Plot 4, and Plot 5. Farmer E was married to Spouse F. Farmer E met the holding period for all plots and material participation requirements. Farmer E sold Plot 3 which generated a capital gain. Farmer E made an election to exclude the capital gain. Farmer E then died. Spouse F inherited Plot 4 and Plot 5 from Farmer E. Plot 4 and Plot 5 are bound by the election Farmer E made before death. Spouse F is eligible to exclude the capital gain from the sale of Plot 4 and Plot 5 pursuant to the election Farmer E made. Spouse F may not change the election to exclude net income from a farm tenancy agreement or the beginning farmer tax credit on Plot 4 and Plot 5.

EXAMPLE 4: Farmer G, a retired farmer, owned real property used in a farming business, Plot 6 and Plot 7. Farmer G was married to Spouse H. Farmer G met the holding period and material participation requirements. Farmer G made the election to exclude net income from a farm tenancy agreement described in subrule 302.88(3) from Plot 6 and Plot 7. Farmer G then died. Spouse H inherited Plot 6 and Plot 7. Spouse H is bound by the election made by Farmer G on Plot 6 and Plot 7 and may exclude the net income from a farm tenancy agreement for those plots. Spouse H gets remarried to a new spouse, Spouse J. Spouse H then dies. Spouse J inherits Plot 6 and Plot 7 from Spouse H. Spouse J is not a surviving spouse of a retired farmer and is not bound by the election Farmer G originally made on Plot 6 and Plot 7. Spouse J may make an election described in this subrule or described in subrule 302.88(3) on Plot 6 and Plot 7 if Spouse J meets the eligibility criteria.

(3) A surviving spouse of a deceased retired farmer may disclaim the election made by the retired farmer. If a surviving spouse of a deceased retired farmer makes this disclaimer, the surviving spouse is not eligible to deduct qualifying income pursuant to an election made by the retired farmer prior to death. A surviving spouse of a deceased retired farmer shall make this disclaimer on a form prescribed by the department and file the form with the surviving spouse's income tax return. The surviving spouse may make the disclaimer in the tax year of the retired farmer's death or in the tax year immediately following. If the surviving spouse excluded income on the surviving spouse's return for the tax year of the retired farmer's death pursuant to the election the retired farmer made and wishes to disclaim the election, then the surviving spouse must amend the surviving spouse's return to include that income in Iowa net income and adjust tax liability accordingly. If no disclaimer is made by the due date, including extensions, of the surviving spouse's income tax return for the tax year immediately following the tax year of the retired farmer's death, then the surviving spouse is no longer eligible to make a disclaimer and is bound by the election the retired farmer made. The disclaimer is irrevocable once made.

EXAMPLE 5: Farmer K, a retired farmer, owned real property used in a farming business, Plot 8. Farmer K was married to Spouse L. Farmer K met the holding period and material participation requirements. Farmer K made the election to exclude net income from a farm tenancy agreement described in subrule 302.88(3) from Plot 8. Farmer K then died. Spouse L inherited Plot 8 from Farmer K. Spouse L independently qualifies as a retired farmer to make an election described in this subrule or the election described in subrule 302.88(3). Spouse L may exclude net income from a farm tenancy agreement from Plot 8 pursuant to the election Farmer K made before death, or Spouse L may disclaim that election and make Spouse L's own election because Spouse L qualifies as a retired farmer.

(4) A surviving spouse of a retired farmer may make a single lifetime election if the surviving spouse independently qualifies as a retired farmer.

c. Joint owners. A retired farmer may exclude income pursuant to the election described in this subrule or the election described in subrule 302.88(3) to the extent of the retired farmer's ownership interest in the real property.

(1) A retired farmer who owns real property used in a farming business jointly with a spouse and makes the election described in this subrule or the election described in subrule 302.88(3) may only exclude qualifying income from that real property to the extent of the retired farmer's ownership interest

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held in that real property. The retired farmer's ownership interest does not include the ownership interest of the retired farmer's spouse. If each spouse qualifies as a retired farmer, each spouse may make different elections on the property they jointly own to the extent of their respective ownership interests.

EXAMPLE 6: Farmer M and Farmer N, both retired farmers, are married and own Plot 9 jointly. They each have a 50 percent ownership interest in Plot 9. They both qualify to make the election to exclude qualifying capital gains or net income from a farm tenancy agreement. They file jointly for Iowa tax purposes. In 2023, Farmer M and Farmer N receive \$50,000 total in net income from a farm tenancy agreement covering Plot 9. Farmer M makes the election to exclude net income from a farm tenancy agreement. Farmer N does not make an election. Farmer M is eligible to exclude \$25,000, 50 percent of the net income from Plot 9, from net income. Farmer N must include \$25,000, 50 percent of the net income from the farm tenancy agreement, in net income. Farmer N is still eligible to make an election to exclude qualifying capital gains or net income from a farm tenancy agreement in a subsequent tax year.

EXAMPLE 7: Assume the same facts as Example 6 except Farmer N makes the same election to exclude net income from a farm tenancy agreement. On the jointly filed return, Farmer M and Farmer N can exclude from net income \$50,000, 100 percent of the net income from a farm tenancy agreement.

EXAMPLE 8: Assume the same facts as Example 6 except Farmer N does not qualify to make an election to exclude qualifying capital gains or net income from a farm tenancy agreement. Farmer M can exclude from net income \$25,000, 50 percent of the net income received from a farm tenancy agreement on Plot 9. Farmer N must include in net income \$25,000, 50 percent of the net income from the farm tenancy agreement on Plot 9.

(2) A retired farmer who owns real property used in a farming business jointly with someone who is not the retired farmer's spouse may only exclude qualifying income from that real property to the extent of the retired farmer's ownership interest held in the real property.

EXAMPLE 9: Farmer O, a retired farmer, owns Plot 10 jointly with Farmer P. Farmer O and Farmer P are not taxed as a partnership. Farmer O has a 60 percent ownership interest in Plot 10, while Farmer P has a 40 percent ownership interest. Farmer O qualifies to make an election to exclude qualifying capital gains or net income from a farm tenancy agreement. Farmer P does not. Farmer O and Farmer P sell Plot 10 for a capital gain of \$100,000. Farmer O elects to exclude the capital gain. Farmer O may exclude from net income \$60,000, 60 percent of the capital gain. Farmer P is required to include \$40,000 in net income, 40 percent of the capital gain.

302.87(4) *Net capital gains from the sale of real property used in a farming business.* Net capital gains from the sale of real property used in a farming business may be excluded from the owner's Iowa net income if the owner held the real property used in a farming business for ten or more years and materially participated in a farming business for at least ten years. If the taxpayer is a retired farmer, the taxpayer must make the election described in subrule 302.87(3) to exclude qualifying capital gains. It is not required that the property be located in Iowa for the owner to qualify for the deduction.

a. Material participation means the same as "materially participated" as defined in Iowa Code section 422.7(13) and described in detail in subrule 302.87(2). If the taxpayer is a retired farmer and materially participated in a farming business for ten or more years in the aggregate, then the taxpayer will meet the material participation requirements. When determining whether a taxpayer is no longer materially participating to meet the definition of a retired farmer, the material participation test in subparagraph 302.87(2) "e"(5) shall not apply and the participation of the spouse of the taxpayer does not count as participation by the taxpayer.

b. If the taxpayer has held the real property used in a farming business and sells the property to a relative of the taxpayer, the net capital gain from the sale may be excluded from net income regardless of whether the taxpayer met the material participation or holding period requirements.

c. In situations in which real property was sold by a partnership, S corporation, limited liability company, estate, or trust and the capital gain from the sale of the real property flows through to the owners of the business entity for federal income tax purposes, the owners may exclude the capital gain from their net incomes if the real property was held for ten or more years and the owners had materially participated in the farming business for ten years prior to the date of sale of the real property, or ten years in the aggregate if the owner is a retired farmer. If the farming business changed entity type during

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the ten-year period before the sale, the owner is allowed to exclude the net capital gain from the sale of the real property used in the farming business provided the owner meets the material participation and holding period requirements.

d. Installments received in the tax year from installment sales of real property used in a farming business are eligible for the exclusion of capital gains from net income if all relevant criteria were met at the time of the installment sale.

EXAMPLE: A taxpayer received an installment payment in 2025 from the sale of real property used in a farming business that occurred in 2023. The installment received in 2025 would qualify for the exclusion if the taxpayer had held the real property for a minimum of ten years and had materially participated in the farming business for a minimum of ten years at the time of the sale in 2023.

e. Capital gains from the sale of real property by a C corporation do not qualify for the capital gain deduction.

f. The following noninclusive examples illustrate how this subrule applies:

EXAMPLE 1: S corporation, X, owned 1,000 acres of farmland. Taxpayer A is the sole shareholder of X and had materially participated in X for more than ten years at the time that X sold 500 acres of the farmland for a capital gain of \$100,000. X owned the farmland for more than ten years at the time of the sale. The capital gain recognized by X that passed through to Taxpayer A as the shareholder of X can be excluded from Iowa net income because Taxpayer A met the material participation and holding period requirements.

EXAMPLE 2: Taxpayer B and Taxpayer C are brothers who both owned 50 percent of the stock in an S corporation, Y, that owned 1,000 acres of farmland. Taxpayer B managed all the farming operations for Y from the time Y was formed in 2010. Taxpayer C did not participate in the farming operations. Y sold 200 acres of the farmland to another brother, Taxpayer D, for a \$50,000 gain. \$25,000 of the capital gain passed through to Taxpayer B, and \$25,000 of the capital gain passed through to Taxpayer C. Both Taxpayer B and Taxpayer C had owned the corporation for at least ten years at the time the land was sold, but only Taxpayer B had materially participated in the corporation for at least ten years. Taxpayer B may exclude the \$25,000 capital gain from the land sale because he met the time held and material participation requirements. Taxpayer C may exclude the \$25,000 capital gain because the land was sold to a relative of Taxpayer C.

EXAMPLE 3: Taxpayer E owned and materially participated in a farming business for 15 years and raised row crops. There were 500 acres of land in the farming business, 300 acres had been held for 15 years, and 200 acres had been held for five years. Taxpayer E sold the 500 acres of land. Taxpayer E may not exclude the capital gain from the sale of the 200 acres that had only been held for five years. Taxpayer E may exclude the capital gain from the sale of the 300 acres of land that had been held for 15 years.

EXAMPLE 4: Taxpayer F owned and materially participated in a farming business for more than ten years. In this business, Taxpayer F farmed a neighbor's land on a crop-share basis throughout the period. Taxpayer F bought 80 acres of land and farmed that land for six years until Taxpayer F sold the land for a capital gain of \$20,000. Taxpayer F may not exclude the capital gain because the farmland had been held for less than ten years even though Taxpayer F operated the farming business for more than ten years.

EXAMPLE 5: Taxpayer G and Taxpayer H were partners in a partnership since 2008 that owned 80 acres of farmland. Taxpayer G and Taxpayer H are both over 55 years old. The land was sold in 2023 when Taxpayer G and Taxpayer H retired from farming. In all the years Taxpayer G and Taxpayer H were partners in the partnership, Taxpayer G materially participated in the farming business. Taxpayer H was a material participant for the years 2008-2013 and 2018-2023. Taxpayer G and Taxpayer H realized a capital gain of \$50,000 from the land sale, which was divided equally between them. Taxpayer G was able to exclude \$25,000 of the capital gain that Taxpayer G received from the sale since Taxpayer G had held the land and materially participated in the business for at least ten years at the time the land was sold. Taxpayer H was able to exclude \$25,000 of the capital gain because, although Taxpayer H had not materially participated in the business for ten consecutive years when the land was sold, Taxpayer H was a retired farmer and had materially participated in a farming business for ten years in the aggregate.

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EXAMPLE 6: Taxpayer J had a farming business that Taxpayer J owned and materially participated in for 20 years. There were two tracts of farmland in the farming business. Taxpayer J sold one tract of farmland in the farming business that Taxpayer J had held for more than ten years for a \$50,000 capital gain. The farmland was sold to a person who was not a relative. During the same year, Taxpayer J had \$30,000 in long-term capital losses from sales of stock. In this situation, the capital gains would not be applied against the capital losses. Because the capital losses are unrelated to the farming business, Taxpayer J does not have to reduce the Iowa capital gain deduction by the capital losses from the sales of stock.

EXAMPLE 7: Taxpayer K had owned farmland, Plot A, and had materially participated in a farming business since 2010. In 2018, Taxpayer K entered into a like-kind exchange under Section 1031 of the Internal Revenue Code for farmland, Plot B. Taxpayer K continued to materially participate in the farming business. Plot B was sold in 2023, resulting in a capital gain. Under Section 1223 of the Internal Revenue Code, the holding period for the capital gain starts in 2010. Taxpayer K held Plot B for less than ten years, but because Taxpayer K met the ten-year holding period requirement under Section 1223, the capital gain from the sale qualifies for the Iowa capital gain deduction.

EXAMPLE 8: Taxpayer L and Taxpayer M, a married couple, owned farmland in Iowa since 1995. Taxpayer L died in 2010 and, under Taxpayer L's will, Taxpayer M acquired a life interest in the farm. The farmland was managed by their child, Taxpayer N, after Taxpayer L's death. Taxpayer N had a remainder interest. Taxpayer M died in 2018, and Taxpayer N continued to materially participate and manage the farm operation. Taxpayer N sold the farmland in 2023 and reported a capital gain. Under Section 1223 of the Internal Revenue Code, the holding period for the capital gain starts in 2010, when Taxpayer L died. Because the holding period for the capital gain was ten years or more, and Taxpayer N met the material participation requirement, Taxpayer N can deduct the capital gain.

302.87(5) *Net capital gains from sales of cattle or horses used for certain purposes and held for 24 months by taxpayers who are retired farmers.* Net capital gains from the sales of cattle or horses held for 24 months or more for draft, breeding, dairy, or sporting purposes may be excluded from the taxpayer's Iowa net income if the taxpayer is a retired farmer. The retired farmer must have materially participated in a farming business for five of the eight years preceding the retired farmer's retirement or disability and must have sold all or substantially all of the retired farmer's interest in the farming business by the time the election is made. For purposes of this subrule and subrule 302.87(6), "substantially all" means 90 percent of the interest in the farming business.

a. Material participation means the same as "materially participated" as defined in Iowa Code section 422.7(13) and described in detail in subrule 302.87(2). When determining whether a taxpayer is no longer materially participating to meet the definition of a retired farmer, the material participation test in subparagraph 302.87(2) "e"(5) shall not apply and the participation of the spouse of the taxpayer does not count as participation by the taxpayer.

b. Whether cattle or horses sold by the taxpayer after the taxpayer has held them 24 months or more were held for draft, breeding, dairy, or sporting purposes may be determined from federal court cases on such sales and the standards and examples included in 26 CFR Section 1.1231-2. Proper records should be kept showing purchase and birth dates of cattle and horses. The absence of records may make it impossible for the owner to show that the owner held a particular animal for the necessary holding period. Whether cattle or horses are held for draft, breeding, dairy, or sporting purposes depends on all the facts and circumstances of each case.

c. Capital gains from sales of qualifying cattle or horses by an S corporation, partnership, or limited liability company, where the capital gains flow through to the owners of the respective business entity for federal income tax purposes, qualify for the capital gain deduction to the extent the owners receiving the capital gains are retired farmers who meet all the relevant criteria.

d. Capital gains from sales of qualifying cattle or horses by a C corporation are not eligible for the capital gain deduction.

302.87(6) *Net capital gains from sale of breeding livestock, other than cattle or horses, held for 12 or more months by taxpayers who are retired farmers.* Net capital gains from the sale of breeding livestock, other than cattle or horses, held for 12 or more months may be excluded from the taxpayer's

REVENUE DEPARTMENT[701](cont'd)

Iowa net income if the taxpayer is a retired farmer. The retired farmer must have materially participated in a farming business for five of the eight years preceding the retired farmer's retirement or disability and must have sold all or substantially all of the retired farmer's interest in the farming business by the time the election is made.

a. Material participation means the same as "materially participated" as defined in Iowa Code section 422.7(13) and described in detail in subrule 302.87(2). When determining whether a taxpayer is no longer materially participating to meet the definition of a retired farmer, the material participation test in subparagraph 302.87(2) "e"(5) shall not apply and the participation of the spouse of the taxpayer does not count as participation by the taxpayer.

b. If livestock other than cattle or horses is considered to have been held for breeding purposes under the criteria established in 26 CFR Section 1.1231-2, the livestock will also be deemed to have been breeding livestock for purposes of this rule. Proper records should be kept showing purchase and birth dates of breeding livestock. The absence of records may make it impossible for the owner to show that the owner held a particular animal for the necessary holding period. Whether livestock are held for breeding purposes depends on all the facts and circumstances of each case.

c. Capital gains from sales of qualifying livestock other than cattle or horses by an S corporation, partnership, or limited liability company, where the capital gains flow through to the owners of the respective business entity for federal income tax purposes, qualify for the capital gain deduction to the extent the owners receiving the capital gains are retired farmers who meet all the relevant criteria.

d. Capital gains from the sale of breeding livestock other than cattle or horses by a C corporation are not eligible for the capital gain deduction.

302.87(7) *Installments from sales consummated before January 1, 2023.* Installments from sales that were consummated before January 1, 2023, that result in net capital gains qualify for the capital gain deduction if the requirements of Iowa Code section 422.7(21) and rule 701—302.38(422) were met at the time the sale was consummated.

This rule is intended to implement Iowa Code section 422.7(13).

ITEM 3. Adopt the following **new** rule 701—302.88(422):

701—302.88(422) Net income from a farm tenancy agreement covering real property. An eligible individual may elect to exclude net income from a farm tenancy agreement covering real property held by the individual for ten or more years from the computation of net income, if the eligible individual materially participated in a farming business for ten or more years.

302.88(1) Definitions. Unless otherwise indicated in this rule or required by the context, all words and phrases used in this rule that are defined under Iowa Code section 422.7(14) shall have the same meaning as provided to them under that Iowa Code section.

"Held" shall be determined with reference to the holding period provisions of Section 1223 of the Internal Revenue Code and the federal regulations pursuant thereto.

302.88(2) Material participation. Material participation for the purposes of this rule is determined pursuant to subrule 302.87(2) and the definition of "materially participated" in Iowa Code section 422.7(14). An eligible individual meets the material participation requirements if the individual materially participated in a farming business for ten years or more in the aggregate. When determining whether an eligible individual has stopped materially participating, the material participation test in subparagraph 302.87(2) "e"(5) shall not apply.

302.88(3) Lifetime election. An eligible individual may make a single lifetime election on a form prescribed by the department to exclude net income pursuant to a farm tenancy agreement covering real property. If an eligible individual makes the election described in this subrule, the eligible individual is not eligible to make an election to exclude the capital gain from the sale of real property used in a farming business or certain livestock under Iowa Code section 422.7(13) and rule 701—302.87(422) or claim the beginning farmer tax credit under Iowa Code section 422.11E in the same tax year or any subsequent tax year. The election is irrevocable once made.

REVENUE DEPARTMENT[701](cont'd)

a. Beginning farmer tax credit. A retired farmer may not utilize an unclaimed amount of a beginning farmer tax credit in the same tax year the retired farmer is making an election described in this subrule or in subrule 302.87(3) or in any subsequent tax year.

b. Surviving spouses. A surviving spouse of a deceased eligible individual may make the election described in this subrule or the election described in subrule 302.87(3) subject to the provisions of subrule 302.87(3). For purposes of this subrule, “retired farmer” as used in subrule 302.87(3) has the same meaning as “eligible individual.”

c. Joint owners. An eligible individual may exclude income pursuant to the election described in this subrule or the election described in subrule 302.87(3) to the extent of the eligible individual’s ownership interest in the real property subject to the provisions of subrule 302.87(3). For purposes of this subrule, “retired farmer” as used in subrule 302.87(3) has the same meaning as “eligible individual.”

302.88(4) Amount of exclusion. An eligible individual that has made the election described in subrule 302.88(3) may exclude the amount of net income received from a farm tenancy agreement covering real property. An eligible individual may exclude net income from any qualifying farm tenancy agreement covering real property if the holding period requirements are met with respect to the real property in question, including agreements that are entered into after the single lifetime election is made. The amount of the exclusion cannot exceed the fair profits which would normally arise from a farm tenancy agreement between two parties operating at arm’s length.

This rule is intended to implement Iowa Code section 422.7(14).

ARC 7051C

REVENUE DEPARTMENT[701]

Notice of Intended Action

**Proposing rulemaking related to capital gain exclusion
and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 302, “Determination of Net Income,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 421.14 and 422.68.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 422.7.

Purpose and Summary

Pursuant to Part IV of Executive Order 10, the Department was directed to propose this Notice of Intended Action to implement, in part, 2022 Iowa Acts, House File 2317. The Department proposes this rulemaking to provide guidance as to how and when an employee-owner may make an election to exclude capital gain from the sale of qualifying capital stock in a qualifying corporation. The legislation allowed employee-owners of a qualified corporation to exclude the capital gain from the sale of qualifying capital stock.

Fiscal Impact

This rulemaking has no known fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement. The Department projects that the stock capital gain income tax exclusion will reduce tax liability and General Fund revenue by the following amounts: FY 2024 = \$4.0 million; FY 2025 = \$7.6 million; FY 2026 = \$10.3 million; FY 2027 = \$9.0 million; FY 2028 = \$9.5 million. Fiscal impacts beyond FY 2028 are projected to continue, increasing each year at the rate of inflation.

Jobs Impact

REVENUE DEPARTMENT[701](cont'd)

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking 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 rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on August 15, 2023. Comments should be directed to:

Kurt Konek
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.587.0440
Email: kurt.konek@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 rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

ITEM 1. Adopt the following **new** rule 701—302.41(422):

701—302.41(422) Capital gain exclusion for elected employee-owned stock in a qualified corporation.

302.41(1) *In general.* Employee-owners may make a single, irrevocable lifetime election to exclude from net income the net capital gain from the sale or exchange of capital stock from a qualified corporation at the following rates:

- a. For tax years beginning in the 2023 calendar year, 33 percent.
- b. For tax years beginning in the 2024 calendar year, 66 percent.
- c. For tax years beginning on or after January 1, 2025, 100 percent.

302.41(2) *Definitions.* Unless otherwise indicated in this rule or required by the context, all words and phrases used in this rule that are defined under Iowa Code section 422.7(43) shall have the same meaning as provided to them under that Iowa Code section.

302.41(3) *Qualifying for the exclusion.* For the employee-owner’s sale or exchange to qualify for the exclusion in this rule, the capital stock must be acquired by the employee-owner while employed and on account of employment with a qualified corporation.

a. *While employed.* The capital stock must have been acquired while the employee-owner was employed by the qualifying corporation. Capital stock received as compensation is acquired by the

REVENUE DEPARTMENT[701](cont'd)

employee-owner while employed. Capital stock acquired from a stock right, stock warrant, or stock option is only acquired by the employee-owner while employed if such right, warrant, or option is exercised while the employee-owner is employed by the qualifying corporation.

b. On account of employment. For capital stock to have been acquired on account of employment, the employee-owner must have acquired the capital stock in a manner only available to employees of the qualified corporation. Capital stock acquired at formation in exchange for capital contribution is not acquired on account of employment.

c. Holding period. To qualify for the exclusion, the employee-owner must own the capital stock for at least ten cumulative years. If the employee-owner owns any capital stock in the qualified corporation for at least ten cumulative years, then every share of the employee-owner's capital stock in that qualified corporation is considered to meet the holding period requirement. For stock rights, stock warrants, or stock options, the holding period does not begin until the right, warrant, or option is exercised.

302.41(4) *Electing capital stock for exclusion.*

a. General rule. The employee-owner shall make the election to exclude capital gain from the sale of capital stock of a qualified corporation on a form prescribed by the department with the employee-owner's original Iowa income tax return for the tax year in which the election is made. The form shall be available on the department's website. To qualify for the exclusion, the employee-owner must include all information required by the form.

b. Election when sale or exchange takes place over multiple transactions. The election applies to all subsequent sales or exchanges of capital stock of the same qualified corporation of which the initial election was made, within 15 years of the date the election was made. The employee-owner shall include the form prescribed by the department with the employee-owner's Iowa income tax return when claiming the exclusion for a subsequent sale or exchange.

c. The election can only be made once. An employee-owner may only make one lifetime election to exclude the qualifying capital stock of a single qualifying corporation under this rule. The election is irrevocable once made.

302.41(5) *Election by a party other than the employee-owner.*

a. Election upon death of the employee-owner. If the employee-owner dies after having sold or exchanged qualifying capital stock without having made an election, the surviving spouse or, if there is no surviving spouse, the personal representative of the employee-owner's estate may make a qualifying election in the manner described in subrule 302.41(4) for the tax year in which the employee-owner died.

b. Inter vivos transfer of qualifying capital stock. After the election described in this rule has been made, the election applies to capital stock transferred from the employee-owner to the employee-owner's spouse as an inter vivos gift or to an inter vivos trust primarily for the benefit of the employee-owner's spouse. Capital stock transferred through a will or testamentary trust does not qualify for this exclusion. The election only applies if the spouse was married to the employee-owner on the date of the sale or exchange or the date of death of the employee-owner.

This rule is intended to implement Iowa Code section 422.7.

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:

USURY(cont'd)

| | |
|--|-------|
| August 1, 2022 — August 31, 2022 | 5.25% |
| September 1, 2022 — September 30, 2022 | 5.00% |
| October 1, 2022 — October 31, 2022 | 5.00% |
| November 1, 2022 — November 30, 2022 | 5.50% |
| December 1, 2022 — December 31, 2022 | 6.00% |
| January 1, 2023 — January 31, 2023 | 6.00% |
| February 1, 2023 — February 28, 2023 | 5.50% |
| March 1, 2023 — March 31, 2023 | 5.50% |
| April 1, 2023 — April 30, 2023 | 5.75% |
| May 1, 2023 — May 31, 2023 | 5.75% |
| June 1, 2023 — June 30, 2023 | 5.50% |
| July 1, 2023 — July 31, 2023 | 5.50% |
| August 1, 2023 — August 31, 2023 | 5.75% |

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 Roby Smith, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for July is 5.50%.

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 July 11, 2023, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TREASURER OF STATE[781](cont'd)

TIME DEPOSITS

| | |
|----------------------------|---------------|
| 7-31 days | Minimum .05% |
| 32-89 days | Minimum .05% |
| 90-179 days | Minimum 1.60% |
| 180-364 days | Minimum 1.45% |
| One year to 397 days | Minimum 1.50% |
| More than 397 days | Minimum 1.25% |

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 Roby Smith, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 7052C

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER ADMINISTRATION DIVISION[877]

Notice of Intended Action

Proposing rulemaking related to Iowa office of apprenticeship and providing an opportunity for public comment

The Workforce Development Board and Workforce Development Center Administration Division hereby proposes to adopt new Chapter 29, "Iowa Office of Apprenticeship," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in 2023 Iowa Acts, Senate File 318.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 84D as enacted by 2023 Iowa Acts, Senate File 318.

Purpose and Summary

This new chapter establishes rules and procedures for implementation and administration of the new Iowa Office of Apprenticeship pursuant to 2023 Iowa Acts, Senate File 318.

Fiscal Impact

2023 Iowa Acts, Senate File 318, was signed into law on May 10, 2023, establishing new Iowa Code chapter 84D. There is no immediate fiscal impact of creation and implementation of these rules; however, the Iowa Office of Apprenticeship will have costs associated with it over the next five years in terms of personnel and implementation costs. No estimate is available at this time because IWD continues to coordinate with the existing Office of Apprenticeship and U.S. Department of Labor to determine scope of responsibility and timing of transition of the program. IWD does not anticipate any additional fiscal impact in the current fiscal year and anticipates that there will be a request for a general appropriation in future legislative sessions as IWD is better able to determine the amount of staff and resources necessary to fully implement this program.

Jobs Impact

The proposed chapter is authorized by 2023 Iowa Acts, Senate File 318, which establishes the Iowa Office of Apprenticeship in Iowa Code chapter 84D. The proposed chapter is required to supplement Senate File 318 and bring the state law establishing a state apprenticeship agency (SAA)

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER
ADMINISTRATION DIVISION[877](cont'd)

into conformity with U.S. Department of Labor requirements pursuant to 29 CFR 29.13. The proposed chapter, in conjunction with Senate File 318, creates career pathways for all Iowans including adults and minorities. The proposed chapter, in conjunction with Senate File 318, will have a positive impact on private sector jobs and employment opportunities in Iowa by increasing training pathways into a wide variety of industries and occupations. Iowa led the country in creating registered apprenticeship programs in 2022, and the SAA program, implemented through these rules, will make it easier for employers and high schools to provide this valuable training pathway to more Iowans.

Iowa wants to foster and grow registered apprenticeship and work-based learning programs throughout the state. As a system, Iowa Workforce Development (IWD) wants to continue to foster the quality programs that have already been created in construction trades and other occupations to help grow registered apprenticeship programs in all industries. IWD has had federal grants that have assisted in growing registered apprenticeship programs in the following high-demand areas: health care, agriculture, advanced manufacturing, construction trades and education. With these rules, IWD and the Iowa Office of Apprenticeship will work with all industries to support the creation of high-quality registered apprenticeship and work-based learning opportunities for Iowans. In a registered apprenticeship, employers create a program that contains related training instruction and on-the-job learning. Cost can vary from in-house education programs to community college courses for related training, on-the-job wages and mentor wages. There is no other relevant analysis.

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by IWD no later than 4:30 p.m. on August 15, 2023. Comments should be directed to:

Brooke Axiotis
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.802.9425
Email: brooke.axiotis@iwd.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 rulemaking 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 rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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 rulemaking action is proposed:

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER
ADMINISTRATION DIVISION[877](cont'd)

ITEM 1. Adopt the following **new** 877—Chapter 29:

CHAPTER 29
IOWA OFFICE OF APPRENTICESHIP

877—29.1(90GA,SF318) Purpose. The purpose of this chapter is to bring identified definitions, terms, and language in 2023 Iowa Acts, Senate File 318, into conformity with federal requirements, necessary for the approval of the Iowa office of apprenticeship law by the United States Department of Labor Office of Apprenticeship in accordance with 29 CFR 29.13(a)(1).

877—29.2(90GA,SF318) Definitions. As used in this chapter:

“Apprenticeship sponsor” means an entity operating an apprenticeship program or an entity in whose name an apprenticeship program is being operated, which entity is registered with or approved by the Iowa office of apprenticeship.

“Certification” or *“certificate”* means the written approval by the Iowa office of apprenticeship of a set of apprenticeship standards, of an individual for employment as an apprentice or probationary apprentice in a registered apprenticeship program, or of an individual who has successfully met the requirements to receive an interim credential. The Iowa office of apprenticeship will determine whether an individual has successfully completed an apprenticeship program to conform with 29 CFR Part 29.

“Intermediary” means an entity that provides required technical instruction to an apprentice, aggregates employer demand, provides technical assistance to employers, assists with organizing training, develops occupational standards, and assists with the registration of programs under the authority of the Iowa office of apprenticeship.

“On-the-job training” means an individual apprentice that is measured either through the completion of the industry standards for on-the-job learning (at least 2,000 hours) time-based approach, the attainment of a competency-based approach, or a blend of the time-based and competency-based approaches (hybrid).

“Pre-apprenticeship,” for purposes of the Iowa office of apprenticeship, means a program or set of strategies, registered by the Iowa office of apprenticeship, including basic skills training, academic skills remediation, or introduction to the industry, that is designed to prepare individuals for entry into an apprenticeship program.

“Registered apprenticeship program” means a program to which all of the following apply:

1. The program has been accepted and recorded by the Iowa office of apprenticeship. The program includes all of the following:

- Employer involvement.
- On-the-job training.
- Related training instruction as defined in 2023 Iowa Acts, Senate File 318, section 2.
- Paid work experience with progressive wage increases.
- Receipt of a portable state or nationally recognized credential.

2. The program is for the recruitment, selection, employment, and training of apprentices and is developed pursuant to 29 CFR Parts 29 and 30 and the rules of the Iowa office of apprenticeship.

“Supervision” includes direction and oversight of apprentices on the job by any journeyworker who may be counted as a direct supervisor of an apprentice as long as the person is of the same trade or occupation as the apprentice. Supervision must occur in person for occupations that require in-person supervision to satisfy safety regulations for monitoring the apprentice. Supervision may occur by phone or through virtual means as long as the occupation is such that it does not require in-person supervision to satisfy safety regulations for monitoring the apprentice.

“Youth apprenticeship,” for the purposes of the Iowa office of apprenticeship, means a program that is designed specifically for an apprentice 18 years of age or under.

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER
ADMINISTRATION DIVISION[877](cont'd)

877—29.3(90GA,SF318) Duties of office. The Iowa office of apprenticeship shall establish time-based, competency-based and hybrid apprenticeship frameworks based on the regional and statewide collection of valuable credentials.

29.3(1) The Iowa office of apprenticeship shall establish the following standards and processes in conformance with 29 CFR Part 29:

- a. Program performance standards in conformance with 29 CFR 29.6.
- b. Process for deregistration of registered apprenticeship programs in conformance with 29 CFR 29.8.
- c. Process for the reinstatement of a registered apprenticeship program that was previously deregistered under 29 CFR 29.8 in conformance with 29 CFR 29.9.
- d. Appeal process for registered apprenticeship programs that have been deregistered in conformance with 29 CFR 29.10.

29.3(2) Neither the provisions of 2023 Iowa Acts, Senate File 318; federal law; or the apprenticeship agreement will invalidate any provision in any collective bargaining agreement between employers and employees establishing higher apprenticeship standards.

29.3(3) Neither the provisions of 2023 Iowa Acts, Senate File 318; federal law; nor the apprenticeship agreement will invalidate any special provision for veterans, minority persons, or women in the standards, apprenticeship qualifications or operation of the program which is not prohibited by state or federal law.

29.3(4) The Iowa office of apprenticeship will establish a process for complaints in conformance with 29 CFR 29.12.

877—29.4(90GA,SF318) Requirements for sponsors and employers. Sponsors and employers are responsible for the following:

1. Ensuring the program conforms to 29 CFR Part 29 standards of apprenticeship.
2. Ensuring the program complies with 29 CFR Part 30 equal employment opportunity in apprenticeship.
3. Ensuring the program complies with the Iowa Office of Apprenticeship Standards and Regulations document approved by the United States Department of Labor.
4. Ensuring the program complies with 2023 Iowa Acts, Senate File 318.

877—29.5(90GA,SF318) Approval of apprenticeship program. All registered apprenticeship programs eligible for approval by the Iowa office of apprenticeship must comply with 29 CFR Parts 29 and 30; 2023 Iowa Acts, Senate File 318; the state plan approved by the United States Department of Labor Office of Apprenticeship; and the administrative rules.

These rules are intended to implement Iowa Code chapter 84D as enacted by 2023 Iowa Acts, Senate File 318.