



IOWA ADMINISTRATIVE BULLETIN

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Pages 385 to 546

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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2013

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Wednesday, August 28, 2013	September 18, 2013
7	Friday, September 13, 2013	October 2, 2013
8	Friday, September 27, 2013	October 16, 2013

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, September 10, 2013, at 9:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Administration of department—general services and central procurement enterprises, amend
1.4; renumber chs 105 to 108 as chs 117 to 120 Filed **ARC 0952C** 8/21/13

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Exemption to definition of “dangerous wild animal,” 77.1 to 77.14 Filed **ARC 0949C** 8/21/13
Motor fuel standards; weights and measures; display of liquid petroleum prices, 85.33,
85.39, 85.48 Filed **ARC 0953C** 8/21/13

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]“umbrella”
Grace period for registration renewal, 2.5, 2.11 Notice **ARC 0978C** 8/21/13

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]“umbrella”
Approval of postsecondary schools, amendments to ch 21 Notice **ARC 0946C** 8/21/13
Governor Terry E. Branstad state fair scholarship program, 36.1(2) Filed **ARC 0945C** 8/21/13

CREDIT UNION DIVISION[189]

COMMERCE DEPARTMENT[181]“umbrella”
Voting procedures, amend ch 3; adopt ch 12; rescind chs 16, 19 Filed **ARC 0938C** 8/7/13

ECONOMIC DEVELOPMENT AUTHORITY[261]

Brownfield and grayfield redevelopment tax credits, 65.2, 65.3(3) Filed **ARC 0944C** 8/7/13
Innovation fund tax credit program, amendments to ch 116 Notice **ARC 0940C** 8/7/13
Reinvestment districts program, ch 200 Notice **ARC 0947C** 8/21/13

EDUCATION DEPARTMENT[281]

Accreditation standards—instructional days and hours, 12.1 Notice **ARC 0954C** 8/21/13
Competency-based education, 12.2, 12.5(14) Notice **ARC 0958C** 8/21/13
Independent accrediting agencies, 12.10 Notice **ARC 0964C** 8/21/13
Teacher preparation clinical practice standard—teach Iowa student teaching pilot project,
79.14(13) Notice **ARC 0968C** 8/21/13
Supplementary weighting plan for operational services, 97.7 Notice **ARC 0967C** 8/21/13

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]
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Unethical or illegal conduct, 8.2(6)“a”(7) Notice **ARC 0928C** 8/7/13

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HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Flood mitigation program, ch 14 Notice **ARC 0956C** 8/21/13

HUMAN SERVICES DEPARTMENT[441]

Mental health and disability services—regional service system, amendments to ch 25
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Mental health institutes and state resource centers, amendments to chs 28 to 30 Notice **ARC 0921C** 8/7/13
Family investment program (FIP); PROMISE JOBS program, amendments to chs 41, 93
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Food assistance—standard utility allowance, 65.8 Notice **ARC 0916C** 8/7/13
Iowa Health and Wellness Plan, adopt ch 74; amend ch 88 Notice **ARC 0972C** 8/21/13
Medical assistance eligibility, amendments to ch 75 Notice **ARC 0971C** 8/21/13
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- Rural hospital disproportionate share payment, 79.1(5)“ac” Notice **ARC 0918C**..... 8/7/13
- Payment for physician services rendered in facility settings, 79.1(7) Notice **ARC 0910C**..... 8/7/13
- Medicare crossover claims, 79.1(22) Notice **ARC 0919C**..... 8/7/13
- Medicaid—sanctions, timely filing of claims, 79.2, 79.4(2), 79.9, 80.4 Notice **ARC 0912C**..... 8/7/13
- Provider enrollment or reenrollment application fee, 79.14 Notice **ARC 0917C**..... 8/7/13
- Health care data match program, 80.7 Notice **ARC 0909C**..... 8/7/13
- Child abuse reporting and assessment; placement on central registry for child abuse,
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- Health care facilities and certified nurse aide training programs—background checks, 50.9,
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- Health care facilities—informal conference process for contested citations, 56.14(3), 56.15
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- Administration of certain immunizations by pharmacists, 57.19(3)“h,” 58.21(15)“a,”
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- Nursing facilities—evaluation of residents by physician assistants, 58.14(8) Notice **ARC 0923C**..... 8/7/13
- Federal interpretive guidelines for facilities for the intellectually disabled, ch 64 appendix
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- Assisted living programs—informal conference process; elder group homes and adult day
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- Nurse delegation in elder group homes, assisted living programs and adult day services, 67.1,
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- Criminal, dependent adult abuse, and child abuse record checks, 67.9(3) to 67.9(6), 67.19
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- Minimum standard of valuation for annuity and pure endowment contracts—incorporation
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- Regulation of navigators, ch 85 Filed **ARC 0981C**..... 8/21/13

IOWA FINANCE AUTHORITY[265]

- Low-income housing tax credit program—qualified allocation plan, 12.1, 12.2 Notice **ARC 0929C**..... 8/7/13

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- WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”
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construction—adoption by reference, 10.20, 26.1 Filed **ARC 0898C**..... 8/7/13
- Federal occupational safety and health standards for digger derricks—adoption by reference,
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- Conveyance safety program—elevator inspector qualifications, 71.1 Notice **ARC 0951C**..... 8/21/13
- Alarm bell in automatic passenger elevators, 72.25 Filed **ARC 0950C**..... 8/21/13

LAW ENFORCEMENT ACADEMY[501]

- Mandatory mental health training; firearms training program, 8.1, 10.1(2), 10.5, 10.206
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MEDICINE BOARD[653]

- PUBLIC HEALTH DEPARTMENT[641]“umbrella”
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- Iowa physician health committee, 14.2, 14.4(2), 14.5 to 14.7, 14.8(2), 14.9, 14.11 Notice **ARC 0977C**..... 8/21/13

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Plumbing and mechanical systems board—licensee discipline, 32.1, 32.2, 32.5, 32.6 <u>Notice</u> ARC 0932C	8/7/13
Plumbing and mechanical systems board—contested cases, 33.13(2) <u>Notice</u> ARC 0931C	8/7/13
Plumbing and mechanical systems board—reciprocity agreements for mechanical, HVAC-refrigeration, and sheet metal licensees, 35.2, 35.3(1)"b" <u>Notice</u> ARC 0930C	8/7/13
Vital records—time-limited fee increases, 95.6 <u>Notice</u> ARC 0926C	8/7/13
Establishing parentage on birth certificates; vital records modifications, amendments to chs 96, 99 <u>Notice</u> ARC 0925C	8/7/13
White flashing light authorization, 133.1, 133.3 <u>Filed</u> ARC 0901C	8/7/13
Tobacco use prevention and control community partnership initiative, 151.4, 151.6, 151.7 <u>Notice</u> ARC 0973C	8/21/13

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Residential property seller disclosure statement, 14.1(6) <u>Notice</u> ARC 0970C	8/21/13
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REVENUE DEPARTMENT[701]

Individual income, corporation income and franchise taxes, amendments to chs 40 to 42, 45, 52, 53, 59 <u>Notice</u> ARC 0976C	8/21/13
Earned income, Iowa taxpayers trust fund, innovation fund investment and school tuition organization tax credits; S corporation apportionment credit; aggregate tax credit cap, amendments to chs 42, 50, 52, 89 <u>Notice</u> ARC 0975C	8/21/13
Replacement tax and statewide property tax on rate-regulated water utilities, amend 75.5, 77.1(1); adopt ch 78 <u>Notice</u> ARC 0966C , also <u>Filed Emergency</u> ARC 0965C	8/21/13
Flood mitigation program, ch 238 <u>Notice</u> ARC 0955C	8/21/13

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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Water quality initiative, ch 16 <u>Notice</u> ARC 0979C	8/21/13
Watershed improvement—grants, review board, amendments to chs 101 to 106 <u>Notice</u> ARC 0927C	8/7/13

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Electronic renewal of driver's licenses and nonoperator's ID cards—vision screen or report, eligibility, 601.2, 604.10, 605.25, 630.2 <u>Notice</u> ARC 0894C , also <u>Filed Emergency</u> ARC 0895C	8/7/13
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Iowa Veterans Home, amendments to ch 10 <u>Notice</u> ARC 0924C	8/7/13
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ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Senator Roby Smith
2036 East 48th Street
Davenport, Iowa 52807

Joseph A. Royce
Legal Counsel
Capitol
Des Moines, Iowa 50319
Telephone (515)281-3084
Fax (515)281-8451

Representative Lisa Heddens
4115 Wembley Avenue
Ames, Iowa 50010

Representative Rick Olson
3012 East 31st Court
Des Moines, Iowa 50317

Representative Dawn Pettengill
P.O. Box A
Mt. Auburn, Iowa 52313

Representative Jeff Smith
1006 Brooks North Lane
Okoboji, Iowa 51355

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

Brenna Findley
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone (515)281-5211

ARCHITECTURAL EXAMINING BOARD[193B]

Grace period for registration renewal, 2.5, 2.11 IAB 8/21/13 ARC 0978C	Second Floor Board Offices 1920 SE Hulsizer Rd. Ankeny, Iowa	September 10, 2013 9 a.m.
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EDUCATION DEPARTMENT[281]

Accreditation standards— instructional days and hours, 12.1 IAB 8/21/13 ARC 0954C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 10, 2013 3 to 4 p.m.
Competency-based education, 12.2, 12.5(14) IAB 8/21/13 ARC 0958C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 10, 2013 10 to 11 a.m.
Independent accrediting agencies, 12.10 IAB 8/21/13 ARC 0964C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 10, 2013 11 a.m. to 12 noon
Teacher preparation clinical practice standard—teach Iowa student teaching pilot project, 79.14(13) IAB 8/21/13 ARC 0968C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 10, 2013 2 to 3 p.m.
Supplementary weighting plan for operational services, 97.7 IAB 8/21/13 ARC 0967C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 10, 2013 1 to 2 p.m.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Unethical or illegal conduct, 8.2(6)“a” IAB 8/7/13 ARC 0928C	Professional Licensing Bureau Offices 1920 SE Hulsizer Rd. Ankeny, Iowa	August 28, 2013 9 to 11 a.m.
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HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Flood mitigation program, ch 14 IAB 8/21/13 ARC 0956C	Department Conference Room, Bldg. W-4 Camp Dodge Johnston, Iowa	September 12, 2013 10 a.m.
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INSPECTIONS AND APPEALS DEPARTMENT[481]

Assisted living programs— informal conference process; elder group homes and adult day services, 67.1, 67.10 to 67.18, 67.20 to 67.23 IAB 8/7/13 ARC 0941C	Room 319 Lucas State Office Bldg. Des Moines, Iowa	August 28, 2013 10 a.m.
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INSURANCE DIVISION[191]

Credit for reinsurance, 5.33 IAB 8/21/13 ARC 0960C	Conference Room 4 North, 4th Floor Insurance Division, Two Ruan Center 601 Locust St. Des Moines, Iowa	September 11, 2013 10 a.m.
Minimum standard of valuation for annuity and pure endowment contracts—incorporation of 2012 IAR mortality table, amendments to ch 43 IAB 8/21/13 ARC 0959C	Conference Room 4 North, 4th Floor Insurance Division, Two Ruan Center 601 Locust St. Des Moines, Iowa	September 11, 2013 10 a.m.

IOWA FINANCE AUTHORITY[265]

Low-income housing tax credit program—qualified allocation plan, 12.1, 12.2 IAB 8/7/13 ARC 0929C	Authority Offices 2015 Grand Ave. Des Moines, Iowa	August 27, 2013 9 to 11 a.m.
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LABOR SERVICES DIVISION[875]

Federal occupational safety and health standards for digger derricks—adoption by reference, 26.1 IAB 8/7/13 ARC 0905C	Capitol View Room 1000 East Grand Ave. Des Moines, Iowa	September 4, 2013 9 a.m. (If requested)
Conveyance safety program—elevator inspector qualifications, 71.1 IAB 8/21/13 ARC 0951C	Capitol View Room 1000 East Grand Ave. Des Moines, Iowa	September 11, 2013 10:30 a.m. (If requested)

MEDICINE BOARD[653]

Fees for licensure, amendments to chs 8 to 10 IAB 8/7/13 ARC 0943C	Board Office, Suite C 400 SW 8th St. Des Moines, Iowa	August 27, 2013 11 a.m.
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Due to public interest, the location and time for the hearing for ARC 0891C have been changed to:

Standards of practice—physicians who prescribe or administer abortion-inducing drugs, 13.10 IAB 7/24/13 ARC 0891C	Auditorium Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	August 28, 2013 1 p.m.
Iowa physician health committee, 14.2, 14.4(2), 14.5 to 14.7, 14.8(2), 14.9, 14.11 IAB 8/21/13 ARC 0977C	Board Office, Suite C 400 S.W. 8th St. Des Moines, Iowa	September 10, 2013 11 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Podiatrists, orthotists, prosthetists, and pedorthists—licensure, discipline, continuing education, amend 5.15, ch 224; adopt chs 221, 225 IAB 8/7/13 ARC 0942C	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	August 27, 2013 9 to 9:30 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

Plumbing and mechanical systems board—licensee practice, ch 23 IAB 8/7/13 ARC 0937C (ICN Network)	Public Library 529 Pierce St. Sioux City, Iowa	August 27, 2013 11:30 a.m. to 1 p.m.
	Crestwood High School 1000 4th Ave. East Cresco, Iowa	August 27, 2013 11:30 a.m. to 1 p.m.
	Meeting Room C, Public Library 415 Commercial St. Waterloo, Iowa	August 27, 2013 11:30 a.m. to 1 p.m.
	Ottumwa Regional Health Center 1001 E. Pennsylvania Ottumwa, Iowa	August 27, 2013 11:30 a.m. to 1 p.m.

PUBLIC HEALTH DEPARTMENT[641] (cont'd)**(ICN Network)**

	Spirit Lake High School 2701 Hill Ave. Spirit Lake, Iowa	August 27, 2013 11:30 a.m. to 1 p.m.
	Kelinson Room Public Library Information Center 2950 Learning Campus Dr. Bettendorf, Iowa	August 27, 2013 11:30 a.m. to 1 p.m.
	Sixth Floor, Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	August 27, 2013 11:30 a.m. to 1 p.m.
	Iowa Western Community College - 2 923 E. Washington Clarinda, Iowa	August 27, 2013 11:30 a.m. to 1 p.m.
	Burlington High School 421 Terrace Dr. Burlington, Iowa	August 27, 2013 11:30 a.m. to 1 p.m.
Plumbing and mechanical systems board—mechanical, HVAC-refrigeration, and sheet metal licensees, 27.1, 27.2(1), 27.3(8)“e” IAB 8/7/13 ARC 0936C	See ARC 0937C above for public hearing ICN locations	August 27, 2013 11:30 a.m. to 1 p.m.
Plumbing and mechanical systems board—licensure fees, 28.1 IAB 8/7/13 ARC 0935C	See ARC 0937C above for public hearing ICN locations	August 27, 2013 11:30 a.m. to 1 p.m.
Plumbing and mechanical systems board—licensure and examination, 29.1, 29.2, 29.4(3), 29.5(4), 29.6 to 29.8 IAB 8/7/13 ARC 0934C	See ARC 0937C above for public hearing ICN locations	August 27, 2013 11:30 a.m. to 1 p.m.
Plumbing and mechanical systems board—continuing education, 30.1, 30.2, 30.5 IAB 8/7/13 ARC 0933C	See ARC 0937C above for public hearing ICN locations	August 27, 2013 11:30 a.m. to 1 p.m.
Plumbing and mechanical systems board—licensee discipline, 32.1, 32.2, 32.5, 32.6 IAB 8/7/13 ARC 0932C	See ARC 0937C above for public hearing ICN locations	August 27, 2013 11:30 a.m. to 1 p.m.
Plumbing and mechanical systems board—contested cases, 33.13(2) IAB 8/7/13 ARC 0931C	See ARC 0937C above for public hearing ICN locations	August 27, 2013 11:30 a.m. to 1 p.m.
Plumbing and mechanical systems board—reciprocity agreements for mechanical, HVAC-refrigeration, and sheet metal licensees, 35.2, 35.3(1)“b” IAB 8/7/13 ARC 0930C	See ARC 0937C above for public hearing ICN locations	August 27, 2013 11:30 a.m. to 1 p.m.
Vital records—time-limited fee increases, 95.6 IAB 8/7/13 ARC 0926C	Room 517-518 Lucas State Office Bldg. Des Moines, Iowa (To attend by conference call, dial 1-866-393-7315)	August 27, 2013 10 to 11:30 a.m.

REAL ESTATE COMMISSION[193E]

Residential property seller disclosure statement, 14.1(6) IAB 8/21/13 ARC 0970C	Commission Offices, Second Floor 1920 SE Hulsizer Rd. Ankeny, Iowa	September 24, 2013 9 a.m.
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TRANSPORTATION DEPARTMENT[761]

Electronic renewal of driver's licenses and nonoperator's ID cards—vision screen or report, eligibility, 601.2, 604.10, 605.25, 630.2 IAB 8/7/13 ARC 0894C [See also ARC 0895C]	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	August 29, 2013 10 a.m. (If requested)
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VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Iowa Veterans Home, amendments to ch 10 IAB 8/7/13 ARC 0924C	Ford Memorial Conference Room Iowa Veterans Home 1301 Summit St. Marshalltown, Iowa	August 28, 2013 8 a.m. (If requested)
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The following list will be updated as changes occur.

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

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

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

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FEMA DR-4135-IA

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECTS
Iowa Homeland Security and Emergency Management Department (HSEMD)	<p>Hazard Mitigation Grant Program (HMGP)</p> <p>Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA)</p>	<ul style="list-style-type: none"> • State Agencies and Local Governments. • Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations. • Private Non Profit (PNP) Organizations or institutions which operate a PNP facility as defined in 44 Code of Federal Regulations (CFR), Section 206.221(e). • All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP. • All Applicants for a project grant MUST have a FEMA-approved local hazard mitigation plan. <p>Application Process:</p> <ul style="list-style-type: none"> - Potential project & planning applicants must complete a Notice of Interest (NOI) Form located on the HSEMD website at: http://www.iowahomelandsecurity.org/grants/HMA.html. - NOI Form must be e-mailed to: hsemd.mitigation@iowa.gov. - NOIs will be selected for full application development based on funding availability, the State's priority, and an initial eligibility review. <p>Deadline to submit an NOI is September 30, 2013.</p> <p>For additional information, please contact:</p> <p>Dan Schmitz 515-725-9369 Dennis Harper 515-725-9348</p> <p>Iowa Homeland Security and Emergency Management Department 7105 NW 70th Avenue Camp Dodge, Bldg. W4 Johnston, Iowa 50131</p>	<p>Eligible Project Types</p> <p>Projects may be of any nature that will result in protection to public or private property, including but not limited to:</p> <ul style="list-style-type: none"> • Acquisition or relocation of hazard-prone property for conversion to open space in perpetuity • Construction of safe rooms (tornado and severe wind shelters) • Structural and non-structural retrofitting of existing buildings and facilities (including designs and feasibility studies when included as part of the construction project) for wildfire, seismic, wind or flood hazards (e.g., elevation, flood-proofing, storm shutters, hurricane clips) • Minor structural hazard control or protection projects that may include vegetation management, storm water management (e.g., culverts, floodgates, retention basins), or shoreline/landslide stabilization • Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system • Development of multi-jurisdictional hazard mitigation plans and plan updates <p>Planning Application</p> <p>The outcome of a mitigation planning grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA-approved hazard mitigation plan.</p>

PRE-DISASTER MITIGATION (PDM) 2013

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECTS
<p>Iowa Homeland Security and Emergency Management Department (HSEMD)</p>	<p>Pre-Disaster Mitigation Competitive (PDM) Grant for Fiscal Year (FY) 2013 Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA).</p> <p>The PDM program seeks to reduce damages and the loss of life and property from natural hazards through the development and implementation of mitigation actions.</p>	<ul style="list-style-type: none"> • State Agencies and Local Governments. • Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations. • Private non-profit organizations are not eligible to apply as sub-applicants; however, they may request a local government to submit an application for their proposed activity on their behalf. • All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP. • All Applicants for a project grant MUST have a FEMA-approved local hazard mitigation plan. <p>To learn more about the PDM program, use the following link on HSEMD's website: http://www.iowahomelandsecurity.org/asp/CoEM_FR/grant/index.asp.</p> <p>Applicants must complete an application through the Electronic Grant (e-Grants) System. Applications must be submitted for State review via e-grants by October 18, 2013. To learn more about the e-grant system, use the following link on HSEMD's website: http://www.iowahomelandsecurity.org/grants/HMA.html.</p> <p>For additional information, please contact:</p> <p>Dennis Harper 515-725-9348 Dan Schmitz 515-725-9369</p> <p>Iowa Homeland Security and Emergency Management Department 7105 NW 70th Avenue Camp Dodge, Bldg. W4 Johnston, Iowa 50131</p> <p>TECHNICAL ASSISTANCE HELP DESK: Phone: (866) 222-3580 (toll free) E-mail: enghelpline@dhs.gov ehhelpline@dhs.gov</p>	<p>Eligible Project Activities</p> <p>Mitigation projects must focus on natural hazards. Examples include (but not limited to):</p> <ul style="list-style-type: none"> • Acquisition or relocation of hazard-prone property for conversion to open space in perpetuity; • Construction of safe rooms (tornado and severe wind shelters); • Structural and non-structural retrofitting (e.g., storm shutters, hurricane clips, bracing systems) of existing structures to meet or exceed applicable building codes relative to hazard mitigation; • Hydrologic and hydraulic studies/analyses, engineering studies, and drainage studies for the purpose of project design and feasibility in conjunction with a project; • Protective measures for utilities; water and sanitary sewer systems and/or infrastructure; • Storm water management projects (e.g., culverts, floodgates, retention basins) to reduce or eliminate long-term risk from flood hazards; and • Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system. <p>Planning Application</p> <p>The outcome of a mitigation planning grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA-approved hazard mitigation plan.</p> <p>PROJECT TECHNICAL ASSISTANCE:</p> <p>Technical assistance for Engineering Feasibility, Benefit-Cost Analysis and Environmental/Historic Preservation compliance is available through FEMA.</p>

ARC 0978C

ARCHITECTURAL EXAMINING BOARD[193B]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 2, “Registration,” Iowa Administrative Code.

The rules in Chapter 2 describe the process for registration and renewal of certificates of registration to be authorized to practice architecture in Iowa. These amendments allow for a grace period of 30 days to renew certificates of registration for architects who do not renew by June 30. It has been Board policy to allow for this practice for many years. The proposed amendments will implement Board policy and bring this Board into alignment with other boards within the Professional Licensing Bureau.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 10, 2013. Such written materials should be directed to Lori SchraderBachar, Iowa Architectural Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021. E-mail may be sent to lori.schraderbachar@iowa.gov. Persons who wish to convey their views orally should contact Lori SchraderBachar, Iowa Architectural Examining Board, at (515)281-7397 or at the Board offices, Second Floor, 1920 SE Hulsizer Road, Ankeny.

Also, there will be a public hearing on September 10, 2013, at 9 a.m. at the Board offices, Second Floor, 1920 SE Hulsizer Road, Ankeny, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These proposed amendments are subject to waiver or variance pursuant to 193—Chapter 5.

These proposed amendments were approved by the Board on July 9, 2013.

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

These amendments are intended to implement Iowa Code section 544A.10.

The following amendments are proposed.

ITEM 1. Amend paragraph **2.5(1)“c”** as follows:

c. Upon the board’s receipt of a timely and sufficient renewal application as provided in 193—subrule 7.40(3), the board’s executive secretary shall issue a new certificate of registration reflecting the next expiration date, unless grounds exist for denial of the application. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.

ITEM 2. Amend paragraph **2.5(2)“b”** as follows:

b. Renewal. A person registered as inactive may renew the person’s certificate of registration on the biennial schedule described in 193B—2.5(17A,272C,544A). This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in 193B—2.11(544A,17A). An inactive certificate of registration shall lapse if not timely renewed. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.

ITEM 3. Adopt the following **new** paragraphs **2.5(3)“a”** and **“b”**:

a. Affirmation. The renewal application form shall contain a statement in which the applicant affirms that the applicant will not engage in any of the practices in Iowa that are listed in Iowa Code

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

section 544A.16 without first complying with all rules governing reinstatement to active status. A person in retired status may reinstate to active status at any time pursuant to rule 193B—2.8(544A).

b. Renewal. A person registered as retired may renew the person's certificate of registration on the biennial schedule described in rule 193B—2.5(17A,272C,544A). This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in rule 193B—2.11(544A,17A). A retired certificate of registration shall lapse if not timely renewed. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.

ITEM 4. Amend rule 193B—2.11(544A,17A) as follows:

193B—2.11(544A,17A) Fee schedule. Under the authority provided in Iowa Code chapter 544A, the following fees are hereby adopted:

Examination fees:

Fees for examination subjects shall be paid directly to the testing service selected by NCARB

Initial registration fee	\$ 50
(plus \$5 per month until renewal)	
Reciprocal application and registration fee	\$200
Biennial renewal fee	\$200
Biennial renewal fee (inactive)	\$100
Biennial renewal fee (retired)	\$ 50
Reinstatement of lapsed individual registration (per month)	\$ 25
Duplicate wall certificate fee	\$ 50
<u>Late renewal fee</u>	<u>\$ 25</u>
<u>(for renewals postmarked on or after July 1 and before July 31)</u>	

ARC 0946C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 261.3, the Iowa College Student Aid Commission hereby gives Notice of Intended Action to amend Chapter 21, “Approval of Postsecondary Schools,” Iowa Administrative Code.

The rules in Chapter 21 describe the administration of registration of postsecondary schools in Iowa. This amendment eliminates references to the Advisory Committee on Postsecondary Registration, which was eliminated from the Iowa Code; updates procedures and processes which have been instituted over the past several years; and includes lists of Iowa colleges and universities that are exempt from the registration process.

Interested persons may submit comments orally or in writing by 4:30 p.m. on or before September 13, 2013, to the Executive Director, Iowa College Student Aid Commission, Third Floor, 430 East Grand Avenue, Des Moines, Iowa 50309-1920; fax (515)725-3401.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

The Commission does not intend to grant waivers under the provisions of these rules. After analysis and review of this rule making, the Commission finds that there is no impact on jobs. This amendment is intended to implement Iowa Code chapters 261 and 261B. The following amendment is proposed.

Amend **283—Chapter 21** as follows:

CHAPTER 21
APPROVAL OF POSTSECONDARY SCHOOLS

283—21.1(261B) Advisory committee on postsecondary registration. ~~The advisory committee on postsecondary registration examines out-of-state college and university applications for operation in Iowa and makes recommendations to the commission.~~

~~21.1(1) The six-member committee is appointed annually by the Iowa college student aid commission and includes one representative from each of the following:~~

- ~~a. The state board of regents.~~
- ~~b. The department of education.~~
- ~~c. The office of the secretary of state.~~
- ~~d. The office of the attorney general.~~
- ~~e. A community college located in this state.~~
- ~~f. An accredited private postsecondary institution as defined in Iowa Code section 261.9, subsection 1, incorporated or otherwise organized under the laws of this state.~~

~~21.1(2) The committee shall meet as needed. Meetings may be called by commission staff or upon request of a majority of committee members. A nonvoting staff member shall preside as chairperson at the meetings.~~

~~21.1(3) The commission shall give advance public notice of the time and place of each meeting by posting the notice to the commission's Web site. The notice will include the specific date, time, and place of the meeting and the proposed agenda.~~

~~21.1(4) A quorum shall consist of two-thirds of the voting members of the committee. When a quorum is present, a position is carried by an affirmative vote of the majority of committee members eligible to vote.~~

~~21.1(5) The committee may consider comments of the Iowa coordinating council for post high school education that are received by the commission within 90 days of the filing of the application.~~

~~21.1(6) A specific time is set aside at each meeting for the public to address the committee. As a general guideline, a limit of five minutes will be allocated for each of these presentations. If a large group seeks to address a specific issue, the chairperson may limit the number of speakers. Members of the public who wish to address the committee during this portion of the meeting are required to submit a request to the executive director prior to the meeting. The person's name and the subject of the person's remarks must be noted. To accommodate maximum public participation, members of the public are encouraged to submit the request at least 72 hours in advance of the meeting. Members of the public who fail to submit a request may be recognized at the discretion of the presiding chairperson.~~

~~21.1(7) A report of all committee meetings will be provided to the commission at its next regularly scheduled meeting.~~

283—21.1(261B) Postsecondary registration. The college student aid commission examines college and university applications for operation in Iowa and monitors schools approved by the commission to operate in the state.

283—21.2(261B) Approval criteria. The college student aid commission shall approve ~~approves an applicant schools~~ school ~~that meets all of the following criteria:~~

- 1. **21.2(1)** Are ~~The school is~~ accredited by an agency recognized by the United States Department of Education Accrediting Agency Evaluation Unit or its successor agency. The school shall certify to the

COLLEGE STUDENT AID COMMISSION[283](cont'd)

commission its status with the accrediting agency at the time of the application and provide information about any pending or final action that may affect the school's status with its accrediting agency.

~~2. **21.2(2) Are** The school is approved for operation by the appropriate state agencies in all other states in which the schools operate or maintain a presence that require the school to be authorized or licensed by the state to operate in that state. The applicant school shall certify to the commission its status with the state agency at the time of the application and provide information about any pending or final action that may affect the school's status with the state agency.~~

~~3. **21.2(3) Are** The school certifies that it is not subject to a limitation, suspension or termination order issued by the United States Department of Education or its successor agency. The applicant school shall provide the commission with a copy of its current program participation agreement with the United States Department of Education.~~

~~4. **Are** free of sanctions from the schools' accrediting agencies and appropriate state agencies in all other states in which the schools operate or maintain a presence.~~

~~5. **Enroll** students who attend classes in Iowa and employ at least one full-time Iowa faculty member or program coordinator devoted to Iowa students who has graduate degrees, special training, experience, creative production or other accomplishments or distinctions that qualify them for their specific assignments.~~

~~6. **21.2(4) Comply** The school complies with Iowa Code section 261B.7 limiting the use of references to the secretary of state, state of Iowa, or college student aid commission in promotional material, which prohibits a school from advertising that the school is approved or accredited by the commission or the state of Iowa. However, an applicant school must demonstrate the method by which it will disclose that the school is registered with the commission and provide the commission's contact information for students who wish to inquire about the school or file a complaint.~~

~~7. **21.2(5) Comply** The school provides the commission with institutional policies adopted by the school that comply with the requirements of Iowa Code section 261.9(1) "e" to "h."~~

~~8. **21.2(6) File** If required by the commission, the school files annual reports that the commission also requires from all Iowa colleges and universities.~~

~~9. **21.2(7) Demonstrate** The school demonstrates financial viability by providing a copy of the institution's most recent audit that was prepared by a certified public accounting firm no more than 12 months prior to the application and that provides an unqualified opinion. An applicant school must provide the auditor's report as an attachment to the registration application, which is posted on the commission's Internet site. However, the school may provide financial statements associated with the audit in a separate electronic file that is marked "confidential." Financial statements that a school identifies as "confidential" will not be treated as public records under Iowa Code chapter 22.~~

~~10. **21.2(8) Provide** The school provides a description of the learning resources it offers to students with access to learning resources, including appropriate library and other support services requisite for the schools' school's degree programs.~~

~~11. **21.2(9) Provide** The school provides evidence that faculty within an appropriate discipline are involved in developing and evaluating curriculum for the program(s) being registered in Iowa.~~

~~12. **Demonstrate** that the schools have adequate physical facilities that are appropriate for the program(s) being offered and are located in Iowa.~~

~~**21.2(10)** The school provides résumés, other documentation, or information posted on its Internet site that describes the educational and experiential qualifications of all faculty or instructors who teach the courses offered to Iowans and the general subject matter in which faculty members or instructors teach. The school shall also provide the total number of faculty and instructors who will teach the courses offered to Iowans and, of that number, the number who are employed full-time.~~

~~**21.2(11)** The school provides documentation demonstrating that a program which prepares a student for an occupation that requires professional licensure in Iowa:~~

- ~~a. Has been approved by the appropriate state of Iowa licensing agency, if approval is required, or~~
- ~~b. Meets curriculum standards of the appropriate state of Iowa licensing agency such that the student is not required to attend additional coursework or obtain additional practicum or clinical hours to achieve an Iowa license to practice that profession.~~

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21.2(12) The school submits a request for amendment of its registration subject to commission approval in the event the school makes a substantive change in location, program offering, or accreditation. A school is considered to be making a substantive change in program offering when the school proposes to initiate or modify a program that requires the approval of the state board of education or any Iowa state agency authorized to approve the school or its program in this state.

21.2(13) The school notifies the commission within 90 days after adding a program that does not require the approval of another Iowa state agency.

21.2(14) The school certifies that it will immediately notify the commission of any pending or final sanction issued by the school's accrediting agency or another state agency that registers or licenses the school during its registration term. The commission may take action that includes, but is not limited to, reducing the school's registration term or limiting its enrollment of Iowans as the result of a final sanction issued by the school's accrediting agency or another state agency.

~~13-~~ 21.2(15) Include The applicant school provides a statement, signed by the chief executive officer of the applicant school, demonstrating the institution's commitment to the delivery of programs located offered in Iowa; and agreeing to provide alternatives for students to complete their programs at the same or other institutions if the applicant school ~~loses~~ discontinues a program, the school closes, or the school closes an Iowa site before students have completed their courses of study.

283—21.3(261B) Additional approval criteria for a school that applies for registration to maintain a fixed location in Iowa. In addition to the approval criteria in rule 283—21.2(261B), a school that applies for registration to operate a campus, branch campus, student services center, or administrative office at a fixed location in Iowa shall meet all of the following additional criteria:

1. The school employs at least one full-time Iowa faculty member or one program or student services coordinator devoted to Iowa students.
2. The school provides the name and business contact information for a contact person in Iowa.
3. The school demonstrates that it has adequate physical facilities appropriate for the programs and services offered which are located in Iowa.

283—21.4(261B) Additional criteria for an out-of-state school that applies for registration to offer programs via in-person instruction but in a nontraditional format.

21.4(1) Additional criteria are required for an out-of-state school that applies for registration to offer programs via in-person instruction but in a nontraditional format. For the purposes of this rule, "nontraditional format" includes, but is not limited to, the following:

- a. A program offered partially via distance education and partially via in-person instruction at a location in Iowa by faculty or instructors compensated by the school.
- b. A program offered partially at the school's out-of-state campus and partially via in-person instruction at a location in Iowa by faculty or instructors compensated by the school.
- c. A program offered at a location in Iowa through compressed courses scheduled on Saturday or Sunday.
- d. A program offered only during the summer months.

21.4(2) In addition to the approval criteria in rule 283—21.2(261B), a school that is registered to offer programs via in-person instruction in a nontraditional format shall notify the commission in writing within 90 days of the date that the school establishes a new Iowa location at which Iowa students will receive instruction in the school's nontraditional program. Notification to the commission via electronic mail is acceptable. If the school's accrediting agency requires preapproval of the new Iowa location, the school's notice to the commission must include a copy of that accrediting agency's approval. If the school's accrediting agency does not require preapproval of the new Iowa location, the school must certify that preapproval is not required.

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283—21.5(261B) Additional approval criteria and exception for an out-of-state school that applies for registration to offer distance education programs.

21.5(1) In addition to the approval criteria in rule 283—21.2(261B), an out-of-state school that applies for registration to offer distance education programs shall meet all of the following additional criteria:

a. The school discloses the name and business contact information of any person compensated by the school (including by honorarium) to remotely provide instruction or academic supervision in the school's distance education courses from any Iowa location.

b. The school discloses the name, business contact information, and duties of any person compensated by the school to remotely perform operational activities for the school from any Iowa location.

c. The school discloses the name and business contact information of any person compensated by the school to remotely recruit students for attendance in any of its programs from any Iowa location.

21.5(2) Exception. If a school applies for registration solely to offer distance education programs that include a structured field experience in which the student will participate at an Iowa location and the school has no other presence in Iowa as defined in Iowa Code section 261B.2, the school is not required to implement a policy that complies with Iowa Code section 261.9(1)“h.”

21.5(3) A registered school must notify the commission within 90 days of the date that the school establishes an Iowa location at which a student will participate in any structured activity (e.g., field experience) related to the school's distance education course of instruction. Notification to the commission via electronic mail is acceptable.

283—21.6(261B) Recruiting for an out-of-state school's residential programs from an Iowa location.

21.6(1) An out-of-state school that compensates a party to recruit Iowans for its campus-based, residential programs shall apply for registration if the recruiter maintains an Iowa address. In addition to meeting all of the criteria in rule 283—21.2(261B), the school shall disclose the name and business contact information for its Iowa-based recruiter.

21.6(2) An out-of-state school that compensates a person to recruit students for its campus-based, residential programs is not required to apply for registration if the school's recruitment activities at a location in Iowa are occasional and short-term; for example, at a college fair or conference.

283—21.7(261B) Provisional registration.

21.7(1) The commission may grant provisional registration only under the following conditions:

a. An out-of-state school is accredited by an entity or organization recognized by the United States Department of Education or its successor agency at the time the school submits its registration application; and

b. The school must obtain the commission's approval before the school's accrediting agency will consider approving the school to operate at a physical location in Iowa.

21.7(2) The commission may prohibit the school from initiating instruction at a location in Iowa until the school obtains its accrediting agency's approval to operate at an Iowa location.

283—21.8(261B) School, Iowa site, or program closure.

21.8(1) Before a registered school takes action to discontinue a program in which an Iowan is enrolled, close an Iowa site, or close the school, the school must notify the commission in writing.

21.8(2) The school's notice to the commission shall include the name, contact information, and anticipated graduation date of affected Iowans, documentation of the school's proposed notice to students, its specific plan to provide alternatives for Iowa students to complete the program, and specific information about how the school will provide transitional support to affected students.

21.8(3) The commission may require a registered school that has a continuous corporate surety bond in effect pursuant to Iowa Code section 714.18 to maintain the bond, at minimum, for one year after the

COLLEGE STUDENT AID COMMISSION[283](cont'd)

school ceases operation in Iowa, closes an Iowa site, or ceases new enrollment in programs previously offered to Iowans.

21.8(4) If the commission takes action to discontinue a school's program, close a school's Iowa site, or terminate a school's operation in Iowa, the school shall provide to the commission the information in subrule 21.8(2) and shall be subject to the requirements of subrule 21.8(3).

283—21.9(261B) Registration fees.

21.9(1) A school that applies for registration in Iowa shall remit to the commission a \$1,000 registration application fee payable to the state of Iowa. This fee is nonrefundable regardless of the commission's decision with respect to the school's eligibility for registration in Iowa. The commission assesses this fee at the time the school initially applies for registration and at the time of each subsequent registration renewal application. A school that fails to pay the registration application fee shall be denied registration consideration.

21.9(2) A school that is approved for registration in Iowa shall remit to the commission a \$1,000 registration fee payable to the state of Iowa. The commission assesses the \$1,000 registration fee at the time the commission initially approves the school's registration and at the time the commission approves each subsequent registration renewal.

21.9(3) A school that makes substantive changes in location, program offerings, or accreditation during its registration term must request that the commission approve a registration amendment. The school shall submit its amendment request in a format acceptable to the commission. The school's amendment request shall be accompanied by a \$1,000 amendment fee payable to the state of Iowa. This fee is nonrefundable regardless of the commission's decision with respect to the school's registration amendment request.

283—21.10(261B) Authorization to operate in Iowa for certain private, nonprofit colleges and universities exempt from registration.

21.10(1) The state of Iowa considers a private, nonprofit institution located in Iowa, which is exempt from registration under Iowa Code section 261B.11(1) "j" and "l," to be authorized to lawfully operate in Iowa as a postsecondary educational institution that grants a degree, diploma, or certificate for the purpose of state authorization regulations established by the United States Department of Education, provided the institution meets the following conditions:

a. The institution is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code on or after July 1, 2013; and

b. The institution originated in this state and has undergone no change in ownership or control since July 1, 2011.

21.10(2) The following Iowa colleges and universities are authorized under subrule 21.10(1):

a. AIB College of Business;

b. Allen College;

c. Briar Cliff University;

d. Buena Vista University;

e. Central College;

f. Clarke University;

g. Coe College;

h. Cornell College;

i. Des Moines University;

j. Divine Word College;

k. Dordt College;

l. Drake University;

m. Emmaus Bible College;

n. Faith Baptist Bible College and Theological Seminary;

o. Graceland University;

p. Grand View University;

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- q. Grinnell College;
- r. Iowa Wesleyan College;
- s. Loras College;
- t. Luther College;
- u. Maharishi University of Management;
- v. Mercy College of Health Sciences;
- w. Mercy St. Luke's School of Radiologic Technology;
- x. Morningside College;
- y. Mount Mercy College;
- z. Northwestern College;
- aa. Palmer College of Chiropractic;
- ab. Simpson College;
- ac. St. Ambrose University;
- ad. St. Luke's College;
- ae. University of Dubuque;
- af. Upper Iowa University;
- ag. Wartburg College;
- ah. Wartburg Theological Seminary; and
- ai. William Penn University.

These rules are intended to implement Iowa Code chapters 261 and 261B.

ARC 0947C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

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

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

Pursuant to the authority of 2013 Iowa Code section 15.106A and 2013 Iowa Acts, House File 641, sections 3 and 4, the Economic Development Authority hereby gives Notice of Intended Action to adopt new Chapter 200, “Reinvestment Districts Program,” Iowa Administrative Code.

In 2013 Iowa Acts, House File 641, the General Assembly authorized the Authority to establish and administer “the Iowa Reinvestment Act,” a program that provides certain state hotel and motel and sales and use tax revenues to be “reinvested” into designated reinvestment districts. These rules describe the manner in which the Authority intends to implement and administer the program.

The Economic Development Authority Board approved this amendment on July 19, 2013, at the Board’s monthly meeting.

Any interested person may make written suggestions or comments on this proposed amendment on or before September 10, 2013. Paper materials with suggestions and comments may be directed to Timothy J. Whipple, Legal Counsel, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. Electronic submissions may be sent to tim.whipple@iowa.gov.

After analysis and review of this rule making, no negative impact on jobs has been found, and the Authority finds that the new program is likely to substantially benefit the Iowa economy by investing up to \$100 million of future tax revenue in certain development-ready areas of the state and by leveraging an even greater amount of private investment in those areas.

These rules are intended to implement 2013 Iowa Acts, House File 641.

The following amendment is proposed.

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Adopt the following new 261—Chapter 200:

CHAPTER 200
REINVESTMENT DISTRICTS PROGRAM

261—200.1(15J) Purpose. The board is authorized by the general assembly and the governor to oversee the implementation and administration of certain provisions of a new economic development program known as the Iowa reinvestment Act which was enacted in 2013 Iowa Acts, House File 641. The purpose of this chapter is to describe the manner in which the authority's part of the program will be administered. The program provides for as much as \$100 million in state hotel and motel and state sales tax revenues generated by new revenue-generating projects in certain districts to be "reinvested" within those districts. In general, the authority has the responsibility to evaluate projects and make funding decisions while the department of revenue has the responsibility for collecting the tax revenues used to fund projects under the program and making payments to municipalities. To the greatest extent possible, the board will fund projects in districts that are the most likely (1) to improve the quality of life of the municipality, the surrounding region, and the state as a whole; (2) to be unique to the municipality, the surrounding region, and the state as a whole; and (3) to substantially benefit the economy of the municipality, the surrounding region, and the state as a whole.

261—200.2(15J) Definitions. For purposes of this chapter unless the context otherwise requires:

"Account" means the district account that is created within the fund for each municipality which has established a district and that holds the new tax revenues deposited by the department under the program. Moneys in each account will be remitted quarterly by the department to the municipality pursuant to the department of revenue's rules in 701—Chapter 237.

"Applicant" means a municipality applying to the board and the authority for approval of a district under the program, including the preapplication process described in rule 261—200.4(15J).

"Appurtenant structure" means any building or other fixture on a piece of real estate other than the main building provided that such a building or fixture is permanent, is wholly or partially above grade, and will be constructed or substantially improved in conjunction with the main building.

"Authority" means the economic development authority created in Iowa Code section 15.105.

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

"Commencement date" means the date established for each district by the board pursuant to rule 261—200.7(15J) upon which the calculation of new state sales tax and new state hotel and motel tax revenue shall begin pursuant to rule 701—237.3(15J) and after which the department will make deposits in the fund pursuant to rule 701—237.4(15J).

"Department" means the department of revenue.

"Director" means the director of the authority.

"District" means the area within a municipality that is designated a reinvestment district under the program. For purposes of this chapter, a reinvestment district is designated during the application and approval process but is not created until it has both received the final approval of the board pursuant to rule 261—200.7(15J) and been established by ordinance of the municipality as described in rule 261—200.8(15J).

"Due diligence committee" means the due diligence committee of the board established pursuant to 261—subrule 1.3(7).

"Fund" means the state reinvestment district fund created in 2013 Iowa Acts, House File 641, section 6, consisting of new tax revenues, and under the control of the department.

"Governing body" means the county board of supervisors, city council, or other governing body in which the legislative powers of the municipality are vested.

"Maximum benefit amount" means the total amount of new tax revenues that may be remitted to a municipality's reinvestment project fund and used for development in a district. The maximum benefit

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will be established by the board when a final application to the program is approved pursuant to rule 261—200.7(15J).

“Municipality” means a county or an incorporated city.

“New lessor” means a lessor, as defined in Iowa Code section 423A.2, operating a business in the district that was not in operation in the area of the district before the effective date of the ordinance establishing the district, regardless of ownership. “New lessor” also includes any lessor, as defined in Iowa Code section 423A.2, operating a business in the district if the place of business for that business is the subject of a project that was approved by the board.

“New retail establishment” means a business operated in the district by a retailer, as defined in Iowa Code section 423.1, that was not in operation in the area of the district before the effective date of the ordinance establishing the district, regardless of ownership. “New retail establishment” also includes any business operated in the district by a retailer, as defined in Iowa Code section 423.1, if the place of business for that retail establishment is the subject of a project that was approved by the board.

“New tax revenues” means all state sales tax revenues and state hotel and motel tax revenues that are collected within a district by new retail establishments and new lessors, provided that such new retail establishments and lessors are included as projects in an approved district plan. New tax revenues are remitted to the department after collection by new retail establishments and new lessors and deposited by the department in a fund for use by a municipality under the program.

“Program” means the reinvestment district program established pursuant to this chapter.

“Project” means a vertical improvement constructed or substantially improved within a district using new tax revenues. “Project” does not include any of the following:

1. A building, structure, or other facility that is in whole or in part used or intended to be used to conduct gambling games under Iowa Code chapter 99F.

2. A building, structure, or other facility that is in whole or in part used or intended to be used as a hotel or motel if such hotel or motel is connected to or operated in conjunction with a building, structure, or other facility described in paragraph “1” above.

“Retail business” means any business engaged in the business of selling tangible personal property or taxable services at retail in this state that is obligated to collect state sales or use tax under Iowa Code chapter 423. However, for the purposes of this chapter, “retail business” does not include a new lessor.

“State hotel and motel tax” means the state-imposed tax under Iowa Code section 423A.3.

“State sales tax” means the sales and services tax imposed pursuant to Iowa Code section 423.2.

“Substantially improved” means that the cost of the improvements to a project are equal to or exceed 50 percent of the assessed value of the property, excluding the land, prior to such improvements.

“Unique nature” means a quality or qualities of the projects to be developed in a district which, when considered in the entirety, will substantially distinguish the district’s projects from other existing or proposed developments in the state. For purposes of this chapter, whether a project is of a unique nature is a subjective and contextual determination that will be made by the board. In determining whether a project is of a unique nature, the board will not necessarily require a project to be entirely without precedent or to be the only one of its kind in the state, but rather the board will evaluate whether the projects to be undertaken in a district will either (1) permanently transform the aesthetics or infrastructure of a local community for the better, including by preserving important historical structures or neighborhoods; or (2) contribute substantially more to the state’s economy or quality of life than other similar projects in the state.

“Vertical improvement” means a building that is wholly or partially above grade and all appurtenant structures to the building.

261—200.3(15J) Program overview.

200.3(1) General. The reinvestment districts program provides for as much as \$100 million in new tax revenues generated by revenue-generating projects in certain districts to be “reinvested” within those districts. The program allows municipalities to designate areas of up to 25 acres within their corporate boundaries as reinvestment districts and to use new tax revenues collected within the district to finance the development of projects within the district. The authority and the board will take applications from

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municipalities for designation as a district and will consider and approve eligible applicants for funding under the program.

200.3(2) *Preapplication, provisional decisions, and final approval.* Each fiscal year in which funding is available, the authority will accept applications for assistance under the program. The program includes a preapplication process, a scoring process, a provisional funding decision, and a final board approval process.

200.3(3) *District establishment and financing.* Upon final approval of a plan, a municipality may adopt an ordinance to establish a district and shall notify the department that new tax revenues may be deposited in a fund under the program. The collection and deposit of new tax revenues by the department begins only after final approval of the proposed district plan and the establishment of the district's maximum benefit amount and commencement date. The department will deposit in a fund 4 percent of the amount of retail sales subject to the state sales tax collected by new retail establishments within the district and 5 percent of the amount of sales subject to the state hotel and motel tax collected by new lessors within the district.

200.3(4) *Duration of funding and termination of district.* The department will deposit new tax revenues in the fund until the maximum benefit is reached or the district is terminated, whichever is earlier. A district shall be terminated as of the date 20 years after the commencement date unless a municipality dissolves the district prior to that date.

200.3(5) *Use of funds.* A municipality may use moneys remitted by the department to the municipality from its account for purposes of funding development in a district according to an approved district plan as described in rule 261—200.8(15J).

261—200.4(15J) Preapplication process.

200.4(1) *Purpose.* The program includes a preapplication process to assist with the administration and implementation of the program. The purposes of the preapplication process are to provide information related to the requirements of this chapter, to determine the interest of municipalities in establishing districts under this chapter, including the amount of potential funding requests, and to assist municipalities in preparing a proposed district plan. The authority and the board will utilize the preapplication process to gauge the level of demand for funding under the program, accept initial project plans and requests for funding, make provisional determinations about the amount of maximum benefits, and notify applicants of the board's provisional funding decisions. While all funding decisions made during the preapplication process are provisional and subject to change, the process is intended to indicate the board's willingness to approve future financial assistance for projects that meet the requirements of this chapter.

200.4(2) *Preapplication required.* The board will only approve a proposed district plan if that plan has been submitted during the annual filing window as described in this rule.

200.4(3) *Annual filing window.* Each year starting on March 1 and ending on March 15, the authority will accept preapplications under the program provided that funding is available. The purpose of the annual filing window is to enable the competitive scoring of applications and facilitate funding decisions by the board that are within the limitations established for the program by the general assembly. A municipality interested in applying to the program must submit a preapplication during the annual filing window or wait until the next annual filing window.

200.4(4) *Preapplication submission requirements.* Each preapplication submission shall demonstrate compliance with the requirements listed in rule 261—200.5(15J) to the greatest extent possible. While the preapplication process is provisional in nature and is designed to allow applicants to make reasonable changes to the proposed district plan before a final application is considered, the board is more likely to approve funding for proposed districts that meet all requirements of rule 261—200.5(15J) during the preapplication process.

200.4(5) *Provisional funding decisions.*

a. The board, with the assistance of the authority, will evaluate the preapplications and assign them a provisional score based on the criteria described in rule 261—200.6(15J). Based on the results of

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the scoring, the board will make provisional funding decisions and notify applicants on or before June 30 of each year in which funding is available.

b. A provisional funding decision represents an initial judgment by the board about the merits of a proposed district plan and is provided for the convenience of both applicants and the board for the better administration of the program. A provisional funding decision shall not be construed as binding on the board nor will the applicant be required to meet all of the details contained in the preapplication. A provisional funding decision shall not be construed as a final approval by the board. A municipality shall not adopt an ordinance establishing a district based on a provisional funding decision.

c. The final details of a proposed district plan and a final funding decision, including a maximum benefit amount and a commencement date, shall be contingent upon the receipt of a full, final, and complete application and upon final action by the board to ratify, amend, defer, or rescind its provisional funding decision as provided in rule 261—200.7(15J).

d. The department of revenue will not deposit moneys into a fund until a final application is approved by the board and an ordinance has been adopted by the municipality.

200.4(6) *Posting of preapplication and materials to Internet site.* After the board makes a provisional funding decision, the proposed district plan, along with all accompanying materials, will be posted on the authority's Internet site for public viewing within ten days of approval by the board.

261—200.5(15J) Program eligibility and application requirements. To be eligible for benefits under the program, an applicant shall meet all of the following requirements:

200.5(1) *Area suitable for development.* An applicant must be a municipality and must have an area suitable for development within the boundaries of the municipality that has been proposed for designation as a reinvestment district under the program. Only areas that meet the following requirements will be approved for designation as a reinvestment district:

a. The area must consist only of parcels of real property that the governing body of the municipality determines will be directly and substantially benefited by development in the proposed district. In order to establish that this criterion is met, a municipality should submit information such as an estimate of the expected increase in valuation or other data that lends itself to a quantitative assessment of the extent to which the real property will benefit.

b. The area must be in whole or in part either an economic development enterprise zone designated under Iowa Code chapter 15E, division XVIII, or an urban renewal area established pursuant to Iowa Code chapter 403. In order to establish that this criterion is met, a municipality should submit maps of the proposed area as well as maps of the existing enterprise zone or urban renewal area. A municipality should also submit copies of the local ordinance or resolution establishing the enterprise zone or the urban renewal area.

c. The area must consist of contiguous parcels and must not exceed 25 acres in total. For purposes of this subrule, "contiguous" means parcels that are physically connected. Parcels connected by streets or other rights-of-way will be considered physically connected for purposes of this rule.

d. For a municipality that is a city, the area must not include the entire incorporated area of the city.

e. The area must not be located in whole or in part within another district established under this chapter.

200.5(2) *Proposed district plan.* An applicant must submit a proposed district plan. A proposed district plan must be approved by resolution of the governing body of the municipality and must state the governing body's intent to establish a district. A copy of this resolution should be submitted with the proposed district plan. The proposed district plan must also include all of the following:

a. A finding by the governing body that the area in the proposed district is an area suitable for development. This finding should be supported by the information required under subrule 200.5(1).

b. A legal description of the real estate forming the boundaries of the area to be included in the proposed district along with a map depicting the existing parcels of real estate located in the proposed district.

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c. A list of the names and addresses of the owners of record of the parcels to be included in the proposed district. If, at the time an application is submitted, the parcels are not yet acquired or one or more parcels within the district are under consideration for a project, then the names and addresses of the owners of record of all parcels under consideration shall be submitted with the understanding that final board approval shall be contingent upon all parcels' being acquired and identified by address prior to final board approval and establishment of the commencement date.

d. A list of all projects proposed to be undertaken within the district, a detailed description of those projects, and a project plan for each proposed project. Each project plan shall clearly state the estimated cost of the proposed project, the anticipated funding sources for the proposed project, the amount of anticipated funding from each such source, and the amount and type of debt, if any, to be incurred by the municipality to fund the proposed project, and shall include a proposed project feasibility study conducted by an independent professional with expertise in economic development and public finance. The project plan for the project that proposes the largest amount of capital investment among all proposed projects within the district shall include an estimate of the date that construction of the project will be completed and of the date that operations will begin at the project. The feasibility study shall include projections and analysis of all of the following:

(1) The amount of gross revenues expected to be collected in the district as a result of the proposed project for each year that the district is in existence.

(2) A detailed explanation of the manner and extent to which the proposed project will contribute to the economic development of the state and the municipality, including an analysis of the proposed project's economic impact. The analysis shall include the same components and be conducted in the same manner as the economic impact study required under paragraph "e" of this subrule.

(3) An estimate of the number of visitors or customers the proposed project will generate during each year that the district exists.

(4) A description of the unique characteristics of the proposed project. The description should include an explanation of why the unique characteristics of the proposed project cause the project to be of a unique nature, within the meaning of that term as it is defined in rule 261—200.2(15J).

e. An economic impact study for the proposed district conducted by an independent economist retained by the municipality. The economic impact study shall, at a minimum, do all of the following:

(1) Contain a detailed analysis of the financial benefit of the proposed district to the economy of the state and the municipality.

(2) Identify one or more projected market areas in which the district can reasonably be expected to have a substantial economic impact.

(3) Assess the fiscal and financial impact of the proposed district on businesses or on other economic development projects within the projected market area.

200.5(3) Additional conditions. In addition to the requirements described in subrules 200.5(1) and 200.5(2), a municipality shall demonstrate to the board's satisfaction that all of the following additional conditions are met:

a. The area of the municipality proposed to be included in the district must meet the requirements of subrule 200.5(1).

b. The projects proposed to be undertaken in the district must be of a unique nature and must be likely to have a substantial beneficial impact on the economy of the state and the economy of the municipality. If, in the judgment of the board, an applicant's proposed district plan is not of a unique nature or will not result in benefits claimed, the board may decline to approve a proposed district plan or may defer a proposed district plan until amendments are made.

c. The proposed funding sources for each proposed project must be feasible.

d. At least one of the projects proposed to be undertaken in the district must include a capital investment of at least \$10 million.

e. The total amount of proposed funding from new tax revenues to be remitted to the municipality from the fund for all proposed projects in the proposed district plan must not exceed 35 percent of the total cost of all proposed projects in the proposed district plan.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

f. The amount of proposed capital investment within the proposed district related to retail businesses in the proposed district must not exceed 50 percent of the total capital investment for all proposed projects in the proposed district plan.

g. The applicant must have submitted an application under the preapplication process described in rule 261—200.4(15J) and, as part of a provisional funding decision by the board, must have been approved for a provisional maximum benefit amount.

h. The proposed district plan must meet a minimum score under the criteria described in rule 261—200.6(15J).

i. The proposed district plan would not create an additional district within a municipality that has already established one. While multiple districts within a single municipality are not prohibited under the program, the program does limit the size of any one district to 25 acres and disallows overlapping districts. Therefore, the board will consider whether the approval of an additional district is appropriate given the particulars of the proposed additional district and the goals of the program. If a municipality proposes an additional district, the board, at its discretion, may accept the application and score it, or if the board determines that approval of an additional district would not serve the goals of the program, the board may reject the application without scoring it.

j. The applicant is not requesting a plan amendment to increase the maximum benefit amount for an already approved district. While it is within the discretion of the board to increase the maximum benefit amount of an approved district, the board will carefully scrutinize whether an increase is justified by circumstances such as greater investment or improved projects within the district and whether any change in the maximum benefit amount serves the goals of the program.

200.5(4) *Application materials and submission.*

a. A municipality interested in applying for funding under the program shall submit a preapplication and a final application to the board for approval and, when applying, shall provide the information described in this chapter or any other information the board or the authority may reasonably require in order to process the application.

b. Information on submitting an application under the program may be obtained by contacting the economic development authority. The contact information is:

Iowa Economic Development Authority
Business Finance Team
200 East Grand Avenue
Des Moines, Iowa 50309
(515)725-3000
businessfinance@iowa.gov
<http://iowaeconomicdevelopment.com/>

261—200.6(15J) Application scoring and determination of benefits. For each applicant that meets the requirements of rule 261—200.5(15J) and that has submitted an application during the annual filing window as described in subrule 200.4(3), the board will evaluate and score the proposed district plan according to the criteria and process described in this rule.

200.6(1) *Scoring criteria and plan evaluation.* Each proposed district plan will be given a numerical score between 0 and 100. The higher the numerical score, the more likely the proposed district will be approved for designation and funding under the program. The scoring process will necessarily involve a subjective assessment of the quality of each proposed district plan as well as a consideration of how each proposed district plan compares to the plans proposed by other applicants. The criteria used to score each application and the maximum number of points that may be attributed to each criterion are as follows:

a. Uniqueness: 25 points. The program requires that the projects proposed to be undertaken must be of a unique nature. Therefore, the proposed district plan will be evaluated on this criterion in order to quantify the extent to which the projects in the proposed district plan are of a unique nature. The more unique the projects are, the more points will be received under this criterion.

b. Economic impact: 25 points. The program requires that the projects proposed to be undertaken must have a substantial beneficial impact on the economy of the state and the economy of the

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municipality. Therefore, the proposed district plan will be evaluated on this criterion in order to quantify the extent to which the projects in the proposed district plan will benefit the economy. The greater the economic impact of the proposed district plan, the more points will be received under this criterion.

c. Project feasibility: 10 points. The program requires that funding sources for projects must be feasible. Therefore, the proposed district plan will be evaluated on this criterion in order to quantify the extent to which the funding sources of the proposed projects are feasible. The more feasible the funding sources for the proposed projects are, the more points will be received under this criterion.

d. Capital investment: 10 points. The program requires that at least one project with a capital investment of \$10 million or more be proposed. To the extent that the proposed district plan exceeds this minimum level of capital investment, more points will be received under this criterion.

e. Funding leverage: 10 points. The program limits the amount of new tax revenues that can be received to 35 percent of the total cost of all proposed projects in the proposed district plan. To the extent that a proposed district plan includes a financing plan in which the percentage of new tax revenues to be received is less than 35 percent of the total cost, more points will be received under this criterion.

f. Nonretail focus: 10 points. The program limits the amount of proposed capital investment in the district related to retail businesses to 50 percent of the total capital investment for all proposed projects in the proposed district. To the extent that a proposed district plan includes projects that provide cultural amenities, tourist attractions and accommodations, infrastructure, or quality of life improvements, more points will be received under this criterion.

g. Additional factors: 10 points. The program allows the board to establish additional criteria for the program. Therefore, in addition to the other criteria listed in this subrule, the board will consider the following additional factors:

(1) Readiness for development. The closer a municipality is to beginning development on a proposed district plan, the more points may be received under the additional factors criterion.

(2) Geographic diversity. To the extent that a proposed district is located in a region of the state not already funded under the program, more points may be received under the additional factors criterion. A proposed district plan that would create an additional district within a municipality or a request to increase the maximum benefit amount of an already approved district will not be viewed as enhancing geographic diversity and may receive fewer points under the additional factors criterion.

(3) Funding need. To the extent that a funding gap exists in the proposed district plan's financing, more points may be received under the additional factors criterion.

200.6(2) *Scoring process and funding recommendations.* Proposed district plans will be scored by an evaluation committee consisting of members appointed by the director. Members of the committee will include authority staff and not more than five members of the board. Each member of the evaluation committee will judge the proposed district plan according to the scoring criteria, and then the scores of all members of the committee will be averaged together to reflect one numerical score between 0 and 100. The evaluation committee will not make a funding recommendation.

After all applications are scored, a copy of the proposed district plan and the results of the scoring will be referred to the due diligence committee, which will consider the quality of the proposed district plans and make funding recommendations to the board. The due diligence committee will take into account the requested funding levels, but will also attempt to establish maximum benefit amounts that seem most appropriate to both the quality of the proposed district plans and the total demand for program funding.

The scoring results will not be negotiated and, while both the board and the due diligence committee will consider the scoring results of the evaluation committee, those results are not binding on either the due diligence committee or the board.

200.6(3) *Minimum score required.* To receive funding under the program, a proposed district plan must receive an average score of 70 or more points under the criteria listed in subrule 200.6(1).

200.6(4) *Funding not guaranteed.* The program is subject to a total aggregate limit on the amount of new tax revenues that may be approved. Therefore, a proposed district plan that meets the required minimum score is not guaranteed funding if the board's funding decisions for other, higher scoring proposed district plans cause the program's total aggregate limit to be reached.

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200.6(5) Final action taken by board. The final decision on whether to approve the designation of a proposed reinvestment district and the determination of the amount of maximum benefit to award an applicant rest entirely with the board. The recommendations of the evaluation committee and the due diligence committee with respect to the proposed district plans are of an advisory nature only.

200.6(6) Availability of scoring results. The board and the authority will keep records of the scoring process and make those records available to applicants.

200.6(7) Denial of plans and resubmission. If a proposed district plan is denied, the board will state the reasons for the denial. Reasons for denial may include a failure to meet filing deadlines, a failure to meet the basic requirements for eligibility, a failure to meet the required minimum score, or a lack of available funding. A municipality whose application is denied may resubmit the application at the next annual filing window provided there is funding available, but a resubmission must be rescored with all other applicants that apply during that filing window.

200.6(8) Provisional nature of preapplication process. The preapplication process described in rule 261—200.4(15J) will result in provisional scores and provisional funding decisions for applicants. However, these provisional scores and funding decisions are subject to change pending the final approval process described in rule 261—200.7(15J).

261—200.7(15J) Final application and approval process.**200.7(1) Final application required.**

a. An applicant that receives a provisional funding decision must submit a final application to the board before the date of the next annual filing window. An applicant that does not file a final application within that time will be scored again with all other applicants who file in the next annual filing window.

b. A final application shall meet all the requirements described in rule 261—200.5(15J).

200.7(2) Amendments to preapplications and rescoring of plans. An applicant may amend any part of the preapplication when submitting the final application and must amend the application if any part of the proposed district plan will be materially different from the plan that was proposed during the preapplication process. If the board determines that a final application is substantially different from the related preapplication, then the board may rescore the application and reevaluate the provisional funding decision prior to taking final action. If the board elects to rescore and reevaluate an application, the application will be rescored and reevaluated in the same manner and according to the same criteria used initially.

200.7(3) Final funding decision and establishment of commencement date. After submission of all information required for the final application, the board will make a final funding decision, establish a final maximum benefit amount, and establish a commencement date for the district. The commencement date established by the board will be the first day of the first calendar quarter beginning after the later of the two dates identified for the project that proposed the largest amount of capital investment among all proposed projects in the district as described in subrule 200.5(2).

200.7(4) Provisional funding decisions not determinative of final funding decision. The board's final funding decision may be different from its provisional funding decision. The board may ratify, amend, defer, or rescind the provisional funding decision. If the board's final funding decision causes additional funding to become available, the board may amend a funding decision for another proposed district plan made during the same annual filing window or may reserve the additional funding capacity for the next annual filing window.

200.7(5) Posting of application and materials to Internet site. Upon final approval by the board, the district plan, along with the municipality's resolution and all accompanying materials, will be posted on the authority's Internet site for public viewing within ten days of approval by the board.

261—200.8(15J) Adoption of ordinance and use of funds.

200.8(1) Adoption of ordinance establishing a district. Upon receiving approval by the board of the final application pursuant to rule 261—200.7(15J), the municipality may adopt an ordinance establishing the district and shall notify the director of revenue of the district's commencement date established by the board no later than 30 days after adoption of the ordinance. The ordinance adopted by the municipality

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

shall include the district's commencement date and a detailed statement of the manner in which the approved projects to be undertaken in the district will be financed, including but not limited to the financial information included in the project plan.

200.8(2) Use of funds.

a. Following establishment of the district, a municipality may use the moneys deposited in the municipality's reinvestment project fund created pursuant to 2013 Iowa Acts, House File 641, section 7, to fund the development of those projects included within the district plan. For purposes of this subrule, "development" means all costs reasonably related to a project provided that such costs are described in a final application approved by the board. Development costs may include project planning, professional services, land acquisition, construction, maintenance, and operational expenses. A municipality shall enter into development agreements for the expenditure of program funds and submit copies of such agreements to the authority within 30 days of execution.

b. Moneys deposited in such a fund shall only be used to fund projects approved by the board as part of a proposed district plan. Moneys deposited in such a fund may be used for projects that do not generate new tax revenues provided such projects are part of an approved plan. A municipality shall maintain records documenting the use of funds under the program and make them available to the board or the department upon request.

c. Moneys from any source deposited into the fund shall not be expended for or otherwise used in connection with a project that includes the relocation of a commercial or industrial enterprise not presently located within the municipality. For the purposes of this subrule, "relocation" means the closure or substantial reduction of an enterprise's existing operations in one area of the state and the initiation of substantially the same operation in the same county or a contiguous county in the state. "Relocation" does not include an enterprise expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced.

d. Moneys from new tax revenues collected within a district and expended by a municipality under the program are subject to audit by the department of revenue or the auditor of state.

261—200.9(15J) Plan amendments and reporting.**200.9(1) Plan amendments.**

a. A municipality may request an amendment to an approved district plan in order to add or modify projects. However, a proposed modification to a project, and each project proposed to be added, must first be approved by the board in the same manner as provided for the original plan, including updated or amended feasibility and economic impact studies as necessary. An applicant requesting a plan amendment is not required to file a preapplication pursuant to rule 261—200.4(15J) unless the amendment would increase the maximum benefit amount. A plan amendment request that does not increase the maximum benefit amount may be requested at any time.

b. There is no circumstance in which the board will approve an amendment to a district plan if that amendment would result in the extension of the final commencement date established by the board. A request to extend a district's established commencement date will be rejected.

c. If a district plan is amended to add or modify a project, the municipality shall amend the ordinance, if necessary, to reflect any changes to the financial information required to be included under the program.

d. If, after final approval and establishment of the district, a municipality is unable to carry out development of all the projects proposed to be undertaken in a district, the municipality shall seek a modification to the plan. If a requested plan amendment would reduce capital investment in a district or remove one or more of the projects originally approved for the district, the board in its discretion may reduce, rescind, or otherwise modify the maximum benefit amount accordingly.

200.9(2) Reports required. Following establishment of a district, the municipality shall on or before October 1 of each year submit a report to the board detailing all of the following:

a. The status of each project undertaken within the district in the previous 12 months.

b. An itemized list of expenditures from the municipality's reinvestment project fund in the previous 12 months that have been made related to each project being undertaken within the district.

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c. The amount of the total project cost remaining for each project being undertaken within the district as of the date the report is submitted.

d. The amounts, types, and sources of funding used for each project described in paragraph "a."

e. The amount of bonds issued or other indebtedness incurred for each project described in paragraph "a," including information related to the rate of interest, length of term, costs of issuance, and net proceeds. The report shall also include the amounts and types of moneys to be used for payment of such bonds or indebtedness.

200.9(3) *Reports posted to Internet site and submitted to governor and general assembly.* All reports received by the board under subrule 200.9(2) will be posted on the authority's Internet site as soon as practicable following receipt of the report. The board will submit a written report to the governor and the general assembly on or before January 15 of each year that summarizes and analyzes the information submitted by municipalities under subrule 200.9(2).

261—200.10(15J) Cessation of deposits, district dissolution, and revenue rules.

200.10(1) *Cessation of deposits.* As of the date 20 years after the district's commencement date, the department will cease to deposit new tax revenues into the district's account within the fund unless the municipality dissolves the district by ordinance prior to that date. Once the maximum benefit amount approved by the board for the district has been reached, the department will cease to deposit new tax revenues into the district's account within the fund. If a district reaches the maximum benefit amount, the department will notify the municipality within a reasonable amount of time.

200.10(2) *District dissolution.* If a municipality dissolves a district by ordinance prior to the expiration of the 20-year period, the municipality shall notify the director of revenue of the dissolution as soon as practicable after adoption of the ordinance, and the department shall, as of the effective date of dissolution, cease to deposit state sales tax revenues and state hotel and motel tax revenues into the district's account within the fund. If a municipality is notified that its maximum benefit amount has been reached, the municipality shall dissolve the district by ordinance as soon as practicable after notification.

200.10(3) *Cross reference to department rules.* The department has adopted rules for the administration and deposit of moneys into the fund. See 701—Chapter 237.

These rules are intended to implement 2013 Iowa Acts, House File 641.

ARC 0954C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 12, "General Accreditation Standards," Iowa Administrative Code.

2013 Iowa Acts, House File 215, sections 79 to 83 (amending Iowa Code sections 256.7(19), 256F.4(5), 279.10(1) and (2) and 299.1(2)), enacted education reform, including provisions to allow local school districts and accredited nonpublic schools to continue with the traditional 180-day school calendar or change to a schedule based on 1,080 hours. These changes would occur starting in the 2014-2015 school year. Certain provisions concerning the traditional school day were struck in the legislation, requiring modifications to the relevant administrative rules. The proposed amendments reflect the legislative changes made in allowing districts flexibility with their local school day and annual attendance requirements to meet the state standard in this area.

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

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Interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on September 10, 2013. Comments should be directed to Mike Cormack, Rules Coordinator, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146. Comments may also be sent by fax to (515)242-5988 or submitted by e-mail to mike.cormack@iowa.gov.

A public hearing will be held from 3 to 4 p.m. on Tuesday, September 10, 2013, in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time interested persons may present their views either orally or in writing. All persons who wish to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs ahead of the hearing date by calling (515)281-5295.

Analysis and review of the proposed amendments confirm that they have no jobs impact.

The Department intends that the proposed amendments shall become effective on November 20, 2013.

These amendments are intended to implement Iowa Code sections 256.7(19), 256F.4(5), 279.10(1) and (2) and 299.1(2) as amended by 2013 Iowa Acts, House File 215, sections 79 to 83, and Iowa Code section 279.10(4).

The following amendments are proposed.

ITEM 1. Amend subrule 12.1(7) as follows:

12.1(7) *Minimum school calendar and day: set by annual hours or days of instruction.* ~~Each~~ The board of directors of a school district and the authorities in charge of an accredited nonpublic school shall adopt a school calendar that ~~identifies specific~~ sets the number of days or hours of required attendance for student instruction, staff development and in-service time, and time for parent-teacher conferences. Prior to adopting the school calendar, the board of directors of a school district shall hold a public hearing on any proposed school calendar. The board and authorities in charge of an accredited nonpublic school shall notify the department annually of their decision to have a calendar based on days or based on hours. The length of the school calendar does not dictate the length of contract hours or days of employment for instructional and noninstructional staff. Time recorded under either a days or hours calendar system may include passing time between classes but shall exclude the lunch period. Time spent on parent-teacher conferences shall be considered instructional time. The school calendar may be operated anytime during the school year of July 1 to June 30 as defined by Iowa Code section 279.10 as amended by 2013 Iowa Acts, House File 215, section 81. A minimum of 180 days or 1,080 hours of instruction shall be set in the school calendar, for school districts and accredited nonpublic schools beginning no sooner than a day during the calendar week in which the first day of September falls, and shall be used for student instruction. However, if the first day of September falls on a Sunday, school may begin any day during the calendar week preceding September 1. These 180 days shall meet the requirements of "day of school" for those districts or accredited nonpublic schools that are utilizing a schedule based on days, defined in subrule 12.1(8), paragraph 12.1(8) "a," "minimum school day" defined in subrule 12.1(9), and "day or hour of attendance" defined in subrule 12.1(10). (Exception: A school or school district may, by board policy, excuse graduating seniors up to five days or 30 hours of instruction after school or school district requirements for graduation have been met.) If additional days are added to the regular school calendar because of inclement weather, a graduating senior who has met the school district's requirements for graduation may be excused from attendance during the extended school calendar. A school or school district may begin its school calendar earlier for other educational purposes involving instructional and noninstructional staff. employment of instructional and noninstructional staff, for in-service training and development purposes, earlier than the first day of school. A school or school district choosing a schedule based on hours shall follow the definition of hour of school set forth in paragraph 12.1(8) "b."

ITEM 2. Amend subrule 12.1(8) as follows:

12.1(8) *Day and hour of school.*

a. Day of school. A day of school is a day during which the school or school district is in session and students are under the guidance and instruction of the instructional professional staff. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional

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professional staff. All grade levels of the school or school district must be operated and available for attendance by all students. An exception is if either the elementary or secondary grades are closed and provided that ~~this~~ the time missed is made up at some other point during the school calendar so as to meet the minimum of 180 days or 1,080 hours of instruction for all grades 1 through 12. ~~If a classroom or attendance center is closed for emergency health or safety reasons but the remainder of the school or school district is in operation, the day may be counted as a day of school.~~

b. Hour of school. For schools or school districts adopting a calendar based on a 1,080-hour minimum schedule, an official hour of school is an hour in which the school or school district is in session and students are under the guidance and instruction of the instructional professional staff. For purposes of this rule, an "hour" is defined as 60 minutes. The calculation of minimum hours shall exclude the lunch period. Passing time between classes may be counted as part of the hour requirement. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff. All grade levels of the school or school district must be operated and available for attendance by all students. Schools or school districts have flexibility on how they can reach the threshold of 1,080 hours of instruction but must keep annual documentation of how they met that standard. The school calendar may include more than or less than or may equal the 180-day schedule. The hours included in an individual day under an hours format may vary.

ITEM 3. Amend subrules 12.1(9) to 12.1(11) as follows:

12.1(9) Minimum school day. A school day, for those utilizing a school calendar based on days, shall consist of a minimum of ~~5½~~ 6 hours of instructional time for all grades 1 through 12. The minimum hours shall be ~~exclusive of~~ exclude the lunch period. Passing time between classes ~~as well as time spent on parent teacher conferences~~ may be counted as part of the ~~5½~~ 6-hour requirement. ~~The school or school district may record a day of school with less than the minimum instructional hours if emergency health or safety factors require the late arrival or early dismissal of students on a specific day; or if the total hours of instructional time for all grades 1 through 12 in any five consecutive school days equal a minimum of 27½ hours, even though any one day of school is less than the minimum instructional hours because staff development is provided for the instructional professional staff or because parent-teacher conferences have been scheduled beyond the regular school day.~~ School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff.

~~Furthermore, if the total hours of instructional time for the first four consecutive days equal at least 27½ hours because parent teacher conferences are held beyond the regular school day, a school or school district may record zero hours of instructional time on the fifth consecutive school day as a minimum school day.~~

12.1(10) Day or hour of attendance. A day or hour of attendance shall be a day or hour during which students were present and under the guidance and instruction of the instructional professional staff. When staff development designated by the board or by authorities in charge of an accredited nonpublic school occurs outside of the time required for a "minimum school day," students shall be counted in attendance. ~~(Note exceptions in subrules 12.1(8) and 12.1(9).)~~

12.1(11) Kindergarten. The number of instructional days or hours within the school calendar and the length of the school day for kindergarten shall be defined by the board or by authorities in charge of an accredited nonpublic school that operates a kindergarten program. ~~This subrule applies to an accredited nonpublic school only if it offers kindergarten.~~

ARC 0958C**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 12, “General Accreditation Standards,” Iowa Administrative Code.

Competency-based education differs in style from traditional educational delivery models. In providing proper assessment of work completed in this new manner of delivery, traditional Carnegie units of measurement do not properly cover student work that is based on mastery of subject instead of hours of seat time in a class. The proposed amendments allow for proper assessment and delivery of instruction from a competency-based classroom structure versus the traditional mode of instruction which existing rule 281—12.5(256) was intended to address. These amendments cover delivery of instruction and assessment in both educational delivery systems and also define “competency-based education.”

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

Interested individuals may make written comments on the proposed amendment on or before September 10, 2013, at 4:30 p.m. Comments on the proposed amendment should be directed to Mike Cormack, Rules Coordinator, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; e-mail mike.cormack@iowa.gov or fax (515)242-5988.

A public hearing will be held on September 10, 2013, from 10 to 11 a.m., at the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility requirements, should advise the Department of Education of specific needs by calling (515)281-5295.

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

These amendments are intended to implement Iowa Code section 256.7(26)“a”(2).

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition of “Competency-based education” in rule **281—12.2(256)**:

“*Competency-based education*” means that learners advance through content or earn credit based on demonstration of proficiency of competencies. Proficiency for this context is the demonstrated skill or knowledge required to advance to and be successful in higher levels of learning in that content area. Some students may advance through more content or earn more credit than in a traditional school year while others might take more than a traditional school year to advance through the same content and to earn credit. A student must meet the requirements of 12.5(14) to be awarded credit in a competency-based system of education.

ITEM 2. Amend subrule 12.5(14) as follows:

12.5(14) Unit. A unit is a course which meets one of the following criteria: it is taught for at least 200 minutes per week for 36 weeks; it is taught for the equivalent of 120 hours of instruction; it requires the demonstration of proficiency of formal competencies associated with the course according to the State Guidelines for Competency-Based Education or its successor organization; or it is an equated requirement as a part of an innovative program filed as prescribed in rule 281—12.9(256). A fractional unit shall be calculated in a manner consistent with this subrule. **Multiple** Unless the method of instruction is competency-based, multiple-section courses taught at the same time in a single classroom

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situation by one teacher do not meet this unit definition for the assignment of a unit of credit. However, the third and fourth years of a foreign language may be taught at the same time by one teacher in a single classroom situation each yielding a unit of credit.

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EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 12, “General Accreditation Standards,” Iowa Administrative Code.

2013 Iowa Acts, House File 215, section 89, changed the law concerning accreditation to include a new manner in which an Iowa nonpublic school may choose to be accredited. Independent accreditation is a manner in which schools would be accredited under Chapter 12 by an approved independent accrediting agency, not by the Department and State Board of Education, which hold traditional authority in this policy area. The proposed rule provides direction to both the participants in this program and the independent agencies wishing to accredit such Iowa schools. Due to a legislative sunset, this rule will expire on July 1, 2020.

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

Interested individuals may make written comments on the proposed rule on or before September 10, 2013, at 4:30 p.m. Comments on the proposed rule should be directed to Mike Cormack, Rules Coordinator, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; e-mail mike.cormack@iowa.gov; or fax (515)242-5988.

A public hearing will be held on September 10, 2013, from 11 a.m. to 12 noon, at the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of their specific needs by calling (515)281-5295.

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

This rule is intended to implement 2013 Iowa Acts, House File 215, section 89.

The following amendments are proposed.

ITEM 1. Adopt the following **new** Division X heading in **281—Chapter 12**:

DIVISION X
INDEPENDENT ACCREDITING AGENCIES

ITEM 2. Adopt the following **new** rule 281—12.10(256):

281—12.10(256) Independent accrediting agencies. Notwithstanding subsections 1 through 12 of Iowa Code section 256.11 and this chapter, a nonpublic school may be accredited by an independent accrediting agency that appears on a list maintained by the state board of education instead of being accredited by the state board.

12.10(1) Compliance required by a nonpublic school. A nonpublic school that participates in the accreditation process offered by an independent accrediting agency on the approved list published pursuant to this rule shall be deemed to meet the education standards of Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, and this chapter. However, such a school shall comply with statutory health and safety requirements for school facilities. A nonpublic school

EDUCATION DEPARTMENT[281](cont'd)

accredited under this chapter shall abide by all state and federal laws and regulations. Notwithstanding Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, the department is not precluded from enforcing compliance with all state and federal laws and regulations.

12.10(2) *Compliance required by accrediting agency.* Agencies approved under subrule 12.10(3) shall abide by all state and federal laws and regulations and shall enforce those laws and regulations on the schools they accredit. Notwithstanding Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, the department is not precluded from enforcing compliance with all state and federal laws and regulations.

12.10(3) *List maintained by state board.* The state board shall maintain a list of approved independent accrediting agencies comprised of at least six regional or national nonprofit, nongovernmental agencies recognized as reliable authorities concerning the quality of education offered by a school and shall publish the list of independent accrediting agencies on the department's Internet site. The list shall include accrediting agencies that, as of January 1, 2013, accredited a nonpublic school in this state that was concurrently accredited under this rule and shall include any agency that has a formalized partnership agreement with another agency on the list and has member schools in this state as of January 1, 2013.

12.10(4) *Criteria for recognizing an agency as a "reliable authority concerning the quality of education offered by a school."* In any decision to add an agency to the list maintained pursuant to subrule 12.10(1) or to remove an agency from the list pursuant to subrule 12.10(3), the following criteria may be applied:

- a. Whether the agency's accreditation standards require a school to set high academic and nonacademic standards for all students, including preparation of students for postsecondary success.
- b. Whether the agency's accreditation standards require a school to monitor and assess all students' progress toward high academic and nonacademic standards.
- c. Whether the agency's accreditation standards require a school to recruit and retain properly licensed quality professional staff, and provide those staff members with ongoing professional development.
- d. Whether the agency's accreditation standards set requirements for fiscal, data, and contract management.
- e. Whether the agency monitors compliance with its standards and takes appropriate corrective action when standards are not met.
- f. Whether the agency itself has appropriate fiscal, data, and contract management policies and procedures.
- g. Any uncorrected citation of noncompliance by any governmental or nongovernmental agency or organization with jurisdiction or oversight of an accrediting agency listed pursuant to subrule 12.10(1).
- h. Any uncorrected negative audit finding of an accrediting agency listed pursuant to subrule 12.10(1).
- i. Any judgments, orders, decrees, consent decrees, settlement agreements, or verdicts concerning the agency listed pursuant to subrule 12.10(1) entered by any state or federal court of competent jurisdiction.
- j. Whether the agency listed pursuant to subrule 12.10(1) continues to retain its nonprofit status.
- k. Whether the agency listed pursuant to subrule 12.10(1) has received any form of recognition for innovation or excellence concerning its work.
- l. Any other criterion used by the agency to determine accreditation.
- m. Any other reports or findings sent to the nonpublic school regarding accreditation, including findings related to Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89.

12.10(5) *Removal of agency from approved independent accrediting agencies.* If the state board takes preliminary action to remove an agency from the approved list published on the department's Internet site pursuant to subrule 12.10(1), the department shall, at least one year prior to removing the agency from the approved list, notify the nonpublic schools participating in the accreditation process offered by the agency of the state board's intent to remove the accrediting agency from its approved list

EDUCATION DEPARTMENT[281](cont'd)

of independent accrediting agencies. The department shall give notice to the independent accrediting agency, along with an opportunity to respond. The notice shall also be posted on the department's Internet site and shall contain the proposed date of removal. If a nonpublic school receives notice pursuant to this subrule and it chooses to remain accredited, the nonpublic school shall attain accreditation under this rule or otherwise attain accreditation in a manner provided by this chapter or Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, not later than one year following the date on which the state board removes the agency from its list of independent accrediting agencies.

12.10(6) Rule of construction: "at least six." The obligation to maintain a list of at least six agencies in subrule 12.10(1) shall not be construed to require the list to contain an agency that is not a regional or national nonprofit, nongovernmental agency recognized as a reliable authority concerning the quality of education offered by a school.

12.10(7) Adoption by the department of standard procedures. The department shall adopt standard procedures, schedules, and forms for the implementation of this rule, including procedures for adding independent accrediting agencies from the list maintained by the state board pursuant to subrule 12.10(1) and removing agencies from that list pursuant to subrule 12.10(3).

12.10(8) Automatic repeal. Pursuant to the repeal clause in 2013 Iowa Acts, House File 215, section 89, this rule is rescinded July 1, 2020.

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EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 79, "Standards for Practitioner and Administrator Preparation Programs," Iowa Administrative Code.

2013 Iowa Acts, House File 215, sections 45 and 110(2), establishes a Teach Iowa student teaching pilot project. Two institutions, one Regents institution and one accredited private institution, shall establish a full-year student teaching preparation pilot project. The proposed subrule provides structure on how those sites will be selected and how the pilot project will be enacted at those sites for the duration of the project.

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

Interested individuals may make written comments on the proposed amendment on or before September 10, 2013, at 4:30 p.m. Comments on the proposed amendment should be directed to Mike Cormack, Rules Coordinator, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; e-mail mike.cormack@iowa.gov; or fax (515)242-5988.

A public hearing will be held on September 10, 2013, from 2 to 3 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515)281-5295.

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

This amendment is intended to implement 2013 Iowa Acts, House File 215, sections 45 and 110(2).

The following amendment is proposed.

EDUCATION DEPARTMENT[281](cont'd)

Adopt the following **new** subrule 79.14(13):

79.14(13) *Teacher preparation clinical practice standard—Teach Iowa student teaching pilot project.* The Iowa department of education shall establish and administer a Teach Iowa year-long student teaching pilot project. The year-long student teaching pilot project must meet all existing student teaching requirements of 281—Chapter 79, in addition to the following:

a. Two Iowa institutions of higher education with state board of education-accredited teacher preparation programs will collaborate with the Iowa department of education to conduct this year-long, co-teaching-based student teaching pilot project. One of the two institutions collaborating on the pilot project will be under the control of the state board of regents; the other, an accredited private institution as defined in Iowa Code section 261.9.

b. The Teach Iowa student teaching pilot project shall provide students in teacher preparation programs with a one-year student teaching experience. A student teaching experience provided under the pilot project must include all of the following requirements:

(1) A participating institution of higher education shall work with one or more accredited schools or school districts (public or private), individually or collaboratively, to place groups of students in a co-teaching student teaching experience for an entire academic year. A participating institution of higher education shall take into consideration geographic diversity in the selection of accredited schools or school districts for participation in the pilot project. A participating institution of higher education will place an emphasis on supporting students in their development as teachers who will raise student achievement.

(2) A participating institution of higher education shall supervise the student teachers in the classroom and shall provide the student teachers with weekly on-site instruction in pedagogy in the participating school districts.

c. The participating institutions of higher education will collaborate with the department of education to develop and administer a monitoring system to evaluate and periodically provide a report on the effectiveness of the Teach Iowa year-long student teaching pilot project.

d. Institutions selected to participate in the pilot project will be chosen by a panel established by the director of the Iowa department of education using a scaled score of application requirements. Interested institutions will apply for the pilot project by describing:

(1) Capacity to carry out the work of the pilot;

(2) Extent of partnership with local district/school to include documented agreement of district/school administrator(s);

(3) Budget;

(4) Curriculum plans for on-site instruction to include alignment with institutions' current curricula;

(5) Plans for evaluation effectiveness of pilot project on student teacher growth in learning and preparedness for teaching.

e. Selected institutions will develop and administer a year-long student teaching pilot project that will:

(1) Place a cohort of candidates in a PK-12 school in a co-teaching model of student teaching for the duration of an entire academic year.

(2) Provide weekly instruction for student teachers in the same PK-12 school (or schools) in which the student teachers are teaching.

(3) Evaluate the effectiveness of year-long student teaching.

(4) Meet all requirements in subrule 79.14(13).

(5) Meet all other requirements of 281—Chapter 79.

f. This subrule is rescinded at the conclusion of the pilot project.

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EDUCATION DEPARTMENT[281]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 97, “Supplementary Weighting,” Iowa Administrative Code.

This amendment is intended to comply with recent legislative changes that reauthorized and modified the current statute for supplementary weighting. Additional classifications of employees were allowed to be shared between districts. In addition, districts no longer need to be adjoining to participate in this program. The amendment reflects these changes and provides clarity for the operation of the program for participating districts.

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

Interested individuals may make written comments on the proposed amendment on or before September 10, 2013, at 4:30 p.m. Comments on the proposed amendment should be directed to Dr. Jeff Berger, Iowa Department of Education, 2nd Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3968; e-mail jeff.berger@iowa.gov; or fax (515)242-5988.

A public hearing will be held on September 10, 2013, from 1 to 2 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of their specific needs by calling (515)281-5295.

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

This amendment is intended to implement 2013 Iowa Acts, House File 472, and Senate File 452, section 20(1).

The following amendment is proposed.

Amend rule 281—97.7(257) as follows:

281—97.7(257) Supplementary weighting plan for operational services.

97.7(1) No change.

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

a. to e. No change.

f. Curriculum director.

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

(2) Clerical, paraprofessional, or other support services personnel in the improvement of instruction function area shall not be considered a shared curriculum director under this subrule.

EDUCATION DEPARTMENT[281](cont'd)

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

g. School administration manager.

(1) Shared personnel must perform the services of a school administration manager for each of the sharing partners. An individual performing the function of a school administration manager must be properly licensed for that position.

(2) Principals, assistant principals, deans of students, or paraprofessional, clerical or other support services personnel in the school administration function area shall not be considered a shared school administration manager under this subrule.

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

h. Social worker.

(1) Shared personnel must perform the services of a social worker for each of the sharing partners. An individual performing the function of a social worker must be properly licensed for that position by holding a statement of professional recognition from the board of educational examiners.

(2) Assistants in social work or clerical, paraprofessional, or other support services personnel in the attendance and social work services function area shall not be considered a shared social worker under this subrule.

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

i. School nurse.

(1) Shared personnel must perform the services of a school nurse for each of the sharing partners. An individual performing the function of a school nurse must be properly licensed for that position by holding a statement of professional recognition from the board of educational examiners.

(2) Assistants, licensed practical nurses, or paraprofessionals, aides, clerical or other support services personnel in the health or psychological services function area shall not be considered a shared school nurse under this subrule.

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

j. School counselor.

(1) Shared personnel must perform the services of a school counselor for each of the sharing partners. An individual performing the function of a school counselor must be properly licensed for that position.

(2) Deans of students or clerical, paraprofessional, or other support services personnel in the guidance services function area shall not be considered a shared school counselor under this subrule.

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

k. School librarian.

(1) Shared personnel must perform the services of a school librarian for each of the sharing partners. An individual performing the function of a school librarian must be properly licensed for that position.

(2) Technology directors, media specialists, or paraprofessional, aide, clerical or other support services personnel in the library media services function area shall not be considered a shared school librarian under this subrule.

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

97.7(3) Years of eligibility. A school district participating in an operational function sharing arrangement shall be eligible for supplementary weighting under this rule for a maximum of five years. The five years of eligibility shall include each year in which any shared operational function is included for supplementary weighting. The supplementary weighting for eligible shared operational functions may be included beginning on October 1, ~~2007~~ 2013.

EDUCATION DEPARTMENT[281](cont'd)

a. Receipt of supplementary weighting after the first year shall be conditioned upon the submission of cost information provided in the format prescribed by the department of education as part of the BEDS fall data collection and certified annual report documenting cost savings directly attributable to the shared operational functions.

b. The documentation on the BEDS fall data collection shall be filed no later than the published deadline for that data collection and the documentation on the certified annual report shall be filed no later than September 15 preceding the October 1 on which the second, third, fourth, or fifth year of operational function sharing is included for supplementary weighting.

97.7(4) *Contiguous districts.* School districts that share operational functions with other school districts ~~must be not required to~~ be contiguous school districts. ~~If two or more sharing partner districts are not contiguous to each other, all districts separating those districts must be a party to the operational function sharing arrangement.~~

97.7(5) *Consecutive years.* A school district that is eligible to add a supplementary weighting for resident students for a shared operational function is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose shall not be later than the school year that begins July 1, ~~2012~~ 2018, and the total of all years in which a supplementary weighting may be added on October 1 for this purpose shall not exceed five years.

97.7(6) to 97.7(8) No change.

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

97.7(9) 97.7(10) *Weighting.* Resident students eligible for supplementary weighting pursuant to rule 281—97.7(257) shall be eligible for a weighting of two-hundredths per pupil included in the actual enrollment in the district. The supplementary weighting shall be assigned to each discrete operational function shared. The maximum number of years for which a supplementary weighting shall be assigned for all operational functions shared is five years.

a. ~~The supplementary weighting for operational functions shared is decreased each year based on the following schedule:~~

(1) ~~The total supplementary weighting calculated for all operational function sharing in the second year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.~~

(2) ~~The total supplementary weighting calculated for all operational function sharing in the third year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.~~

(3) ~~The total supplementary weighting calculated for all operational function sharing in the fourth year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.~~

(4) ~~The total supplementary weighting calculated for all operational function sharing in the fifth year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.~~

b. ~~The decrease in the total supplementary weighting as described in paragraph “a” of this subrule shall be applied after any adjustment for minimum or maximum weighting has been applied.~~

EDUCATION DEPARTMENT[281](cont'd)

e. The department shall reserve the authority to determine if an operational sharing arrangement constitutes a discrete arrangement, new arrangement, or continuing arrangement if the circumstances have not been clearly described in the Iowa Code or the Iowa Administrative Code.

~~97.7(10)~~ **97.7(11)** *Maximum weighting.* The maximum amount of additional weighting for which a school district participating in operational function sharing shall be eligible is an amount corresponding to 40 full-time equivalent pupils ~~prior to any reduction pursuant to subrule 97.7(9)~~. The maximum additional weighting applies to the total of all operational function sharing rather than to each discrete operational function.

~~97.7(11)~~ **97.7(12)** *Minimum weighting.* The minimum amount of additional weighting for which a school district participating in operational function sharing shall be eligible is an amount corresponding to ten additional pupils ~~prior to any reduction pursuant to subrule 97.7(9)~~. The minimum additional weighting applies to the total of all operational function sharing rather than each discrete operational function.

~~97.7(12)~~ **97.7(13)** *Filing cost-savings documentation.* Each school district that receives supplementary weighting for sharing one or more operational functions shall file with the department of education documentation of cost savings directly attributable to the shared operational functions. This documentation shall be submitted in the format prescribed by the department of education as part of the certified annual report and the BEDS fall data collection. The district or AEA shall report the FTE for each discrete operational function area eligible for supplementary weighting on its BEDS fall data collection. The documentation certified annual report shall be filed no later than September 15 preceding the October 1 on which the second, third, fourth, or fifth year of operational function sharing is included for supplementary weighting and the BEDS fall data collection shall be filed no later than its published deadline. If a district or AEA does not file in a timely manner its certified annual report and its BEDS fall data collection, it will not be eligible to request operational function sharing supplementary weighting.

~~97.7(13)~~ **97.7(14)** *Determining cost savings.* The criteria considered by the department of education in determining shared operational function cost savings and increased student opportunities shall include, but not be limited to, the following:

a. The level of FTE for each discrete operational function area eligible for supplementary weighting as compared to the level of FTE for that same discrete operational function area in the 2012-2013 school year as reported on the BEDS fall data collection.

b. If, in the opinion of department staff, the FTE is not sufficient documentation on which to determine eligibility for operational function sharing supplementary weighting, the department may also review the following from the certified annual report:

~~a.~~ (1) The percent of costs calculated as the total of general fund expenditures for all operational functions that could be shared, in function codes 2300 and greater, divided by the total of all general fund expenditures, multiplied by 100, in the current prior fiscal year compared to the previous 2012-2013 fiscal year. The current prior fiscal year is the fiscal year ending on June 30 as reported on the certified annual report that includes the was due on September 15, prior to October 1 on which the district included any operational function shared for supplementary weighting. The decrease in percent shall be a measurable decrease of at least one-tenth of one percent in the first fiscal year for which cost savings are determined cost savings and increased student opportunities shall be evidenced by the percent which is less than or equal to the percent in the 2012-2013 fiscal year. In a year after the first fiscal year for which cost savings are determined, the percent of costs shall not be greater than the percent in the previous fiscal year.

b. The percent of costs calculated as the total of general fund expenditures for all instruction, student support, and instructional staff support functions divided by the total of all general fund expenditures, multiplied by 100, in the current year compared to the previous year. The current year is the fiscal year ending on June 30 that includes the October 1 on which the district included any operational function shared for supplementary weighting. The increase in percent must be a measurable increase of at least one-tenth of 1 percent in the first fiscal year for which increased student opportunities are determined. In a year after the first fiscal year for which increased student opportunities are determined, the percent of costs shall not be less than the percent in the previous fiscal year.

EDUCATION DEPARTMENT[281](cont'd)

~~e.~~ (2) The department of education will adjust the total expenditures to exclude distorting financial transactions or interagency financial transactions. Distorting financial transactions shall be determined by the department of education.

c. If the district increases the total FTE of personnel in any discrete operational function area eligible for supplementary weighting, the district will not be eligible for supplementary weighting for operational function sharing for that discrete operational function area until the fiscal year in which the FTE is decreased to or below the level reported by the district on its BEDS staff data collection in fiscal year 2012-2013.

d. If the district cannot demonstrate cost savings directly attributable to the shared operational function or increased student opportunities, the district will not be eligible for supplementary weighting for operational function sharing for that fiscal year.

~~97.7(14)~~ **97.7(15)** *Area education agency maximum funding.* The provisions of rule 281—97.7(257) also apply to an area education agency except for per-pupil weightings, minimum weightings, and maximum weightings.

a. In lieu of minimum weightings, an area education agency shall be eligible for a minimum amount of additional funding of \$50,000 for the total of all operational function sharing arrangements. ~~The dollar amount calculated in the first year of any operational function sharing will be used to determine the annual reductions.~~

b. In lieu of maximum weightings, an area education agency shall be eligible for a maximum amount of additional funding of \$200,000 for the total of all operational function sharing arrangements. ~~The dollar amount calculated in the first year of any operational function sharing will be used to determine the annual reductions.~~

c. In lieu of supplementary weighting of students, the department of management shall annually set a weighting for each area education agency to generate the approved operational function sharing dollars using each area education agency's special education cost-per-pupil amount and foundation level.

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

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 418.7, the Department of Homeland Security and Emergency Management proposes to adopt a new Chapter 14, “Flood Mitigation Program,” Iowa Administrative Code.

Proposed Chapter 14 is intended to implement Iowa Code chapter 418, which creates the Flood Mitigation Program. Chapter 14 is intended to specify how the Flood Mitigation Board will implement and administer the program.

Consideration will be given to all written suggestions or comments on the proposed rules on or before September 10, 2013. Such written materials should be sent to the Administrative Rules Coordinator, Iowa Homeland Security and Emergency Management, Camp Dodge, Building W-4, Johnston, Iowa 50131; fax (515)725-3260; or e-mail at johnbenson@iowa.gov.

Also, there will be a public hearing on September 12, 2013, at 10 a.m. in the Homeland Security and Emergency Management Conference Room, Building W-4, at Camp Dodge, Johnston, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

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

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

After analysis and review of this rule making, it has been determined that new jobs are likely to be created as a result of the Flood Mitigation Program.

These rules are intended to implement Iowa Code chapter 418.

The following amendment is proposed.

Adopt the following new 605—Chapter 14:

CHAPTER 14
FLOOD MITIGATION PROGRAM

605—14.1(418) Purpose. In accordance with Iowa Code section 418.7, the flood mitigation board establishes the policies and procedures for the creation and administration of an Iowa flood mitigation program.

605—14.2(418) Definitions.

“*Board*” means the flood mitigation board as created in Iowa Code section 418.5.

“*Department*” means the department of homeland security and emergency management.

“*Director*” means the director of the department of homeland security and emergency management.

“*Governmental entity*” means any of the following:

1. A county.
2. A city.
3. A joint board or other legal or administrative entity established or designated in an agreement pursuant to Iowa Code chapter 28E between any of the following:
 - Two or more cities located in whole or in part within the same county.
 - A county and one or more cities that are located in whole or in part within the county.
 - A county, one or more cities that are located in whole or in part within the county, and a drainage district formed by mutual agreement under Iowa Code section 468.142 located in whole or in part within the county.

“*Project*” means the construction and reconstruction of levees, embankments, impounding reservoirs, conduits or other means that are necessary for the protection of property from the effects of floodwaters and may include the deepening, widening, alteration, change, diversion, or other improvement of watercourses if necessary for the protection of such property from the effects of floodwaters. A project may consist of one or more phases of construction or reconstruction that are contracted for separately if the larger project, of which the project is a part, otherwise meets the requirements of Iowa Code section 418.4.

“*Sales tax*” means the sales and services tax imposed pursuant to Iowa Code section 423.2.

605—14.3(418) Flood mitigation board.

14.3(1) The flood mitigation board is established and housed, for administrative purposes, within the department. The director shall provide office space, staff assistance, supplies and equipment, and budget funds to pay the necessary expenses of the board.

14.3(2) The board shall be comprised of nine voting members and four ex-officio nonvoting members.

a. The voting members shall include all of the following:

(1) Four members of the general public appointed by the governor and confirmed by the senate in accordance with Iowa Code sections 69.16 and 69.16A. These members shall be appointed to three-year staggered terms, and the terms shall commence and end as provided in Iowa Code section 69.19.

1. Two members of the general public shall have demonstrable experience or expertise in the field of natural disaster recovery.

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

2. Two members of the general public shall have demonstrable experience or expertise in the field of flood mitigation.

- (2) The director of the department of natural resources or the director's designee.
- (3) The secretary of agriculture or the secretary's designee.
- (4) The director of the department or the director's designee.
- (5) The treasurer of state or the treasurer's designee.
- (6) The executive director of the Iowa finance authority or the executive director's designee.

b. The ex-officio nonvoting members shall include four members of the general assembly with one each appointed by the following:

- (1) The majority leader of the senate.
- (2) The minority leader of the senate.
- (3) The speaker of the house of representatives.
- (4) The minority leader of the house of representatives.

14.3(3) The governor shall designate a chairperson and vice chairperson from the voting members.

14.3(4) The board shall meet at a time and place determined by the board. Additional meetings may be called by:

- a. The chairperson,
- b. The vice chairperson, or
- c. The director.

14.3(5) All meetings of the board are public meetings and shall be conducted in accordance with Iowa Code chapter 21. A majority of the voting members constitutes a quorum.

605—14.4(418) Flood mitigation project eligibility.

14.4(1) An eligible applicant is a governmental entity as defined in rule 605—14.2(418).

14.4(2) Eligible project types include construction and reconstruction of levees, embankments, impounding reservoirs, conduits, or other means that are necessary for the protection of property from the effects of floodwaters and may include the deepening, widening, alteration, change, diversion, or other improvement of watercourses if necessary for the protection of such property from the effects of floodwaters. A project may consist of one or more phases of construction or reconstruction that are contracted for separately if the larger project, of which the project is a part, otherwise meets the requirements of this subrule.

14.4(3) For the project to be eligible for flood mitigation funding from the sales tax increment fund, the project, or an earlier phase of the project, is required to have been approved to receive federal financial assistance under the Water Resources Development Act (WRDA), the Environmental Protection Agency (EPA), or other federal programs providing assistance specifically for hazard mitigation. Prior to submission of an application, a governmental entity shall request a report from the Iowa department of revenue that provides an estimate of the projected annual sales tax increment for the proposed project. If a project is eligible for state financial assistance under Iowa Code section 29C.6(17), such project is ineligible for flood mitigation funding under this chapter. The federal award must be in an amount equal to at least 20 percent of the total project cost or \$30 million, whichever is less.

14.4(4) For the project to be eligible for flood mitigation funding from the flood mitigation fund or sales tax increment fund, the governmental entity shall provide a local match of at least 50 percent of the total cost of the project less any federal financial assistance. The sales tax increment shall fund a maximum of 50 percent of the total project cost. The federal share of the total project cost shall be a minimum of 20 percent of the total project cost or \$30 million, whichever is less. The local match, when combined with the federal share, shall fund a minimum of 50 percent of the total project cost. The governmental entity shall provide funding for the local match.

14.4(5) The project must result in nonpublic investment in the governmental entity's area, as defined in Iowa Code section 418.11(3), of an amount equal to 50 percent of the total cost of the project. For purposes of this subrule, "nonpublic investment" means investment by nonpublic entities consisting of

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capital investment or infrastructure improvements occurring in anticipation of or as a result of the project during the period of time between July 1, 2008, and ten years after the board approves the project.

14.4(6) A governmental entity shall not seek approval from the board for a project if the governmental entity previously had a board-approved project or if the governmental entity was part of a governmental entity as defined in rule 605—14.2(418) that had a board-approved project.

605—14.5(418) Applications.

14.5(1) The board shall prescribe the form of the application, instructions and associated documents. Applications, instructions, programmatic guidance and forms are available through the department and its Web site, www.homelandsecurity.iowa.gov.

14.5(2) A governmental entity shall submit an application to the board for approval of a project plan prior to January 1, 2016.

14.5(3) The application shall specify whether the governmental entity is requesting financial assistance from the flood mitigation fund or approval for the use of sales tax revenues. Applications for financial assistance from the flood mitigation fund shall describe the type and amount of assistance requested. Applications for the use of sales tax revenues shall state the amount of sales tax revenues necessary for completion of the project and shall contain a report from the Iowa department of revenue, as requested by the governmental entity, that provides an estimate of the projected annual sales tax increment for the proposed project.

14.5(4) Each application shall include or have attached to the application the governmental entity's project plan adopted under Iowa Code section 418.4(2). The application package shall include all of the following:

a. The project plan that includes:

(1) A detailed description of the project, including all phases of construction or reconstruction included in the project, maintenance plans for the completed project, the estimated cost of the project, and the maximum amount of debt to be incurred for purposes of funding the project; and

(2) A detailed description of all anticipated funding sources for the project, including information relating to either the proposed use of financial assistance from the flood mitigation fund or the proposed use of sales tax increment revenues.

b. A copy of the application for federal funds and subsequent approval letter as specified under Iowa Code section 418.4(3) "b."

c. A detailed budget.

d. A statement about whether the project is designed to mitigate future flooding of existing property and infrastructure that have sustained significant flood damage and are likely to sustain significant flood damage in the future. Detailed information on the existing property and infrastructure shall be included.

e. A statement about whether the project plan addresses the impact of flooding both upstream and downstream from the area where the project is to be undertaken and whether the project conforms to any applicable floodplain ordinance.

f. A statement about whether the area that would benefit from the project's flood mitigation efforts is sufficiently valuable to the economic viability of the state or is of sufficient historic value to the state to justify the cost of the project.

g. A statement about the extent to which the project would utilize local matching funds. The board shall not approve a project unless at least 50 percent of the total cost of the project, less any federal financial assistance for the project, is funded using local matching funds, and unless the project will result in nonpublic investment in the governmental entity's area, as defined in Iowa Code section 418.11(3), of an amount equal to 50 percent of the total cost of the project. For purposes of this paragraph, "nonpublic investment" means investment by nonpublic entities consisting of capital investment or infrastructure improvements occurring in anticipation of or as a result of the project during the period of time between July 1, 2008, and ten years after the board approves the project.

h. A statement about the extent of nonfinancial support committed to the project from public and nonpublic sources.

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i. A statement about whether the project is designed in coordination with other watershed management measures adopted by the governmental entity or adopted by the participating jurisdictions of the governmental entity, as applicable.

j. A statement about whether the project plan is consistent with the applicable comprehensive, countywide emergency operations plan in effect and other applicable local hazard mitigation plans.

k. A statement about whether financial assistance through the flood mitigation program is essential to meet the necessary expenses or serious needs of the governmental entity related to flood mitigation.

l. Any other documents requested by the board to assist the board in the consideration of the application.

m. If the governmental entity intends to issue bonds in accordance with Iowa Code section 418.14, the governmental entity shall provide information from the proposed bonding company as to the viability of the bond issuance.

605—14.6(418) Flood mitigation fund.

14.6(1) A flood mitigation fund is created as a separate and distinct fund in the state treasury under the control of the board and consists of money appropriated by the general assembly and any other moneys available to and obtained or accepted by the board for placement in the fund. Payments of interest, repayments of moneys loaned, and recaptures of grants provided by the board shall be deposited in the fund.

14.6(2) Moneys in the fund shall be used by the board to provide financial assistance in accordance with this chapter to a governmental entity in the form of grants, loans and forgivable loans. The board shall specify the terms of any grants or loans made from the fund. The board may make a multiyear commitment to a governmental entity of up to \$4 million in any one fiscal year.

14.6(3) Moneys received by a governmental entity from the fund shall be deposited in the governmental entity's flood project fund as created in rule 605—14.8(418).

14.6(4) If any portion of the moneys appropriated to the fund have not been awarded during the fiscal year in which they were appropriated, the portion which has not been awarded may be utilized by the board to provide financial assistance in subsequent fiscal years.

14.6(5) Following completion of all projects approved to utilize financial assistance from the fund and upon determination by the board that the remaining funds are no longer needed for the program, the funds that were appropriated by the general assembly shall be credited to the general fund of the state. Other funds shall be credited to the granting agency in accordance with any grant agreements.

605—14.7(418) Sales tax increment calculation and sales tax increment fund. The calculation of the sales tax increment and operation of the fund is addressed in Iowa department of revenue 701—Chapter 238.

605—14.8(418) Flood project fund.

14.8(1) Each governmental entity that has a project approved by the board and is awarded funds from either the flood mitigation fund or sales tax increment fund shall create a separate flood project fund. The fund shall be used to pay the costs associated the governmental entity's approved project and to pay the principal and interest on bonds issued pursuant to Iowa Code section 418.14.

14.8(2) The governmental entity may deposit any other moneys lawfully received into the fund. Other moneys include but are not limited to local sales and services tax receipts collected under Iowa Code chapter 423B.

605—14.9(418) Board application review.

14.9(1) The board shall not approve a project for inclusion in the program if the application is received after January 1, 2016.

14.9(2) The board may request an independent engineering review of the project to determine the technical feasibility, engineering standards, and total estimated cost of the project. Such review may be

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completed by the United States Army Corps of Engineers. All costs related to the review shall be the responsibility of the governmental entity.

14.9(3) The board shall not approve any project plan that includes financial assistance pursuant to this chapter that would be used to pay principal and interest on or refinance any debt or other obligation existing prior to the approval of the project.

14.9(4) The board shall not approve a project plan application for which the amount of sales tax increment revenue remitted to the governmental entity would exceed \$15 million in any one fiscal year or if approval of the project would result in total remittances in any one fiscal year for all approved projects to exceed, in the aggregate, \$30 million.

14.9(5) The board may contract with or otherwise consult with the Iowa flood center, established in Iowa Code section 466C.1, to assist in administering the flood mitigation program and review of applications.

14.9(6) The board, after consulting with the economic development authority, shall approve, defer, or deny the applications.

14.9(7) If the application is denied, the board shall state the reasons for the denial. The governmental entity may resubmit the application for consideration anytime prior to January 1, 2016.

14.9(8) If the application is approved, the board shall specify whether the governmental entity is approved for use of the sales tax revenues under Iowa Code section 418.12 or whether the governmental entity is approved to receive financial assistance from the flood mitigation fund under Iowa Code section 418.10.

14.9(9) If the board approves an application that includes the use of sales tax increment revenues, the board shall establish the annual maximum amount of such revenues that may be remitted to the governmental entity not to exceed \$15 million or 70 percent of the total yearly amount of increased sales tax revenue in the governmental entity's applicable area and deposited in the governmental entity's account, whichever is less. The board may, however, establish remittance limitations for the project lower than those specified in this subrule.

14.9(10) If the board approves an application that includes financial assistance from the flood mitigation fund, the board shall negotiate and execute on behalf of the department all necessary agreements to provide such financial assistance.

14.9(11) Upon approval of an application for financial assistance under the program, the board shall notify the treasurer of state regarding the amount of moneys needed to satisfy the award of financial assistance and the terms of the award.

14.9(12) If, following approval of an application, it is determined that the amount of federal financial assistance exceeds the amount of federal financial assistance specified in the application, the board shall reduce the award of financial assistance from the flood mitigation fund or reduce the amount of sales tax revenue to be received for the project by a corresponding amount.

14.9(13) Following the approval of an application which proposes to use sales tax increment revenues, the governmental entity shall adopt a resolution authorizing the use of sales tax increment from the governmental entity's flood project fund. Within ten days of adoption, the governmental entity shall provide a copy of the resolution to the Iowa department of revenue.

605—14.10(418) Reports.

14.10(1) Following the approval of a project application, the governmental entity shall, on or before December 15 of each year, submit a report to the board detailing the following:

- a. The current status of the project.
- b. The total expenditures and types of expenditures that have been made related to the project.
- c. The amount of total project cost remaining as of the date the report is submitted.
- d. The amounts, types, and sources of funding being used.
- e. The amount of bonds issued or other indebtedness incurred for the project, including information related to the rate of interest, length of term, cost of issuance, and net proceeds. This report shall also include the amounts and types of moneys used for payment of such bonds or indebtedness.

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14.10(2) The board shall submit a written report to the governor and the general assembly on or before January 15 of each year. The report shall contain information relating to all projects that have been approved by the board and contain summaries of the individual project reports required by this chapter. The board shall also convey in the report any recommendations for legislative action to modify this chapter.

14.10(3) The treasurer of state shall report to the department any moneys that are disbursed to a recipient of financial assistance under the program.

14.10(4) Any governmental entity that receives assistance in the form of sales tax revenues under the program shall provide to the board all reports that are required as part of receiving federal financial assistance.

605—14.11(418) Flood project bonds. A governmental entity receiving sales tax revenues in accordance with this chapter is authorized to issue bonds that are payable from revenues deposited in the flood project fund created in rule 605—14.8(418). Issuance and administration of such bonds shall be done in accordance with Iowa Code sections 418.14 and 384.83.

These rules are intended to implement Iowa Code chapter 418.

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HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 331.393, the Department of Human Services proposes to amend Chapter 25, “Disability Services Management,” Iowa Administrative Code.

These amendments define the regional service system, including the regional governance structure and agreements, functional assessment criteria, eligibility, and the regional service system management plan.

These amendments will be a guideline for regions to determine if they are meeting the intent of 2012 Iowa Acts, Senate File 2315, in forming and operating regional mental health and disability services (MHDS) service systems.

Any interested person may make written comments on the proposed amendments on or before September 10, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because the intent of the Legislature was to have uniform regional service systems across the state. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, there is a potential for increased jobs as the mental health and disability services programs are established and expanded.

These amendments are intended to implement Iowa Code sections 331.388 to 331.398.

The following amendments are proposed.

ITEM 1. Amend **441—Chapter 25**, preamble, as follows:

PREAMBLE

HUMAN SERVICES DEPARTMENT[441](cont'd)

This chapter provides for definitions of regional core services, access, and practice standards, reporting of county regional expenditures, development and submission of regional management plans, data collection, and applications for funding as they relate to county regional service systems for people individuals with mental illness, chronic mental illness, intellectual disabilities, developmental disabilities, or brain injury.

ITEM 2. Rescind **441—Chapter 25**, Division II title and preamble, and adopt the following new Division II title and preamble in lieu thereof:

DIVISION II
REGIONAL SERVICE SYSTEM

PREAMBLE

These rules define the standards for a regional service system. The mental health and disability services provided by counties operating as a region shall be delivered in accordance with a regional service system management plan approved by the region's governing board and implemented by the regional administrator (Iowa Code section 331.393). Iowa counties are encouraged to enter into a regional system when the regional approach is likely to increase the availability of services to residents of the state who need the services. It is the intent of the Iowa general assembly that the adult residents of this state should have access to needed mental health and disability services regardless of the location of their residence.

ITEM 3. Rescind rules **441—25.11(331)** to **441—25.20(331)**.

ITEM 4. Adopt the following new rules 441—25.11(331) to 441—25.21(331):

441—25.11(331) Definitions.

“Access point” means a person who is a part of the service system or the community and is trained to complete applications and guide individuals with a disability to needed services. Access points may include, but need not be limited to, providers, legal representatives, and persons representing public or private institutions, advocacy organizations, or educational institutions.

“Applicant” means an individual who applies to receive services and supports from the service system.

“Assessment and evaluation” means the same as defined in rule 441—25.1(331).

“Assistive technology account” means funds in contracts, savings, trust or other financial accounts, financial instruments, or other arrangements with a definite cash value that are set aside and designated for the purchase, lease, or acquisition of assistive technology, assistive technology services, or assistive technology devices. Assistive technology accounts must be held separately from other accounts. Funds must be used to purchase, lease, or otherwise acquire assistive technology services or devices for a working individual with a disability. Any withdrawal from an assistive technology account other than for the designated purpose becomes a countable resource.

“Authorized representative” means a person designated by the individual or by Iowa law to act on the individual's behalf in specified affairs to the extent prescribed by law.

“Chief executive officer” means the person chosen and supervised by the governing board who serves as the single point of accountability for the mental health and disability services region and whose responsibilities include, but are not limited to, planning, budgeting, monitoring county and regional expenditures, and ensuring the delivery of quality services that achieve expected outcomes for the individuals served.

“Choice” means the individual or authorized representative chooses the services, supports, and goods needed to best meet the individual's goals and accepts the responsibility and consequences of those choices.

“Clear lines of accountability” means the structure of the governing board's organization makes it evident that the ultimate responsibility for the administration of the non-Medicaid-funded mental health

HUMAN SERVICES DEPARTMENT[441](cont'd)

and disability services lies with the governing board and that the governing board directly and solely supervises the organization's chief executive officer.

"Community" means that the system ensures the rights and abilities of all individuals to live, learn, work, and recreate in integrated community settings of their choice.

"Conflict-free case management" means there is no real or seeming incompatibility between the case manager's other interests and the case manager's duties to the individual served and includes case management separate from direct service provision; eligibility determination for services; establishment of funding levels for the individual's services; and requirements that prohibit the case manager from performing evaluations, assessments, and plans of care if the case manager is related by blood or marriage to the individual or any of the individual's paid caregivers or persons financially responsible for the individual or empowered to make financial or health-related decisions on behalf of the individual.

"Coordinator of disability services" means the same as defined in Iowa Code section 331.390(3) "b."

"Countable resource" means real or personal property that has a cash value that is available to the owner upon disposition and is capable of being liquidated.

"Countable value" means the equity value of a resource, which is the current fair market value minus any legal debt on the item.

"County of residence" means the same as defined in Iowa Code section 331.394.

"Department" means the department of human services.

"Director" means the director of human services.

"Disability services" means the same as defined in Iowa Code section 225C.2.

"Emergency service" means the same as defined in rule 441—88.21(249A).

"Empowerment" means that the service system ensures the rights, dignity, and ability of individuals and their families to exercise choices, take risks, provide input, and accept responsibility.

"Exempt resource" means a resource that is disregarded in the determination of eligibility for public funding assistance and in the calculation of client participation amounts.

"Homeless person" means the same as defined in Iowa Code section 48A.2.

"Household" means, for an individual who is 18 years of age or over, the individual, the individual's spouse or domestic partner, and any children, stepchildren, or wards under the age of 18 who reside with the individual. For an individual under the age of 18, "household" means the individual, the individual's parents (or parent and domestic partner), stepparents or guardians, and any children, stepchildren, or wards under the age of 18 of the individual's parents (or parent and domestic partner), stepparents, or guardians who reside with the individual.

"Income" means all gross income received by the individual's household, including but not limited to wages, income from self-employment, retirement benefits, disability benefits, dividends, annuities, public assistance, unemployment compensation, alimony, child support, investment income, rental income, and income from trust funds.

"Individual" means any person seeking or receiving services in a regional service system.

"Individualized services" means services and supports that are tailored to meet the personalized needs of the individual.

"Liquid assets" means assets that can be converted to cash in 20 days. Liquid assets include but are not limited to cash on hand, checking accounts, savings accounts, stocks, bonds, cash value of life insurance, individual retirement accounts, certificates of deposit, and other investments.

"Managed care" means a system that provides the coordinated delivery of services and supports that are necessary and appropriate, delivered in the least restrictive settings and in the least intrusive manner. Managed care seeks to balance three factors: achieving high-quality outcomes for participants, coordinating access, and containing costs.

"Managed system" means a system that integrates planning, administration, financing, and service delivery. The system consists of the financing or governing organization, the entity responsible for care management, and the network of service providers.

"Management organization" means an organization contracted to manage part or all of the service system for a region.

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“Medical savings account” means an account that is exempt from federal income taxation pursuant to Section 220 of the U.S. Internal Revenue Code (26 U.S.C. §220) as supported by documentation provided by the bank or other financial institution. Any withdrawal from a medical savings account other than for the designated purpose becomes a countable resource.

“Mental health professional” means the same as defined in Iowa Code section 228.1(6).

“Non-liquid assets” means assets that cannot be converted to cash in 20 days. Non-liquid assets include, but are not limited to, real estate, motor vehicles, motor vessels, livestock, tools, machinery, and personal property.

“Population” means the same as defined in Iowa Code section 331.388.

“Provider” means the same as defined in Iowa Code section 249A.2.

“Regional administrator” or *“regional administrative entity”* means the administrative office or organization formed by agreement of the counties participating in a mental health and disability services region to function on behalf of those counties.

“Regional services fund” means the mental health and disability regional services fund created in Iowa Code section 225C.7A.

“Regional service system management plan” means the regional service system plan developed pursuant to Iowa Code section 331.393 for the funding and administration of non-Medicaid-funded mental health and disability services and includes an annual service and budget plan, a policies and procedures manual, and an annual report and how the region will coordinate with the department in the provision of mental health and disability services funded under the medical assistance program.

“Resources” means all liquid and non-liquid assets that are owned in part or in whole by the individual household, that could be converted to cash to use for support and maintenance, and that the individual household is not legally restricted from using for support and maintenance.

“Retirement account” means any retirement or pension fund or account listed in Iowa Code section 627.6(8)“f.”

“Retirement account in the accumulation stage” means a retirement account into which a deposit was made in the previous tax year. Any withdrawal from a retirement account becomes a countable resource.

“Service system” refers to the mental health and disability services and supports administered by the regional administrative entity and paid from the regional services fund.

“State case status” means the standing of an individual who has no county of residence.

“State commission” means the same as defined in Iowa Code section 225C.5.

“System of care” means the coordination of a system of services and supports to individuals and their families that ensures they optimally live, work, and recreate in integrated communities of their choice.

“System principles” means practices that include individual choice, community and empowerment.

441—25.12(331) Regional governance structure. The counties comprising a mental health and disability services region shall enter into an agreement to form a regional administrator under the control of a governing board to function on behalf of those counties as defined in Iowa Code chapter 28E and sections 331.388, 331.390, 331.392 and 331.399.

25.12(1) Governing board. The governing board shall comply with the following requirements:

a. The governing board shall comply with the membership requirements as outlined in Iowa Code section 331.390 and follow the requirements in Iowa Code chapter 69 and other applicable laws relating to boards and commissions.

b. A regional advisory committee shall be created and shall designate members to the governing board as defined in Iowa Code section 331.390(2).

c. The governing board shall appoint and evaluate the performance of the chief executive officer of the regional administrative entity who will serve as the single point of accountability for the region.

25.12(2) Regional administrator. The formation of the regional administrator shall be as defined in Iowa Code sections 331.388 and 331.390.

a. The regional administrative entity is under the control of the governing board.

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b. The regional administrative entity shall enter into and manage performance-based contracts in accordance with Iowa Code section 225C.4(1)“u.”

c. The regional administrative entity structure shall have clear lines of accountability.

d. The regional administrative entity functions as a lead agency utilizing shared county or regional staff or other means of limiting administrative costs.

e. The regional administrative entity staff shall include one or more coordinators of disability services.

25.12(3) *Regional service system management.* The region may either directly implement a system of service management and contract with service providers, or contract with a private entity to manage the regional service system, provided all requirements of Iowa Code section 331.393 are met by the private entity.

441—25.13(331) Regional finances.

25.13(1) *Funding.* Non-Medicaid mental health and disability services funding is under the control of the governing board and shall:

a. Be maintained to limit administrative burden and provide public transparency regarding financial processes.

b. Be maintained in one of three ways:

(1) In a combined account.

(2) In separate county accounts that are under the control of the governing board.

(3) In other arrangements authorized by law.

25.13(2) *Accounting system and financial reporting.* The accounting system and financial reporting to the department shall conform to Iowa Code section 331.391 and include all non-Medicaid mental health and disability expenditures. Information shall be separated and identified in a uniform chart of accounts, including but not limited to the following: expenses for administration; purchase of services; and enterprise costs for which the region is a service provider or is directly billing and collecting payments.

441—25.14(331) Regional governance agreement. The expectations for regional governance agreements entered into by the counties comprising a mental health and disability services region are defined in Iowa Code sections 28E.1, 331.388, 331.390 and 331.392.

25.14(1) *Organizational provisions.* The organizational provisions of the regional governance agreement shall include the following:

a. A statement of purpose, goals, and objective of entering into the agreement.

b. Identification of the governing board membership and the terms, methods of appointment, and voting procedures, including whether or not voting will be weighted.

c. The identification of the process for selecting the executive staff, including but not limited to the chief executive officer of the regional administrative entity.

d. Identification of the counties participating in the agreement.

e. The time period of the agreement and terms for termination or renewal of the agreement.

f. Provisions for joining a region. Additional counties may join the region. The agreement shall not prohibit a county from being assigned by the department to a region according to Iowa Code section 331.389(4)“c.”

g. Methods for dispute resolution and mediation.

h. Methods for termination of a county’s participation in the region.

i. Provision for formation and assigned responsibilities for one or more advisory committees consisting of:

(1) Individuals who utilize services or the actively involved relatives of such individuals.

(2) Service providers.

(3) Governing board members.

(4) Other interests identified in the agreement.

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25.14(2) Administrative provisions. The administrative provisions of the regional governance agreement shall include all of the following:

- a. Identification of whether the region will either directly implement a system of service management or contract with a private entity to manage the regional service system as defined in Iowa Code section 331.393(7).
- b. Responsibility of the governing board in appointing and evaluating the performance of the chief executive officer of the regional administrative entity.
- c. A general list of the functions and responsibilities of the regional administrative entity's chief executive officer and other staff including but not limited to coordinators of disability services.
- d. Specification of the functions to be carried out by each party to the agreement and by any subcontractor of a party to the agreement.

25.14(3) Financial provisions. The financial provisions of the regional governance agreement shall include all of the following:

- a. Methods for pooling, managing and expending funds under control of the regional administrative entity. If the agreement does not provide for pooling of the participating county moneys in a single fund, the agreement shall specify how the participating county moneys will be subject to the control of the regional administrative entity.
- b. Methods for allocating administrative funding and resources.
- c. Methods for contributing initial funds to the region.
- d. Methods for acquiring or disposing of real property.
- e. The process for how to use savings achieved for reinvestment.
- f. A process for performance of an annual independent audit of the regional administrator.

441—25.15(331) Eligibility, diagnosis, and functional assessment criteria.

25.15(1) Eligibility for mental health services. An individual must comply with all of the following requirements to be eligible for mental health services under the regional service system:

- a. The individual complies with the financial eligibility requirements in rule 441—25.16(331).
- b. The individual is at least 18 years of age.
- c. The individual is a resident of this state.
- d. The individual has had at any time during the preceding 12-month period a mental health, behavioral, or emotional disorder or, in the opinion of a mental health professional, may now have such a diagnosable disorder. The diagnosis shall be made in accordance with the criteria provided in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and shall not include the manual's "V" codes identifying conditions other than a disease or injury. The diagnosis shall also not include substance-related disorders, dementia, antisocial personality, or developmental disabilities, unless co-occurring with another diagnosable mental illness.
- e. The results of a standardized functional assessment support the need for mental health services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology shall be designated for mental health services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

25.15(2) Other conditions of eligibility for mental health services.

- a. An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the individual's eighteenth birthday in order to provide a smooth transition from children's to adult services.
- b. An individual less than 18 years of age and a resident of the state may be considered eligible for those mental health services made available to all or a portion of the residents of the region of the same age and eligibility class under the county management plan of one or more counties of the region applicable prior to formation of the region. Eligibility for services under this paragraph is limited to availability of regional service system funds without limiting or reducing core services, and if part of the approved regional service system management plan.

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25.15(3) *Eligibility for intellectual disability services.* An individual must comply with all of the following requirements to be eligible for intellectual disability services under the regional service system:

- a. The individual complies with the financial eligibility requirements in rule 441—25.16(331).
- b. The individual is at least 18 years of age.
- c. The individual is a resident of this state.
- d. The individual has a diagnosis of intellectual disability.
- e. The results of a standardized functional assessment support the need for intellectual disability services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology shall be designated for intellectual services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

25.15(4) *Other conditions of eligibility for intellectual disability services.*

a. An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the individual's eighteenth birthday in order to provide a smooth transition from children's to adult services.

b. An individual less than 18 years of age and a resident of the state may be considered eligible for those intellectual disability services made available to all or a portion of the residents of the region of the same age and eligibility class under the county management plan of one or more counties of the region applicable prior to formation of the region. Eligibility for services under this paragraph is limited to availability of regional service system funds without limiting or reducing core services, and if part of the approved regional service system management plan.

25.15(5) *Eligibility for brain injury services.* An individual must comply with all of the following requirements to be eligible for brain injury services under the regional service system, if such services were provided to the same class of individuals by a county in the region prior to regional formation and if funds are available to continue such services without limiting or reducing core services.

- a. The individual complies with the financial eligibility requirements in rule 441—25.16(331).
- b. The individual is at least 18 years of age.
- c. The individual is a resident of this state.
- d. The individual has a diagnosis of brain injury as defined in Iowa Code section 83.81.
- e. The results of a standardized functional assessment support the need for brain injury services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology used is the methodology approved for brain injury services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

25.15(6) *Other conditions of eligibility for brain injury services.* An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the individual's eighteenth birthday in order to provide a smooth transition from children's to adult services.

25.15(7) *Eligibility for developmental disability services.*

a. Until funding is designated for other service populations, eligibility for the core service domains shall be as identified in Iowa Code section 331.397(1) "b."

b. If a county in a region was providing services to an eligibility class of individuals with a developmental disability other than intellectual disability prior to formation of the region, the class of individuals shall remain eligible for the services provided when the region is formed, providing that funds are available to continue such services without limiting or reducing core services. The individual must also meet the requirements in paragraphs 25.15(7) "c," "d," "e" and "f."

- c. The individual complies with the financial eligibility requirements in rule 441—25.16(331).
- d. The individual is at least 18 years of age.
- e. The individual is a resident of this state.
- f. The individual has a diagnosis of a developmental disability other than an intellectual disability as defined in rule 441—24.1(225C) or 441—22.1(225C).

HUMAN SERVICES DEPARTMENT[441](cont'd)

441—25.16(331) Financial eligibility requirements. The regional service system management plan shall identify basic financial eligibility standards for disability services as defined in Iowa Code section 331.395.

25.16(1) Income requirements. Income requirements shall be as defined in Iowa Code section 331.395(1).

25.16(2) Resource requirements. An individual must have resources that are equal to or less than \$2,000 in countable value for a single-person household or \$3,000 in countable value for a multiperson household or follow the most recent federal supplemental security income guidelines.

a. The countable value of all countable resources, both liquid and non-liquid, shall be included in the eligibility determination except as exempted in this subrule.

b. A transfer of property or other assets within five years of the time of application with the result of, or intent to, qualify for assistance may result in denial or discontinuation of funding.

c. The following resources shall be exempt:

(1) The homestead, including equity in a family home or farm that is used as the individual household's principal place of residence. The homestead shall include all land that is contiguous to the home and the buildings located on the land.

(2) One automobile used for transportation.

(3) Tools of an actively pursued trade.

(4) General household furnishings and personal items.

(5) Burial account or trust limited in value as to that allowed in the medical assistance program.

(6) Cash surrender value of life insurance with a face value of less than \$1,500 on any one person.

(7) Any resource determined excludable by the Social Security Administration as a result of an approved Social Security Administration work incentive.

d. If an individual does not qualify for federally funded or state-funded services or other support but meets all income, resource, and functional eligibility requirements of this chapter, the following types of resources shall additionally be considered exempt from consideration in eligibility determination:

(1) A retirement account that is in the accumulation stage.

(2) A medical savings account.

(3) An assistive technology account.

(4) A burial account or trust limited in value as to that allowed in the medical assistance program.

e. An individual who is eligible for federally funded services and other support must apply for and accept such funding and support.

25.16(3) Copayment standards. A regional administrative entity must comply with copayment standards as defined in Iowa Code section 331.395.

a. Copayments are allowed for individuals with income above 150 percent of the federal poverty level.

b. Copayments in this rule are related to core services as defined in Iowa Code section 331.397.

25.16(4) Copayment standards required by any federal, state, regional, or municipal program. Any copayments or other client participation required by any federal, state, regional or municipal program in which the individual participates shall be required by the regional administrative entity. Such copayments include, but are not limited to:

a. Client participation for maintenance in a residential care facility through the state supplementary assistance program.

b. The financial liability for institutional services paid by counties as provided in Iowa Code section 230.15.

c. The financial liability for attorney fees related to commitment as provided by Iowa Code section 229.19.

441—25.17(331) Exempted counties. If a county has been exempted pursuant to Iowa Code section 331.389 from the requirement to enter into a regional service system, the county and the county's board of supervisors shall fulfill all the requirements of this chapter for a regional service system management plan.

HUMAN SERVICES DEPARTMENT[441](cont'd)

441—25.18(331) Annual service and budget plan. The annual service and budget plan shall describe the services to be provided and the cost of those services for the ensuing year.

25.18(1) The annual service and budget plan is due on April 1 prior to the July 1 implementation of the annual plan and shall be approved by the region's governing board prior to submittal to the department. The initial plan is due on April 1, 2014.

25.18(2) The annual service and budget plan shall include but not be limited to:

a. The locations of the local access points for services. This shall include the name of the access points including the physical locations and contact information.

b. Targeted case management. The targeted case management agencies for the region, including the physical location and contact information for those agencies, shall be included.

c. Crisis planning. The plan for ensuring effective crisis prevention, response and resolution, including contact information for the agencies responsible, shall be included.

d. Scope of services. A description of the scope of services to be provided, a projection of need for the service, and the funding necessary to meet the need shall be included.

(1) The scope shall include the regional core services as defined in rule 441—25.1(331).

(2) The scope shall also include services in addition to the required core services.

e. Budget and financing provisions for the next year. The provisions shall address how county, regional, state and other funding sources will be used to meet the service needs within the region.

f. Financial forecasting measures. The plan shall describe the financial forecasting measures used in the identification of service need and funding necessary for services.

g. The provider reimbursement provisions. The plan shall describe the types of reimbursement methods that will be used, including fee for service, compensating providers for a "system of care" approach, and use of nontraditional providers. A region also shall provide funding approaches that identify and incorporate all services and sources of funding used by the individuals receiving services, including the medical assistance program.

441—25.19(331) Annual service and budget plan approval. The annual service and budget plan shall be submitted by April 1, 2014, as a part of the region's management plan for the fiscal year beginning July 1, 2014. The director shall review all regional annual service and budget plans submitted by the dates specified. If the director finds the regional annual service and budget plan in compliance with these rules and state and federal laws, the director may approve the plan. A plan approved by the director for the fiscal year beginning July 1, 2014, shall remain in effect until June 30, 2015, subject to amendment.

25.19(1) *Criteria for acceptance.* The director shall determine a plan is acceptable when it contains all the required information, meets the criteria described in this division, and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the plan contains all the required information and meets criteria described in this division.

25.19(2) *Notification.* Except as specified in subrule 25.19(3), the director shall notify the region in writing of the decision on the plan by June 1, 2014. The decision shall specify that either:

a. The annual service and budget plan is approved as it was submitted, either with or without supplemental information already requested and received.

b. The annual service and budget plan will not be approved until revisions are made. The letter will specify the nature of the revisions requested and the time frames for their submission.

25.19(3) *Review of late submittals.* The director may review plans not submitted by April 1, 2014, after all plans submitted by that date have been reviewed. The director will proceed with the late submittals in a timely manner.

25.19(4) *Amendments.* An amendment to the annual service and budget plan shall be approved by the regional governance board and submitted to the department at least 45 days before the date of implementation. Before implementation of any amendment to the plan, the director must approve the amendment.

*a. *Criteria for acceptance.** The director shall determine an amendment is acceptable when it contains all the required information and meets the criteria described in this division for the applicable part of the annual service and budget plan and is in compliance with all applicable state and federal

HUMAN SERVICES DEPARTMENT[441](cont'd)

laws. The director may request additional information to determine whether or not the amendment contains all the required information and meets criteria described in this division.

b. Notification. The director shall notify the region, in writing, of the decision on the amendment within 45 days of receipt of the amendment. The decision shall specify either that:

(1) The amendment is approved as it was submitted, either with or without supplemental information already requested and received.

(2) The amendment is not approved. The notification will include why the amendment is not approved.

25.19(5) Reconsideration. Regions dissatisfied with the director's decision on a plan or an amendment may file a letter with the director requesting reconsideration. The letter requesting reconsideration must be received within 30 working days of the date of the notice of decision and shall include a request for the director to review the decision and the reasons for dissatisfaction. Within 30 working days of the receipt of the letter requesting reconsideration, the director will review both the reconsideration request and evidence provided. The director shall issue a final decision in writing.

441—25.20(331) Annual report. The annual report shall describe the services provided, the cost of those services, the number of individuals served, and the outcomes achieved for the previous fiscal year. The annual report is due on December 1 following a completed fiscal year of implementing the annual service and budget plan. The initial report is due on December 1, 2015. The annual report shall include but not be limited to:

1. Services actually provided.
2. Actual numbers of individuals served.
3. Moneys expended.
4. Outcomes achieved.

441—25.21(331) Policies and procedures manual for the regional service system. The policies and procedures manual shall describe the policies and process developed to direct the management and administration of the regional service system. The initial manual is due on April 1, 2014, and will remain in effect subject to amendment.

25.21(1) Content. The manual shall include but not be limited to:

a. Financing and delivery of services and supports. A description of the region's process used to develop and ensure the ongoing financial accountability and delivery of services outlined in the region's annual service and budget plan shall be included.

b. Enrollment. The application and enrollment process that is readily accessible to applicants and their families or authorized representatives shall be included. This procedure shall identify regional access points and where applicants can apply for services and how and when the applications will reach the regional administrative entity's designated staff for processing.

c. Eligibility. The process utilized to determine eligibility shall be included in the manual and shall include but not be limited to:

(1) The criteria used to authorize or deny funding for services and supports. This shall include guidelines for who is eligible to receive services and supports by eligibility group, and type of service or support.

(2) Financial eligibility and copayment criteria, which shall meet the requirements of rule 441—25.16(331).

(3) The time frames for conducting eligibility determination that provide for timely access to services, including necessary and immediate services not to exceed ten days.

(4) The process for development of a written notice of decision. The time frame for sending a written notice of decision to the individual and guardian (if applicable) and the service providers identified in the notice shall be included. The notice of decision shall:

1. Explain the action taken on the application and the reasons for that action.
2. State what services are approved and name the service providers.
3. Outline the applicant's right to appeal.

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4. Describe the appeal process.
- d.* Utilization of and access to services. The process for managing utilization of and access to services and other assistance shall be included. The process shall describe how coordination between the services included in the annual service and budget plan and the disability services administered by the state and others will be managed.
- e.* Quality management and improvement process. The quality management and improvement process shall at a minimum meet the requirements of the department's outcome and performance measures process as outlined in Iowa Code sections 225C.4(1) "j" and 225C.6A.
- f.* Risk management and fiscal viability. If the region contracts with a private entity, the manual must include risk management provisions and fiscal viability of the annual services and budget plan.
- g.* Targeted case management.
 - (1) Designation of targeted case management providers. The process used to identify and designate targeted case management providers for the region shall be described. This process shall include the requirement for the implementation of evidence-based practice models of case management within the region. Requirements of this practice include:
 1. Providing the individual receiving the case management with a choice of providers.
 2. Allowing a service provider to be the case manager but prohibit the provider from referring that individual only to services administered by the provider.
 3. Provisions to ensure compliance with, but not exceed, federal requirements for conflict-free case management.
 - (2) Qualifications of targeted case managers. A region's manual shall require that any targeted case managers or other persons providing service coordination while working for the designated provider meet the qualifications of qualified case managers and supervisors as defined in rule 441—24.1(225C).
 - (3) Targeted case management and service coordination services. Targeted case management and service coordination services utilized in a regional service system shall include but are not limited to the following as defined in Iowa Code section 331.393(4) "g":
 1. Performance and outcome measures relating to the health, safety, work performance, and community residency of the individuals receiving the services.
 2. Standards for delivery of the services, including but not limited to the social history, assessment, service planning, incident reporting, crisis planning, coordination, and monitoring for individuals receiving the services.
 3. Methodologies for complying with the requirements of paragraph 25.21(1) "g." Methodologies may include the use of electronic record keeping and remote or Internet-based training.
- h.* System of care approach plan.
- i.* Decentralized service provision. Measures to provide services in a dispersed manner that meet the minimum access standards of core services and that utilize the strengths and assets of the service providers within and available to the region shall be included.
- j.* Provider network formation and management. The manual shall require that providers that are subject to license, accreditation or approval meet established standards. The manual shall detail the approval process, including criteria, developed to select providers that are not currently subject to license, accreditation or approval standards. The manual shall identify the process the regional administrative entity will use to contract with providers and manage the provider network to ensure it meets the needs of the individuals in the region. The provider network will include but is not limited to the following:
 - (1) A contract with a community mental health center that provides services in the individual's region or with a federally qualified health center that provides psychiatric and outpatient mental health services in the individual's region.
 - (2) Contracts with licensed and accredited providers to provide each service in the required core service domains.
 - (3) Adequate numbers of licensed and accredited providers to ensure availability of core services so that there is no waiting list for services due to lack of available providers.
 - (4) A contract with an inpatient psychiatric hospital unit or state mental health institute within reasonably close proximity.

HUMAN SERVICES DEPARTMENT[441](cont'd)

k. Service provider payment provisions. A policy for payment of service providers which describes the method and process of paying for services and supports delivered to the region shall be included.

l. Grievance processes. The manual shall develop and implement processes for appealing the decisions of the regional administrative entity in the following circumstances:

(1) Nonexpedited appeal process. The appeal process shall be based on objective criteria, specify time frames, provide for notification in accessible formats of the decisions to all parties, and provide some assistance to individuals with disabilities using the process. Responsibility for the final step in the appeal process shall be a state administrative law judge in nonexpedited appeals.

(2) Expedited appeal process. This appeal process is to be used when the decision of the regional administrative entity concerning an individual varies from the type and amount of service identified to be necessary for the individual in a clinical determination made by a mental health professional and the mental health professional believes that the failure to provide the type and amount of service identified could cause an immediate danger to an individual's health or safety. This appeal process shall be performed by a mental health professional who is either the administrator of the division of mental health and disability services of the department of human services or the administrator's designee.

1. The appeal shall be filed within five days of receipt of the notice of decision by the regional administrative entity.

2. The expedited review by the division administrator or designee shall take place within two days of receipt of the request, unless more information is needed. There is an extension of two days from the time the new information is received.

3. The administrator shall issue an order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the order, to justify the decision made concerning the expedited review. If the decision concurs with the contention that there is an immediate danger to the individual's health or safety, the order shall identify the type and amount of service which shall be provided for the individual. The administrator or designee shall give such notice as is practicable to individuals who are required to comply with the order. The order is effective when issued.

4. The decision of the administrator or designee shall be considered a final agency action and is subject to judicial review in accordance with Iowa Code section 17A.19.

m. Implementation of interagency and multisystem collaboration and care coordination. The policies and procedures manual shall describe how the region will collaborate with other funders, other regional service systems, service providers, case management, individuals and their families or authorized representatives, and advocates to ensure that authorized services and supports are responsive to individuals' needs and desires and are cost-efficient. The manual shall describe the process for collaboration with the court to ensure alternatives to commitment and to coordinate funding for services to individuals who are under court-ordered commitment services pursuant to Iowa Code chapter 229.

n. Addressing multioccurring needs. The policies and procedures manual shall include criteria and measures to be used to address the needs of individuals who have two or more co-occurring mental health, intellectual or other developmental disability, brain injury, or substance-related disorders. The manual shall also include criteria and measures to be used to address the needs of individuals with specialized needs.

o. Service management and functional assessment. The policies and procedures manual shall describe how functional assessments and service management will be incorporated in accordance with applicable requirements.

p. Service system management. The policies and procedures manual shall identify whether the region will be directly implementing a system of service management or will contract with a private entity to manage the regional service system. If the region contracts with a private entity, the region will ensure that all requirements of Iowa Code section 331.393 and these administrative rules are fulfilled.

q. Assistance to other than core service populations. The policies and procedures manual shall specify the services populations, other than core service populations, to whom the region will provide assistance if funding is available.

HUMAN SERVICES DEPARTMENT[441](cont'd)

r. Waiting list criteria. The policies and procedures manual shall specify whether the region will use waiting lists. If the policy and procedures manual specifies the use of waiting lists for funding services and supports, it shall specify criteria for the use and review of each waiting list, including the criteria to be used to determine how and when an individual will be placed on a waiting list. The criteria will include how core services and additional core services will be impacted the least by budgetary limitations. The manual shall specify how waiting list data will be used in future planning.

25.21(2) Approval. The manual shall be submitted by April 1, 2014, as a part of the region's management plan for the fiscal year beginning July 1, 2014. The manual shall be approved by the region's governing board and is subject to approval by the director of human services. The director shall review all regional annual service and budget plans submitted by the dates specified. If the director finds the manual in compliance with these rules and state and federal laws, the director may approve the plan. A plan approved by the director for the fiscal year beginning July 1, 2014, shall remain in effect subject to amendment.

a. Criteria for acceptance. The director shall determine a plan is acceptable when it contains all the required information, meets the criteria described in this division, and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the plan contains all the required information and meets criteria described in this division.

b. Notification.

(1) Except as specified in subparagraph 25.21(2)“b”(2), the director shall notify the region in writing of the decision on the plan by June 1, 2014. The decision shall specify that either:

1. The policies and procedures manual is approved as it was submitted, either with or without supplemental information already requested and received.

2. The policies and procedures manual will not be approved until revisions are made. The letter will specify the nature of the revisions requested and the time frames for their submission.

(2) Review of late submittals. The director may review manuals not submitted by April 1, 2014, after all manuals submitted by that date have been reviewed. The director will proceed with the late submittals in a timely manner.

25.21(3) Amendments. An amendment to the policy and procedures manual shall be approved by the regional governance board and submitted to the department at least 45 days before the date of implementation. Before implementation of any amendment to the manual, the director must approve the amendment.

a. Criteria for acceptance. The director, in consultation with the state commission, shall determine an amendment is acceptable when it contains all the required information and meets the criteria described in this division for the applicable part of the policy and procedures manual and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the amendment contains all the required information and meets criteria described in this division.

b. Notification. The director shall notify the region, in writing, of the decision on the amendment within 45 days of receipt of the amendment. The decision shall specify either that:

(1) The amendment is approved as it was submitted, either with or without supplemental information already requested and received.

(2) The amendment is not approved. The notification will explain why the amendment is not approved.

25.21(4) Reconsideration. Regions dissatisfied with the director's decision on a manual or an amendment may file a letter with the director requesting reconsideration. The letter of reconsideration must be received within 30 working days of the date of the notice of decision and shall include a request for the director to review the decision and the reasons for dissatisfaction. Within 30 working days of the receipt of the letter requesting reconsideration, the director will review both the reconsideration request and evidence provided. The director shall issue a final decision in writing.

These rules are intended to implement Iowa Code sections 331.388 to 331.398.

ITEM 5. Reserve rules **441—25.22** to **441—25.40**.

ARC 0972C

HUMAN SERVICES DEPARTMENT[441]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, the Department of Human Services proposes to adopt a new Chapter 74, “Iowa Health and Wellness Plan,” and to amend Chapter 88, “Managed Health Care Providers,” Iowa Administrative Code.

The Iowa Health and Wellness Plan will provide medical assistance to low-income Iowans, aged 19 to 64, whose countable income does not exceed 133 percent of the federal poverty level (FPL) for their family size, who are not eligible for any other full Medicaid group or Medicare, who are not pregnant, and whose dependent children are covered by minimum essential coverage.

These amendments do not include the contributions or premiums required beginning in calendar year 2015 and described under the state legislation. They also do not include the ability to waive these contributions or premiums. The Department is currently finalizing the details of these provisions with the Centers for Medicare and Medicaid Services (CMS). Once CMS approval is obtained, the administrative rules will be amended accordingly. These amendments do not address the specific delivery for dental services, medical home or accountable care organizations. Once CMS has approved these items and details are developed, they will be added to the rules.

Beginning on October 1, 2013, low-income adults will be able to enroll in a new Medicaid coverage group for benefits that will begin January 1, 2014. Since the IowaCare 1115 demonstration waiver is ending December 31, 2013, many people currently enrolled in the IowaCare program will be transitioned to the Iowa Health and Wellness Plan.

Any interested person may make written comments on the proposed amendments on or before September 10, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specific situations because all members should be subject to the same rules. The Department has an exception to policy process that may be pursued should a member feel that the member has exceptional circumstances justifying an exception. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, there will be potential for an impact on private sector jobs. The number of new jobs cannot be estimated, but it is anticipated that there will be an increased need for medical providers to service this population of previously uninsured people. Pent-up demand for services in the initial years and ongoing care needs will sustain the need for medical providers. The new federal funding to pay providers will create a mechanism to support job growth.

These amendments are intended to implement Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, sections 166 to 173 and 185 to 187.

The following amendments are proposed.

ITEM 1. Adopt the following **new** 441—Chapter 74:

CHAPTER 74
IOWA HEALTH AND WELLNESS PLAN

HUMAN SERVICES DEPARTMENT[441](cont'd)

PREAMBLE

This chapter defines and structures the Iowa Health and Wellness Plan, effective January 1, 2014, and administered by the department pursuant to 2013 Iowa Acts, Senate File 446, sections 166 to 173 and 185 to 187. Implementation of the Iowa Health and Wellness Plan is subject to approval by the Secretary of the United States Department of Health and Human Services of any waivers of the requirements of Title XIX of the Social Security Act to provide for federal funding of the plan. This chapter shall be construed to comply with all requirements for federal funding under Title XIX of the Social Security Act or under the terms of any applicable waiver granted by the Secretary. To the extent this chapter is inconsistent with any applicable federal funding requirement under Title XIX or the terms of any applicable waiver, the requirements of Title XIX or the terms of the waiver shall prevail.

441—74.1(249A,85GA,SF446) Definitions.

“Accountable care organization” means a risk-bearing, integrated health care organization characterized by a payment and care delivery model that ties provider reimbursement to quality metrics and reductions in the total cost of care for an attributed population of patients.

“Countable income” means “modified adjusted gross income” (MAGI) or “household income,” as applicable, determined pursuant to 42 U.S.C. § 1396a(e)(14).

“Department” means the Iowa department of human services.

“Enrollment period” means the 12-month period for which eligibility is initially established.

“Essential health benefits” means the essential health benefits defined by the Secretary of the United States Department of Health and Human Services pursuant to Section 1302(b) of the Patient Protection and Affordable Care Act, Public Law 111-148.

“Exempt individuals” shall be defined pursuant to 42 CFR § 440.315.

“Federal poverty level” means the poverty income guidelines revised annually and published in the Federal Register by the U.S. Department of Health and Human Services.

“Health insurance marketplace” or *“exchange”* means an American health benefit exchange established pursuant to 42 U.S.C. §18031.

“Iowa Health and Wellness Plan” means the medical assistance program set forth in this chapter.

“Iowa wellness plan” means the benefits and services provided to Iowa Health and Wellness Plan members with countable income that does not exceed 100 percent of the federal poverty level.

“Marketplace choice plan” means the benefits and services provided to Iowa Health and Wellness Plan members with countable income between 101 percent and 133 percent of the federal poverty level.

“Member” means an individual who is receiving assistance under the Iowa Health and Wellness Plan described in this chapter.

“Minimum essential coverage” means health insurance defined in Section 5000A(f) of Subtitle D of the Internal Revenue Code.

“Modified adjusted gross income” means the financial-eligibility methodology prescribed in 42 U.S.C. § 1396a(e)(14).

“Qualified employer-sponsored coverage” shall be defined pursuant to 42 U.S.C. § 1396e-1(b).

“Qualified health plan” shall be defined pursuant to Section 1301 of the Patient Protection and Affordable Care Act, Public Law 111-152.

441—74.2(249A,85GA,SF446) Eligibility factors. Except as more specifically provided in this chapter, Iowa Health and Wellness Plan eligibility shall be determined according to the requirements of 441—Chapter 75.

74.2(1) Persons covered. Subject to the additional requirements of this chapter and of 441—Chapter 75, medical assistance under the Iowa Health and Wellness Plan shall be available to persons 19 through 64 years of age who:

- a. Are not eligible for medical assistance under 441—Chapter 75.
- b. Have countable income at or below 133 percent of the federal poverty level for their household size; and

HUMAN SERVICES DEPARTMENT[441](cont'd)

c. Are not entitled to or enrolled in Medicare benefits under Part A or Part B of Title XVIII of the Social Security Act; and

d. Are not pregnant.

74.2(2) Parents or caretakers of dependent children. All dependent children under the age of 21 living with a parent or other caretaker relative must be enrolled in Medicaid, in the Children's Health Insurance Program (CHIP), or in other minimum essential coverage as a condition of the parent's or other caretaker relative's eligibility for Iowa Health and Wellness Plan benefits.

74.2(3) Citizenship. To be eligible for Iowa Health and Wellness Plan benefits, a person must meet the citizenship requirements in 441—Chapter 75.

441—74.3(249A,85GA,SF446) Application. Medicaid application policies and procedures described in 441—Chapter 76 shall apply to applications for the Iowa Health and Wellness Plan.

441—74.4(249A,85GA,SF446) Financial eligibility.

74.4(1) Countable income. Individuals are financially eligible for the Iowa Health and Wellness Plan if their countable income is no more than 133 percent of the federal poverty level, as of the date of a decision on initial or ongoing eligibility.

74.4(2) Household size. For financial eligibility purposes, household size shall be determined according to the modified adjusted gross income (MAGI) methodology.

441—74.5(249A,85GA,SF446) Enrollment period.

74.5(1) Iowa Health and Wellness Plan eligibility shall be effective on the first day of the month following the month of application or the first day of the month all eligibility requirements are met, whichever is later. The enrollment period shall continue for 12 consecutive months unless the member is disenrolled in accordance with the provisions of rule 441—74.8(249A,85GA,SF446).

74.5(2) Care provided before enrollment. No payment shall be made for medical care received before the effective date of enrollment.

74.5(3) Reinstatement. Enrollment for the Iowa Health and Wellness Plan may be reinstated without a new application in accordance with 441—Chapter 76.

441—74.6(249A,85GA,SF446) Reporting changes.

74.6(1) Reporting requirements. As a condition of ongoing enrollment, a member shall report any of the following changes no later than ten calendar days after the change takes place:

a. The member enters a nonmedical institution, including but not limited to a penal institution.

b. The member abandons Iowa residency.

c. The member turns 65.

d. The member becomes entitled or enrolled in Medicare Part A or Part B or both.

e. The member's dependent child loses minimum essential coverage.

f. The member's countable income increases in a manner that must be reported according to the requirements of 441—Chapter 76.

g. The member is confirmed pregnant.

74.6(2) Untimely report. When a change is not timely reported as required by this rule, any program expenditures for care or services provided when the member was not eligible shall be considered an overpayment and be subject to recovery from the member in accordance with 441—Chapter 76.

74.6(3) Effective date of change. After enrollment, changes reported during the month that affect the member's eligibility shall be effective the first day of the next calendar month unless:

a. Timely notice of adverse action is required as specified in 441—subrule 7.7(1); or

b. The enrollment period has expired and the member is not eligible for a new enrollment period.

441—74.7(249A,85GA,SF446) Reenrollment. A new eligibility determination is required for consecutive 12-month enrollment periods. The reenrollment process will follow the requirements in 441—Chapter 76.

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441—74.8(249A,85GA,SF446) Terminating enrollment. Iowa Health and Wellness Plan enrollment shall end when any of the following occur:

1. The enrollment period ends and coverage for the next enrollment period has not been renewed.
2. The member becomes eligible for medical assistance under 441—Chapter 75.
3. The member is found to have been ineligible for any reason.
4. The member dies.
5. The member turns 65.
6. The member abandons Iowa residency.
7. The member becomes entitled to or enrolled in Medicare Part A or Part B or both.
8. The member's dependent child loses minimum essential coverage.
9. The member's countable income exceeds 133 percent of the federal poverty level.
10. The member becomes pregnant.
11. The Iowa Health and Wellness Plan is discontinued according to the requirements in rule 441—74.11(249A,85GA,SF446).

441—74.9(249A,85GA,SF446) Recovery. The department shall recover from a member all Medicaid funds incorrectly expended on behalf of the member in accordance with rule 441—76.12(249A,85GA,SF446).

74.9(1) The department shall recover Medicaid funds expended on behalf of a member from the member's estate in accordance with 441—Chapter 76.

74.9(2) Funds received from third parties, including Medicare, by a provider other than a state mental health institute shall be reported to the Iowa Medicaid enterprise, and an adjustment shall be made to a previously submitted claim.

441—74.10(249A,85GA,SF446) Right to appeal. Decisions and actions by the department regarding eligibility or services provided under this chapter may be appealed pursuant to 441—Chapter 7. Coverage decisions and actions by participating marketplace choice plans shall be appealed through the plans' grievance and appeal processes. Members will not be entitled to an appeal hearing if the sole basis for denying or limiting services is discontinuance of the program pursuant to rule 441—74.14(249A,85GA,SF446).

441—74.11(249A,85GA,SF446) Financial participation.

74.11(1) Copayment. Payment for nonemergency use of a hospital emergency department shall be subject to a \$10 copayment by the member, which shall be subtracted from the Iowa Health and Wellness Plan payment otherwise due to the provider. This copayment will be waived during the first year of the Iowa Health and Wellness Plan.

74.11(2) Reserved.

441—74.12(249A,85GA,SF446) Benefits and service delivery. Covered benefits and the service delivery method shall be determined by the member's countable income and health status.

74.12(1) Iowa wellness plan services. Iowa Health and Wellness Plan members with countable income that does not exceed 100 percent of the federal poverty level shall be enrolled in the Iowa wellness plan unless the member is determined by the department to be an exempt individual. The department shall provide the member with a medical assistance eligibility card identifying the member as eligible for Iowa wellness plan services.

a. Covered Iowa wellness plan services are essential health benefits, all other benefits required pursuant to 42 U.S.C. § 1396u-7(b)(1)(B), prescription drugs and dental services consistent with 441—Chapter 78, and habilitation services consistent with rule 441—78.27(249A).

b. The Iowa Health and Wellness Plan provider network shall include all providers enrolled in the medical assistance program, including all participating accountable care organizations.

c. Members enrolled in the Iowa wellness plan shall be subject to enrollment in managed care, other than PACE programs, pursuant to 441—Chapter 88. In addition to reimbursement for managed care

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pursuant to 441—Chapter 88, the department may provide care coordination fees, performance incentive payments, or shared savings arrangements for medical homes and accountable care organizations serving members enrolled in the Iowa Health and Wellness Plan.

d. When the member does not choose a primary medical provider, the department shall assign the member to a primary medical provider in accordance with the Medicaid managed health care mandatory enrollment provisions specified in 441—subrule 88.3(7) for mandatory enrollment counties and in accordance with quality data available to the department.

74.12(2) Marketplace choice plan services. Iowa Health and Wellness Plan members with countable income between 101 percent and 133 percent of the federal poverty level shall be enrolled in a marketplace choice plan unless the member is determined by the department to be an exempt individual. Marketplace choice coverage shall be provided through designated qualified health plans available on the health insurance marketplace. Covered services not provided by the marketplace choice plan will be provided by the medical assistance program. Individuals who have been determined eligible for the marketplace choice plan, but who have not yet been enrolled in a marketplace choice plan, shall receive fee-for-service coverage under the Iowa wellness plan until they choose or are assigned to a marketplace choice plan.

a. Upon enrollment, a member shall choose a qualified health plan from those designated by the department to provide coverage to Iowa Health and Wellness Plan members.

b. When the member does not select a qualified health plan pursuant to notice of the need to do so, the department will select a plan, enroll the member, and notify the member of the assigned plan.

c. The department shall pay premiums to designated qualified health plans participating on the health insurance marketplace to buy coverage for eligible Iowa Health and Wellness Plan members. The department shall begin payment of the member's premiums for the first month of enrollment through the Iowa Health and Wellness Plan. The qualified health plan shall provide the member with an insurance card identifying the member as an enrollee of the plan. The department shall provide the member with a medical assistance eligibility card identifying the member as eligible for the marketplace choice plan.

d. Covered services are all benefits, including essential health benefits, provided by the designated qualified health plan on the health insurance marketplace, including prescription drugs. Dental services shall be provided through a contract with a commercial dental plan with covered services consistent with 441—Chapter 78. Services not covered by the qualified health plan, but covered pursuant to the marketplace choice 1115 waiver or the marketplace choice state plan will be covered by the Medicaid program.

74.12(3) Exempt individuals. An Iowa Health and Wellness Plan member who has been determined by the department to be an exempt individual shall be given the choice of the benefits and service delivery method provided by the Iowa wellness plan or receiving benefits and services pursuant to 441—Chapter 78.

74.12(4) Qualified employer-sponsored coverage. An individual who has access to cost-effective employer-sponsored coverage shall be subject to enrollment in the health insurance premium payment program pursuant to 441—Chapter 75.

441—74.13(249A,85GA,SF446) Claims and reimbursement methodologies.

74.13(1) Claims for services not provided by a qualified health plan. Claims for services provided under the Iowa wellness plan or for covered marketplace choice services not provided by the member's qualified health plan shall be submitted to the Iowa Medicaid enterprise as required by 441—Chapter 80.

74.13(2) Payment for services not provided by a qualified health plan. Payment for services provided under the Iowa wellness plan or for covered marketplace choice services not provided by the member's qualified health plan shall be provided in accordance with 441—Chapter 79 or as provided in a contract between the department and the provider.

74.13(3) Payment for services provided by the marketplace choice plan. Payment for services provided under the marketplace choice plan shall be made in accordance with the rates filed with the Iowa insurance division.

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441—74.14(249A,85GA,SF446) Discontinuance of program.

74.14(1) If the methodology for calculating the federal medical assistance percentage for eligible individuals, as provided in 42 U.S.C. § 1396d(y), is modified through federal law or regulation, in a manner that reduces the percentage of federal assistance to the state, or if federal law or regulation affecting eligibility or benefits for the Iowa Health and Wellness Plan is modified, the department may implement an alternative plan as specified in the medical assistance state plan or waiver for coverage of the affected population, subject to prior, statutory approval of implementation of the alternative plan.

74.14(2) If the methodology for calculating the federal medical assistance percentage for eligible individuals, as provided in 42 U.S.C. § 1396d(y), is modified through federal law or regulation resulting in a reduction of the percentage of federal assistance to the state below 90 percent but not below 85 percent, the medical assistance program reimbursement rates for inpatient and outpatient hospital services shall be reduced by a like percentage in the succeeding fiscal year, subject to prior, statutory approval of implementation of the reduction.

These rules are intended to implement 2013 Iowa Acts, Senate File 446, sections 166 to 173 and 185 to 187, and Iowa Code chapter 249A.

ITEM 2. Amend subrule 88.2(1) as follows:

88.2(1) *Contracts with HMOs.* The department shall enter into contracts for the scope of services specified in 441—Chapter 78, or a part thereof, with an HMO licensed under the provisions of commerce department rules of the insurance division, 191—Chapter 40. The department may also include the scope of services described in 441—Chapter 74, known as the Iowa Health and Wellness Plan, or part thereof, in contracts with HMOs.

a. to c. No change.

ITEM 3. Amend subrule 88.22(1) as follows:

88.22(1) *Contracts with PHPs.* The department shall enter into contracts for the scope of services specified in 441—Chapter 78, or a part thereof, with a PHP which has verified to the department that the criteria set forth in the Social Security Act have been met. This verification shall be reviewed by Centers for Medicare and Medicaid Services (CMS) staff to ensure that the status of PHP is rightfully conferred. The department may also include the scope of services described in 441—Chapter 74, known as the Iowa Health and Wellness Plan, or part thereof, in contracts with PHPs.

a. to c. No change.

ITEM 4. Amend subrule 88.48(1) as follows:

88.48(1) *Managed services.* Provision of the following services by any provider other than the patient manager requires authorization from the patient manager in order to be payable by Medicaid except that mental health and substance abuse services for all managed health care recipients are provided under the Iowa Plan program and do not require authorization (see rule 441—88.61(249A)):

a. to j. No change.

These services require authorization even if the need for the service is considered urgent. However, in case of urgent medical conditions, the patient manager shall arrange for necessary care within 24 hours by either providing it or referring to and authorizing another appropriate provider to provide care.

Services or parts thereof described in 441—Chapter 74, known as the Iowa Health and Wellness Plan, require authorization by the patient manager as otherwise required by this division.

ITEM 5. Adopt the following **new** subrule 88.65(7):

88.65(7) *Iowa wellness plan service benefits.* Services described in 441—Chapter 74 that otherwise constitute covered services pursuant to this rule shall be included in Iowa Plan services for members enrolled in the Iowa Plan who are also Iowa wellness plan members.

ARC 0971C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, section 7(6), the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

These amendments add language that allows Department staff to determine financial eligibility for Medicaid assistance using the modified adjusted gross income methodology and add other eligibility requirements of the Patient Protection and Affordable Care Act (commonly referred to as the Affordable Care Act or the ACA) for applications received on or after October 1, 2013, and for assistance that will be effective January 1, 2014, and thereafter.

These amendments add a new coverage group for former foster care children up to age 26. These amendments also revise social security and residency requirements under the Affordable Care Act and remove eligibility for the dependent relative of a recipient of state supplemental assistance.

These amendments are necessary to comply with requirements of the Patient Protection and Affordable Care Act of 2010 (Public Law 111-148) and subsequent federal regulations. The Iowa Legislature eliminated eligibility for the dependent relative of a recipient of state supplemental assistance in light of other eligibility for such individuals under the ACA.

Finally, these amendments also propose to adopt two new rules, 441—75.28(249A) and 441—75.29(249A). The adoption of these rules is a technical change that in effect relocates the content of rules 441—76.8(249A) and 441—76.12(249A) to Chapter 75 and is proposed in conjunction with **ARC 0908C**, a Notice of Intended Action published in the August 7, 2013, Iowa Administrative Bulletin that proposes to rescind Chapter 76, “Application and Investigation,” including rules 441—76.8(249A) and 441—76.12(249A), and to adopt a new Chapter 76 in lieu thereof.

Any interested person may make written comments on the proposed amendments on or before September 10, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 503190114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because of federal legislative requirements found in the Affordable Care Act. However, requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, section 7(6).

The following amendments are proposed.

ITEM 1. Adopt the following **new** preamble in **441—Chapter 75**:

PREAMBLE

This chapter establishes the conditions of eligibility for the medical assistance program administered by the department of human services pursuant to Iowa Code chapter 249A and addresses related matters. This chapter shall be construed to comply with all requirements for federal funding under Title XIX of the Social Security Act or under the terms of any applicable waiver of Title XIX requirements granted by the Secretary of the U.S. Department of Health and Human Services. To the extent this chapter

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is inconsistent with any applicable federal funding requirement under Title XIX or the terms of any applicable waiver, the requirements of Title XIX or the terms of the waiver shall prevail.

ITEM 2. Amend subrule 75.1(9) as follows:

75.1(9) *Individuals receiving state supplemental assistance.* Medical assistance shall be available to all recipients of state supplemental assistance as authorized by Iowa Code chapter 249. ~~Medical assistance shall also be available to the individual's dependent relative as defined in 441—subrule 51.4(4).~~

ITEM 3. Adopt the following new subrule 75.1(45):

75.1(45) *Medicaid for former foster care youth.* Effective January 1, 2014, medical assistance shall be available to a person who meets all of the following conditions:

- a. The person is at least 18 years of age (or such higher age to which foster care is provided to the person) and under 26 years of age;
- b. The person is not described in or enrolled under any of Subclauses (I) through (VII) of Section 1902(a)(10)(A)(i) of Title XIX of the Social Security Act or is described in any of such subclauses but has income that exceeds the level of income applicable under Iowa's state Medicaid plan for eligibility to enroll for medical assistance under such subclause;
- c. The person was in foster care under the responsibility of Iowa on the date of attaining 18 years of age or such higher age to which foster care is provided; and
- d. The person was enrolled in the Iowa Medicaid program under Title XIX of the Social Security Act while in such foster care.

ITEM 4. Rescind rule 441—75.7(249A) and adopt the following new rule in lieu thereof:

441—75.7(249A) Furnishing of social security number.

75.7(1) As a condition of eligibility, except as provided by subrule 75.7(2), all social security numbers issued to each individual (including children) for whom Medicaid is sought must be furnished to the department.

75.7(2) The requirement of subrule 75.7(1) does not apply to an individual who:

- a. Is not eligible to receive a social security number;
- b. Does not have a social security number and may only be issued a social security number for a valid nonwork reason in accordance with 20 CFR § 422.104; or
- c. Refuses to obtain a social security number because of a well-established religious objection. For this purpose, a well-established religious objection means that the individual:
 - (1) Is a member of a recognized religious sect or division of the sect; and
 - (2) Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number.

75.7(3) If a social security number has not been issued or is not known, the individual seeking Medicaid must cooperate with the department in applying for a social security number with the Social Security Administration or in requesting the Social Security Administration to furnish the number.

ITEM 5. Amend subrule 75.10(1) as follows:

75.10(1) Definitions.

a. *Institutions.* For purposes of this rule, “institution” means an “institution” or a “medical institution” as those terms are defined in 42 CFR § 435.1010 as amended to July 13, 2007. For purposes of state placement, “institution” also includes foster care homes licensed as set forth in 45 CFR § 1355.20 as amended to January 6, 2012, and providing food, shelter and supportive services to one or more persons unrelated to the proprietor.

b. ~~“Incapable of expressing intent” shall mean that the person meets one or more of the following conditions:~~ *Incapable of indicating intent regarding residency.* For purposes of this rule, an individual is considered to be “incapable of indicating intent regarding residency” if the individual:

1. Has an IQ of 49 or less or has a mental age of seven or less;₂
2. ~~Is~~ Has been judged legally incompetent;₂ or

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3. ~~Is found~~ Has been determined to be incapable of indicating intent ~~based on medical documentation obtained from~~ regarding residency by a physician, psychologist or other person licensed by the state in the field of ~~mental retardation~~ intellectual disability.

~~“Institution” shall mean an establishment that furnishes (in single or multiple facilities) food, shelter, and some treatment or services to four or more persons unrelated to the proprietor. Foster care facilities are included.~~

ITEM 6. Rescind subrule 75.10(2) and adopt the following new subrule in lieu thereof:

75.10(2) Determination of residency. State residency is determined according to the following criteria. If more than one criterion applies, the applicable criterion listed first determines the individual’s residency:

a. Cases of disputed residency. If two or more states do not agree on an individual’s state of residence, the state where the individual is physically located is the state of residence.

b. Temporary absence from state of residence. An individual who was a resident of a state pursuant to the other criteria of this rule, who is temporarily absent from that state, and who intends to return to that state when the purpose of the absence has been accomplished remains a resident of that state during the absence, unless another state has determined that the person is a resident there for Medicaid purposes.

c. Individuals placed by a state in an out-of-state institution. If any agency of a state, including an entity recognized under state law as being under contract with the state for such purposes, arranges for an individual to be placed in an institution located in another state, the state arranging or actually making the placement is considered the individual’s state of residence during that placement.

(1) Any action beyond providing information to the individual and the individual’s family constitutes arranging or making a placement. However, the following actions do not constitute arranging or making a placement:

1. Providing basic information to individuals about another state’s Medicaid program and information about the availability of health care services and facilities in another state.

2. Assisting an individual in locating an institution in another state, provided the individual is not incapable of indicating intent regarding residency and independently decides to move.

(2) When a competent individual leaves an out-of-state institution in which the individual was placed by a state, that individual’s state of residence is the state where the individual is physically located.

d. Individuals receiving a state supplementary assistance payment. Individuals who are receiving a state supplementary assistance payment pursuant to 42 U.S.C. § 1382e (including payments from Iowa pursuant to rules 441—50.1(249) through 441—54.8(249), 441—81.23(249A), 441—82.19(249A), 441—85.47(249A), or 441—177.1(249) through 441—177.11(249)) are considered to be residents of the state paying the supplementary assistance.

e. Individuals receiving Title IV-E payments. Individuals who are receiving federal foster care or adoption assistance payments for a child under Title IV-E of the Social Security Act are considered to be residents of the state where the child lives.

f. Individuals aged 21 and over who are residing in an institution and who are capable of indicating intent regarding residency. For an individual aged 21 or over who is residing in an institution and who is not incapable of indicating intent regarding residency, the state of residence is the state where the individual is living and intends to reside.

g. Individuals aged 21 and over who are residing in an institution and who became incapable of indicating intent regarding residency before the age of 21. For an individual aged 21 or over who is residing in an institution and who became incapable of indicating intent regarding residency before the age of 21, the state of residence is:

(1) That of the parent applying for Medicaid on the individual’s behalf if the parents reside in separate states (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent);

(2) The parent’s or legal guardian’s state of residence at the time of placement (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent);

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(3) The current state of residence of the parent or legal guardian who files the application if the individual is residing in an institution in that state (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent); or

(4) The state of residence of the individual or party who files an application if the individual has been abandoned by the individual's parent(s), does not have a legal guardian, and is residing in an institution in that state.

h. Individuals aged 21 and over who are residing in an institution and who became incapable of indicating intent regarding residency at or after the age of 21. For an individual aged 21 or over who is residing in an institution and who became incapable of indicating intent regarding residency at or after the age of 21, the state of residence is the state in which the individual is physically present.

i. Individuals aged 21 and over who are not residing in an institution and who are incapable of indicating intent regarding residency. For an individual aged 21 or over who is not residing in an institution and who is incapable of indicating intent regarding residency, the state of residence is the state where the individual is living.

j. Individuals aged 21 and over who are not residing in an institution and who are capable of indicating intent regarding residency. For an individual aged 21 or over who is not residing in an institution and who is not incapable of indicating intent regarding residency, the state of residence is the state where the individual is living and either:

- (1) Intends to reside, with or without a fixed address; or
- (2) Entered with a job commitment or to seek employment, whether or not currently employed.

k. Individuals under the age of 21 who are residing in an institution and who are not married or emancipated. For an individual under the age of 21 who is residing in an institution and who is neither married nor emancipated, the state of residence is:

(1) The parent's or legal guardian's state of residence at the time of placement (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent);

(2) The current state of residence of the parent or legal guardian who files the application if the individual is residing in an institution in that state (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of that of the parent); or

(3) The state of residence of the individual or party who files an application if the individual has been abandoned by the individual's parent(s), does not have a legal guardian, and is residing in an institution in that state.

l. Individuals under the age of 21 who are capable of indicating intent regarding residency and who are married or emancipated. For an individual under the age of 21 who is not incapable of indicating intent regarding residency and who is married or emancipated from the individual's parent, the state of residence is determined in accordance with paragraph 75.10(2) "j."

m. Other individuals under the age of 21. For an individual under the age of 21 who is not described in paragraph 75.10(2) "k" or "l," the state of residence is:

- (1) The state where the individual resides, with or without a fixed address; or
- (2) The state of residency of the parent or caretaker, determined in accordance with paragraph 75.10(2) "j," with whom the individual resides.

ITEM 7. Adopt the following **new** rule 441—75.28(249A):

441—75.28(249A) Recovery.

75.28(1) Definitions.

"*Administrative overpayment*" means medical assistance incorrectly paid to or for the client because of continuing assistance during the appeal process or allowing a deduction for the Medicare Part B premium in determining client participation while the department arranges to pay the Medicare premium directly.

"*Agency error*" means medical assistance incorrectly paid to or for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Misfiling or loss of forms or documents.

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2. Errors in typing or copying.
3. Computer input errors.
4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the department.
6. Failure to make prompt revisions in medical payment following changes in policies requiring the changes as of a specific date.

“*Client*” means a current or former Medicaid member.

“*Client error*” means medical assistance incorrectly paid to or for the client because the client or client’s representative failed to disclose information, or gave false or misleading statements, oral or written, regarding the client’s income, resources, or other eligibility and benefit factors. “Client error” also means assistance incorrectly paid to or for the client because of failure by the client or client’s representative to timely report as defined in rule 441—76.15(249A).

“*Department*” means the department of human services.

“*Premiums paid for medical assistance*” means monthly premiums assessed to a member or household for Medicaid, IowaCare or the Iowa Health and Wellness Plan coverage.

75.28(2) Amount subject to recovery. The department shall recover from a client all Medicaid funds incorrectly expended to or on behalf of the client and all unpaid premiums assessed by the department for medical assistance. The incorrect expenditures or unpaid premiums may result from client or agency error or administrative overpayment.

75.28(3) Notification. All clients shall be promptly notified on Form 470-2891, Notice of Medical Assistance Overpayment, when it is determined that assistance was incorrectly expended or when assessed premiums are unpaid.

a. Notification of incorrect expenditures shall include:

- (1) For whom assistance was paid;
- (2) The period during which assistance was incorrectly paid;
- (3) The amount of assistance subject to recovery; and
- (4) The reason for the incorrect expenditure.

b. Notification of unpaid premiums shall include:

- (1) The amount of the premium; and
- (2) The month covered by the medical assistance premium.

75.28(4) Source of recovery. Recovery shall be made from the client or from parents of children under the age of 21 when the parents completed the application and had responsibility for reporting changes. Recovery may come from income, resources, the estate, income tax refunds, and lottery winnings of the client.

75.28(5) Repayment. The repayment of incorrectly expended Medicaid funds shall be made to the department. However, repayment of funds incorrectly paid to a nursing facility, a Medicare-certified skilled nursing facility, a psychiatric medical institution for children, an intermediate care facility for persons with an intellectual disability, or mental health institute enrolled as an inpatient psychiatric facility may be made by the client to the facility. The department shall then recover the funds from the facility through a vendor adjustment.

75.28(6) Appeals. The client shall have the right to appeal the amount of funds subject to recovery under the provisions of 441—Chapter 7.

75.28(7) Estate recovery. Medical assistance is subject to recovery from the estate of a Medicaid member, the estate of the member’s surviving spouse, or the estate of the member’s surviving child as provided in this subrule. Effective January 1, 2010, medical assistance that has been paid for Medicare cost sharing or for benefits described in Section 1902(a)(10)(E) of the Social Security Act is not subject to recovery. All assets included in the estate of the member, the surviving spouse, or the surviving child are subject to probate for the purposes of medical assistance estate recovery pursuant to Iowa Code section 249A.5(2)“d.” The classification of the debt is defined at Iowa Code section 633.425(7).

a. Definition of estate. For the purpose of this subrule, the “estate” of a Medicaid member, a surviving spouse, or a surviving child shall include all real property, personal property, or any other

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asset in which the member, spouse, or surviving child had any legal title or interest at the time of death, or at the time a child reaches the age of 21, to the extent of that interest. An estate includes, but is not limited to, interest in jointly held property, retained life estates, and interests in trusts.

b. Debt due for member 55 years of age or older. Receipt of medical assistance when a member is 55 years of age or older creates a debt due to the department from the member's estate upon the member's death for all medical assistance provided on the member's behalf on or after July 1, 1994.

c. Debt due for member under the age of 55 in a medical institution.

(1) Receipt of medical assistance creates a debt due to the department from the member's estate upon the member's death for all medical assistance provided on the member's behalf on or after July 1, 1994, when the member:

1. Is under the age of 55; and
2. Is a resident of a nursing facility, an intermediate care facility for persons with an intellectual disability, or a mental health institute; and
3. Cannot reasonably be expected to be discharged and return home.

(2) If the member is discharged from the facility and returns home before staying six consecutive months, no debt will be assessed for medical assistance payments made on the member's behalf for the time in the institution.

(3) If the member remains in the facility for six consecutive months or longer or dies before staying six consecutive months, the department shall presume that the member cannot or could not reasonably be expected to be discharged and return home and a debt due shall be established. The department shall notify the member of the presumption and the establishment of a debt due.

d. Request for a determination of ability to return home. Upon receipt of a notice of the establishment of a debt due based on the presumption that the member cannot return home, the member or someone acting on the member's behalf may request that the department determine whether the member can or could reasonably have been expected to return home.

(1) When a written request is made within 30 days of the notice that a debt due will be established, no debt due shall be established until the department has made a decision on the member's ability to return home. If the determination is that there is or was no ability to return home, a debt due shall be established for all medical assistance as of the date of entry into the institution.

(2) When a written request is made more than 30 days after the notice that a debt due will be established, a debt due will be established for medical assistance provided before the request even if the determination is that the member can or could have returned home.

e. Determination of ability to return home. When the member or someone acting on the member's behalf requests that the department determine if the member can or could have returned home, the determination shall be made by the Iowa Medicaid enterprise (IME) medical services unit.

(1) The IME medical services unit cannot make a determination until the member has been in an institution at least six months or after the death of the member, whichever is earlier. The IME medical services unit will notify the member or the member's representative and the department of the determination.

(2) If the determination is that the member can or could return home, the IME medical services unit shall establish the date the return is expected or could have been expected to occur.

(3) If the determination is that the member cannot or could not return home, a debt due will be established unless the member or the member's representative asks for a reconsideration of the decision. The IME medical services unit will notify the member or the member's representative and the department of the reconsideration decision.

(4) If the reconsideration decision is that the member cannot or could not return home, a debt due will be established against the member unless the decision is appealed pursuant to 441—Chapter 7. The appeal decision will determine the final outcome for the establishment of a debt due and the period when the debt is established.

f. Debt collection.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) A nursing facility participating in the medical assistance program shall notify the IME revenue collection unit upon the death of a member residing in the facility by submitting Form 470-4331, Estate Recovery Program Nursing Home Referral.

(2) Upon receipt of Form 470-4331 or a report of a member's death through other means, the IME revenue collection unit will use Form 470-4339, Medical Assistance Debt Response, to request a statement of the member's assets from the member's personal representative. The representative shall sign and return Form 470-4339 indicating whether assets remain and, if so, what the assets are and what higher priority expenses exist. EXCEPTION: The procedures in this subparagraph are not necessary when a probate estate has been opened, because probate procedures provide for an inventory, an accounting, and a final report of the estate.

g. Waiving the collection of the debt.

(1) The department shall waive the collection of the debt created under this subrule from the estate of the member to the extent that collection of the debt would result in either of the following:

1. Reduction in the amount received from the member's estate by a surviving spouse or by a surviving child who is under the age of 21, blind, or permanently and totally disabled at the time of the member's death.

2. Creation of an undue hardship for the person seeking a waiver of estate recovery. Undue hardship exists when total household income is less than 200 percent of the poverty level for a household of the same size, total household resources do not exceed \$10,000, and application of estate recovery would result in deprivation of food, clothing, shelter, or medical care such that life or health would be endangered. For this purpose, "income" and "resources" shall be defined as being under the family medical assistance program.

(2) To apply for a waiver of estate recovery due to undue hardship, the person shall provide a written statement and supporting verification to the department within 30 days of the notice of estate recovery pursuant to Iowa Code section 633.425.

(3) The department shall determine whether undue hardship exists on a case-by-case basis. Appeals of adverse decisions regarding an undue hardship determination may be filed in accordance with 441—Chapter 7.

h. Amount waived. If collection of all or part of a debt is waived pursuant to paragraph 75.28(7) "g," to the extent that the person received the member's estate, the amount waived shall be a debt due from the following:

(1) The estate of the member's surviving spouse, upon the death of the spouse.

(2) The estate of the member's surviving child who is blind or has a disability, upon the death of the child.

(3) A surviving child who was under 21 years of age at the time of the member's death, when the child reaches the age of 21.

(4) The estate of a surviving child who was under 21 years of age at the time of the member's death, if the child dies before reaching the age of 21.

(5) The hardship waiver recipient, when the hardship no longer exists.

(6) The estate of the recipient of the undue hardship waiver, at the time of death of the hardship waiver recipient.

i. Impact of asset disregard on debt due. The estate of a member who is eligible for medical assistance under subrule 75.5(5) shall not be subject to a claim for medical assistance paid on the member's behalf up to the amount of the assets disregarded by asset disregard. Medical assistance paid on behalf of the member before these conditions shall be recovered from the estate, regardless of the member's having purchased precertified or approved insurance.

j. Interest on debt. Interest shall accrue on a debt due under this subrule at the rate provided pursuant to Iowa Code section 535.3, beginning six months after the death of a Medicaid member, the surviving spouse, or the surviving child, or upon the child's reaching the age of 21.

k. Reimbursement to county. If a county reimburses the department for medical assistance provided under this subrule and the amount of medical assistance is subsequently repaid through a

HUMAN SERVICES DEPARTMENT[441](cont'd)

medical assistance income trust or a medical assistance special needs trust as defined in Iowa Code chapter 633C, the department shall reimburse the county on a proportionate basis.

ITEM 8. Adopt the following new rule 441—75.29(249A):

441—75.29(249A) Investigation by quality control or the department of inspections and appeals. An applicant or member shall cooperate with the department when the applicant's or member's case is selected by quality control or the department of inspections and appeals for verification of eligibility unless the investigation revolves solely around the circumstances of a person whose income and resources do not affect medical assistance eligibility. (See department of inspections and appeals rules in 481—Chapter 72.) Failure to cooperate shall serve as a basis for denial of an application or cancellation of medical assistance unless the Medicaid eligibility is determined by the Social Security Administration. Once a person's eligibility is denied or canceled for failure to cooperate, the person may reapply but shall not be determined eligible until cooperation occurs.

ITEM 9. Reserve rules **441—75.61** to **441—75.69**.

ITEM 10. Adopt the following new Division III heading in **441—Chapter 75**:

DIVISION III

FINANCIAL ELIGIBILITY BASED ON MODIFIED ADJUSTED GROSS INCOME (MAGI)

ITEM 11. Adopt the following new rule 441—75.70(249A):

441—75.70(249A) Financial eligibility based on modified adjusted gross income (MAGI). Notwithstanding any other provision of this chapter, effective January 1, 2014, financial eligibility for medical assistance shall be determined using “modified adjusted gross income” (MAGI) and “household income” pursuant to 42 U.S.C. § 1396a(e)(14), to the extent required by that section as a condition of federal funding under Title XIX of the Social Security Act. For this purpose, financial eligibility for medical assistance includes any applicable purpose for which a determination of income is required, including the imposition of any premiums or cost sharing.

ITEM 12. Adopt the following new rule 441—75.71(249A):

441—75.71(249A) Income limits. Notwithstanding any other provision of this chapter, effective January 1, 2014, the following income limits apply to the following coverage groups, as identified by the legal references provided:

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Coverage Group	Legal Reference	Household Size (persons)	Income Limit (per month)
Family Medical Assistance Program and Child Medical Assistance Program	441—subrule 75.1(14) and 441—subrule 75.1(15); 42 CFR Part 435.110; Title XIX of the Social Security Act, Section 1931	1	\$447
		2	\$716
		3	\$872
		4	\$1,033
		5	\$1,177
		6	\$1,330
		7	\$1,481
		8	\$1,633
		9	\$1,784
		10	\$1,950
			over 10
Mothers and Children, for pregnant women and for infants under one year of age	441—subrule 75.1(28); 42 CFR Part 435.116; Title XIX of the Social Security Act, Section 1902		375% of the federal poverty level for the household
Mothers and Children, for children aged 1 through 18 years	441—subrule 75.1(28); 42 CFR Part 435.116; Title XIX of the Social Security Act, Section 1902		167% of the federal poverty level for the household
Medicaid for Independent Young Adults	441—subrule 75.1(42); Title XIX of the Social Security Act, Section 1902(a)(10)(A)(ii)(VII)		254% of the federal poverty level for the household
Family Planning Services	441—subrule 75.1(41)		369% of the federal poverty level for the household

ARC 0960C**INSURANCE DIVISION[191]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 505.8 and 2013 Iowa Acts, Senate File 182, section 5, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 5, “Regulation of Insurers—General Provisions,” Iowa Administrative Code.

The purpose of rule 191—5.33(510), Credit for Reinsurance, is to set forth the procedural requirements which the Insurance Commissioner deems necessary to carry out the provisions of 2013 Iowa Acts, Senate File 182, sections 1 to 6. The actions and information required by this rule are necessary and appropriate to the public interest and for the protection of the ceding insurers in this state. The amendments add the procedural requirements that allow for the reduction of collateral required to be posted by assuming reinsurers that are neither licensed nor accredited in the ceding insurer’s

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state of domicile. The Division intends that domestic insurance companies shall comply with these amendments beginning January 1, 2014.

Any interested person may make written comments on or before September 10, 2013. Written comments may be sent to Matt Hargrafen, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, 5th Floor, Des Moines, Iowa 50309-3738. Comments may also be submitted electronically to matthew.hargrafen@iid.iowa.gov or via facsimile to (515)281-3059.

A public hearing will be held on September 11, 2013, at 10 a.m. in the Conference Room 4 North of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, 4th Floor, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine remarks to the subject of the amendments.

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

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

These amendments are intended to implement Iowa Code chapter 521B.

The following amendments are proposed.

ITEM 1. Amend subparagraph **5.33(4)“a”(4)** as follows:

(4) ~~Maintains a surplus as regards policyholders in an amount not less than \$20 million and whose accreditation has not been denied by the commissioner within 90 days of its submission or, in the case of companies with a surplus as regards policyholders of less than \$20 million, whose accreditation has been approved by the commissioner~~ or obtains the affirmative approval of the commissioner upon a finding that the accredited reinsurer has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.

ITEM 2. Amend paragraph **5.33(4)“b”** as follows:

b. ~~If the commissioner determines that the assuming insurer has failed to meet or maintain any of these qualifications, the commissioner may upon written notice and hearing suspend or revoke the accreditation. No credit shall be allowed a domestic ceding insurer with respect to reinsurance ceded after January 1, 1990, if the assuming insurer's accreditation has been denied or revoked by the commissioner after notice and hearing. A domestic ceding insurer shall not be allowed credit under this subrule if the assuming insurer's accreditation has been revoked by the commissioner or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the commissioner.~~

ITEM 3. Amend subparagraph **5.33(6)“b”(1)** as follows:

(1) ~~The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to business written in the United States and, in addition, a trustee surplus of not less than \$20 million reinsurance ceded by United States domiciled insurers, and in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20 million, except as provided in subparagraph 5.33(6)“b”(4).~~

ITEM 4. Adopt the following **new** subparagraph **5.33(6)“b”(4)**:

(4) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

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ITEM 5. Renumber subrules **5.33(7)** to **5.33(13)** as **5.33(8)** to **5.33(14)**.

ITEM 6. Adopt the following **new** subrule 5.33(7):

5.33(7) Certified reinsurers.

a. The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this subrule. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with subrules 5.33(10), 5.33(11) and 5.33(12) of this rule and 2013 Iowa Acts, Senate File 182, sections 2(5) and 3. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

(1) Ratings/security.

Ratings	Security Required
Secure – 1	0%
Secure – 2	10%
Secure – 3	20%
Secure – 4	50%
Secure – 5	75%
Vulnerable – 6	100%

(2) Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

(3) The commissioner shall require the certified reinsurer to post 100 percent, for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer.

(4) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the commissioner. The one-year deferral period is contingent upon the certified reinsurer's continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

1. Line 1: Fire
2. Line 2: Allied Lines
3. Line 3: Farmowners multiple peril
4. Line 4: Homeowners multiple peril
5. Line 5: Commercial multiple peril
6. Line 9: Inland Marine
7. Line 12: Earthquake
8. Line 21: Auto physical damage

(5) Credit for reinsurance under this subrule shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this subrule with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

(6) Nothing in this subrule shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this subrule.

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b. Certification procedure.

(1) The commissioner shall post notice on the division’s Web site promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commissioner may not take final action on the application until at least 30 days after posting the notice required by this subparagraph.

(2) The commissioner shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with paragraph 5.33(7) “a.” The commissioner shall publish a list of all certified reinsurers and their ratings.

(3) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

1. The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to paragraph 5.33(7) “c.”

2. The assuming insurer must maintain capital and surplus, or their equivalents, of no less than \$250 million calculated in accordance with paragraph 5.33(7) “b”(4)“8.” This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250 million and a central fund containing a balance of at least \$250 million.

3. The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

- Standard & Poor’s;
- Moody’s Investors Service;
- Fitch Ratings;
- A.M. Best Company; or
- Any other nationally recognized statistical rating organization.

4. The certified reinsurer must comply with any other requirements reasonably imposed by the commissioner.

(4) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

1. The certified reinsurer’s financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. Failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification.

Ratings	Best	S&P	Moody’s	Fitch
Secure – 1	A++	AAA	Aaa	AAA
Secure – 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure – 3	A	A+, A	A1, A2	A+, A
Secure – 4	A-	A-	A3	A-
Secure – 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable – 6	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

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2. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations.

3. For certified reinsurers domiciled in the United States, a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers).

4. For certified reinsurers not domiciled in the United States, a review annually of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers) (Forms CR-F and CR-S are available from the division).

5. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership.

6. Regulatory actions against the certified reinsurer.

7. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in paragraph 5.33(7) "b"(4)"8."

8. For certified reinsurers not domiciled in the United States, audited financial statements (audited United States GAAP basis if available; audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a United States GAAP basis; or, with the permission of the state insurance commissioner, audited IFRS statements with reconciliation to United States GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction supervisor). Upon the initial application for certification, the commissioner will consider audited financial statements for the last three years filed with the certified reinsurer's non-United States jurisdiction supervisor.

9. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding.

10. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves United States ceding insurers. The commissioner shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement.

11. Any other information deemed relevant by the commissioner.

(5) Based on the analysis conducted under paragraph 5.33(7) "b"(4)"5" of a certified reinsurer's reputation for prompt payment of claims, the commissioner may make appropriate adjustments in the security that the certified reinsurer is required to post to protect its liabilities to United States ceding insurers, provided that the commissioner shall, at a minimum, increase the security that the certified reinsurer is required to post by one rating level under paragraph 5.33(7) "b"(4)"1" if the commissioner finds that:

1. More than 15 percent of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more which are not in dispute and which exceed \$100,000 for each cedent; or

2. The aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by 90 days or more exceeds \$50 million.

(6) The assuming insurer must submit a properly executed Form CR-1 as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process in this state, and agreement to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final United States judgment. The commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final United States judgments or arbitration awards.

(7) The certified reinsurer must agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which is not otherwise public

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information subject to disclosure shall be exempted from disclosure under Iowa Code chapter 22 and shall be withheld from public disclosure. The applicable information filing requirements are as follows:

1. Notification within ten days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefor.

2. Annually, Form CR-F or CR-S, as applicable.

3. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in paragraph 5.33(7) "b"(7) "4."

4. Annually, audited financial statements (audited United States GAAP basis if available; audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a United States GAAP basis; or, with the permission of the state insurance commissioner, audited IFRS statements with reconciliation to United States GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor). Upon the initial certification, audited financial statements for the last three years filed with the certified reinsurer's supervisor.

5. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers.

6. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level.

7. Any other information that the commissioner may reasonably require.

(8) Change in rating or revocation of certification.

1. In the case of a downgrade by a rating agency or other disqualifying circumstance, the commissioner shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of paragraph 5.33(7) "b"(4) "1."

2. The commissioner shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this subrule, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the commissioner to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

3. If the rating of a certified reinsurer is upgraded by the commissioner, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the commissioner shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the commissioner, the commissioner shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

4. Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with subrule 5.33(9) of this rule in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with subrule 5.33(6) of this rule, the commissioner may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

c. Qualified jurisdictions.

(1) If, upon conducting an evaluation under this subrule with respect to the reinsurance supervisory system of any non-United States assuming insurer, the commissioner determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the commissioner shall publish notice and evidence of such recognition in an appropriate manner. The commissioner may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

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(2) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the reinsurance supervisory system of the non-United States jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. The commissioner shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the commissioner as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the commissioner, include but are not limited to the following:

1. The framework under which the assuming insurer is regulated.
2. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.
3. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.
4. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.
5. The domiciliary regulator's willingness to cooperate with United States regulators in general and the commissioner in particular.
6. The history of performance by assuming insurers in the domiciliary jurisdiction.
7. Any documented evidence of substantial problems with the enforcement of final United States judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the commissioner has determined that it does not adequately and promptly enforce final United States judgments or arbitration awards.
8. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.
9. Any other matters deemed relevant by the commissioner.

(3) A list of qualified jurisdictions shall be published through the NAIC committee process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification with respect to the criteria provided under paragraphs 5.33(7) "c"(2)"1" to "9."

(4) United States jurisdictions that meet the requirements for accreditation under the NAIC Financial Standards and Accreditation Program shall be recognized as qualified jurisdictions.

d. Recognition of certification issued by an NAIC-accredited jurisdiction.

(1) If an applicant for certification has been certified as a reinsurer in an NAIC-accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 and such additional information as the commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

(2) Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this state as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the commissioner of any change in its status or rating within ten days after receiving notice of the change.

(3) The commissioner may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with paragraph 5.33(7) "b"(7)"1."

(4) The commissioner may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the commissioner suspends or revokes the certified reinsurer's certification in accordance with paragraph 5.33(7) "b"(7)"2," the certified reinsurer's certification shall remain in good standing in this state for a period of three months, which shall be

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extended if additional time is necessary to consider the assuming insurer's application for certification in this state.

e. Mandatory funding clause. In addition to the clauses required under subrule 5.33(13) of this rule, reinsurance contracts entered into or renewed under this subrule shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this subrule for reinsurance ceded to the certified reinsurer.

f. The commissioner shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

ITEM 7. Amend renumbered subrule **5.33(9)**, paragraphs "**b**" and "**c**," as follows:

b. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets.

c. Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as determined by the commissioner, effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding ~~company~~ insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.

ITEM 8. Amend renumbered subrule 5.33(10), catchwords, as follows:

5.33(10) *Trust agreements qualified under subrule ~~5.33(8)~~ 5.33(9).*

ITEM 9. Amend renumbered subrule **5.33(10)**, paragraph "**b**," subparagraph **(12)**, as follows:

(12) The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by subparagraph ~~5.33(9)"d"(1)~~ 5.33(10)"d"(1) so long as these required conditions are included in the trust agreement.

ITEM 10. Adopt the following **new** subparagraph **5.33(10)"b"(13)**:

(13) Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by Iowa law or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed 5 percent of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions required by this subparagraph must be included in the reinsurance agreement.

ITEM 11. Amend renumbered subrule 5.33(11), catchwords, as follows:

5.33(11) *Letters of credit qualified under subrule ~~5.33(8)~~ 5.33(9).*

ITEM 12. Amend renumbered subrule **5.33(11)**, paragraphs "**e**" and "**f**," as follows:

e. The letter of credit shall state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (~~Publication 400~~) Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

f. If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (~~Publication 400 500~~), or any successor publication, then the letter of credit shall specifically address and make provision for an extension of time to draw

INSURANCE DIVISION[191](cont'd)

against the letter of credit in the event that one or more of the occurrences specified in Article ~~19~~ 17 of Publication ~~400~~ 500 or any other successor publication, occur.

ITEM 13. Amend renumbered subrule 5.33(13) as follows:

5.33(13) Reinsurance contract. Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of subrules 5.33(4), 5.33(5), 5.33(6), 5.33(7), 5.33(8), or ~~5.33(9)~~ 5.33(10) after the adoption of this rule unless the reinsurance agreement:

a. Includes a proper insolvency clause, which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to Iowa Code section 507C.32; and

b. Includes a provision whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel; and;

c. Includes a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.

ITEM 14. Amend renumbered subrule 5.33(14) as follows:

5.33(14) Contracts affected. All new and renewal reinsurance transactions entered into after ~~January 1, 1992~~ July 1, 2014, shall conform to the requirements of this rule if credit is to be given to the ceding insurer for such reinsurance.

ITEM 15. Adopt the following **new** subrule 5.33(15):

5.33(15) Severability. If any provision of this rule, or the application of the provision to any person or circumstance, is held invalid, the remainder of the rule, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

ARC 0959C

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 43, “Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities,” Iowa Administrative Code.

The rules in Chapter 43 utilize mortality tables for determining the minimum standard of valuation for annuity and pure endowment contracts. These amendments incorporate the 2012 IAR Mortality Table, thereby updating the industry mortality tables to consider recent mortality improvement. The Division intends that companies writing or assuming annuities shall comply with these amendments beginning January 1, 2014.

Any interested person may make written comments on or before September 10, 2013. Written comments may be sent to Matt Hargrafen, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, 5th Floor, Des Moines, Iowa 50309-3738. Comments may also be submitted electronically to matthew.hargrafen@iid.iowa.gov or via facsimile to (515)281-3059.

A public hearing will be held on September 11, 2013, at 10 a.m. in the Conference Room 4 North of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, 4th Floor, Des Moines, Iowa, at

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which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing and mobility impairments, should contact the Insurance Division and advise of their specific needs.

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

These amendments are intended to implement Iowa Code chapter 508.

The following amendments are proposed.

ITEM 1. Amend rule 191—43.1(508) as follows:

191—43.1(508) Purpose. The purpose of this chapter is to recognize the following mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts: the 1983 Table “a” and 1983 Group Annuity Mortality (1983 GAM) Table, the Annuity 2000 Mortality Table, the 2012 Individual Annuity Reserving (2012 IAR) Table, and the 1994 Group Annuity Reserving (1994 GAR) Table.

ITEM 2. Adopt the following **new** definitions in rule **191—43.2(508)**:

“2012 IAR Table” means the generational mortality table developed by the Society of Actuaries Committee on Life Insurance Research and containing rates, q_x^{2012+n} , derived from a combination of the 2012 IAM Period Table and Projection Scale G2, using the methodology stated in subrule 43.3(6).

“2012 Individual Annuity Mortality Period Life Table” or “2012 IAM Period” means the period table containing loaded mortality rates for calendar year 2012. This table contains rates, q_x^{2012+n} , developed by the Society of Actuaries Committee on Life Insurance Research and is shown in Appendices I and II.

“Generational mortality table” means a mortality table containing a set of mortality rates that decrease for a given age from one year to the next based on a combination of a period table and a projection scale containing rates of mortality improvement.

“Period table” means a table of mortality rates applicable to a given calendar year (the period).

“Projection Scale G2” or “Scale G2” means a table of annual rates, $G2_x$, of mortality improvement by age for projecting future mortality rates beyond calendar year 2012. This table was developed by the Society of Actuaries Committee on Life Insurance Research and is shown in Appendices III and IV.

ITEM 3. Adopt the following **new** subrule 43.3(5):

43.3(5) Except as provided in subrule 43.3(4), the 2012 IAR Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2014.

ITEM 4. Renumber rule **191—43.6(508)** as **191—43.7(508)**.

ITEM 5. Adopt the following **new** rule 191—43.6(508):

191—43.6(508) Application of the 2012 IAR Mortality Table. In using the 2012 IAR Mortality Table, the mortality rate for a person age x in year $(2012 + n)$ is calculated as follows:

$$q_x^{2012+n} = q_x^{2012} (1 - G2_x)^n$$

The resulting q_x^{2012+n} shall be rounded to three decimal places per 1,000, e.g., 0.741 deaths per 1,000. Also, the rounding shall occur according to the formula above, starting at the 2012 period table rate.

For example, for a male age 30, $q_x^{2012} = 0.741$.

$q_x^{2013} = 0.741 * (1 - 0.010) ^ 1 = 0.73359$, which is rounded to 0.734.

$q_x^{2014} = 0.741 * (1 - 0.010) ^ 2 = 0.7262541$, which is rounded to 0.726.

A method leading to incorrect rounding would be to calculate q_x^{2014} as $q_x^{2013} * (1 - 0.010)$, or $0.734 * 0.99 = 0.727$.

It is incorrect to use the already rounded q_x^{2013} to calculate q_x^{2014} .

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ITEM 6. Adopt the following new Appendix I to Appendix IV in **191—Chapter 43**:

APPENDIX I
2012 IAM Period Table
Female, Age Nearest Birthday

AGE	1000 · q_x^{2012}						
0	1.621	30	0.300	60	3.460	90	88.377
1	0.405	31	0.321	61	3.916	91	97.491
2	0.259	32	0.338	62	4.409	92	107.269
3	0.179	33	0.351	63	4.933	93	118.201
4	0.137	34	0.365	64	5.507	94	130.969
5	0.125	35	0.381	65	6.146	95	146.449
6	0.117	36	0.402	66	6.551	96	163.908
7	0.110	37	0.429	67	7.039	97	179.695
8	0.095	38	0.463	68	7.628	98	196.151
9	0.088	39	0.504	69	8.311	99	213.150
10	0.085	40	0.552	70	9.074	100	230.722
11	0.086	41	0.600	71	9.910	101	251.505
12	0.094	42	0.650	72	10.827	102	273.007
13	0.108	43	0.697	73	11.839	103	295.086
14	0.131	44	0.740	74	12.974	104	317.591
15	0.156	45	0.780	75	14.282	105	340.362
16	0.179	46	0.825	76	15.799	106	362.371
17	0.198	47	0.885	77	17.550	107	384.113
18	0.211	48	0.964	78	19.582	108	400.000
19	0.221	49	1.051	79	21.970	109	400.000
20	0.228	50	1.161	80	24.821	110	400.000
21	0.234	51	1.308	81	28.351	111	400.000
22	0.240	52	1.460	82	32.509	112	400.000
23	0.245	53	1.613	83	37.329	113	400.000
24	0.247	54	1.774	84	42.830	114	400.000
25	0.250	55	1.950	85	48.997	115	400.000
26	0.256	56	2.154	86	55.774	116	400.000
27	0.261	57	2.399	87	63.140	117	400.000
28	0.270	58	2.700	88	71.066	118	400.000
29	0.281	59	3.054	89	79.502	119	400.000
						120	1000.000

APPENDIX II
2012 IAM Period Table
Male, Age Nearest Birthday

AGE	1000 · q_x^{2012}						
0	1.605	30	0.741	60	5.096	90	109.993
1	0.401	31	0.751	61	5.614	91	123.119
2	0.275	32	0.754	62	6.169	92	137.168
3	0.229	33	0.756	63	6.759	93	152.171

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AGE	1000 · q_x^{2012}						
4	0.174	34	0.756	64	7.398	94	168.194
5	0.168	35	0.756	65	8.106	95	185.260
6	0.165	36	0.756	66	8.548	96	197.322
7	0.159	37	0.756	67	9.076	97	214.751
8	0.143	38	0.756	68	9.708	98	232.507
9	0.129	39	0.800	69	10.463	99	250.397
10	0.113	40	0.859	70	11.357	100	268.607
11	0.111	41	0.926	71	12.418	101	290.016
12	0.132	42	0.999	72	13.675	102	311.849
13	0.169	43	1.069	73	15.150	103	333.962
14	0.213	44	1.142	74	16.860	104	356.207
15	0.254	45	1.219	75	18.815	105	380.000
16	0.293	46	1.318	76	21.031	106	400.000
17	0.328	47	1.454	77	23.540	107	400.000
18	0.359	48	1.627	78	26.375	108	400.000
19	0.387	49	1.829	79	29.572	109	400.000
20	0.414	50	2.057	80	33.234	110	400.000
21	0.443	51	2.302	81	37.533	111	400.000
22	0.473	52	2.545	82	42.261	112	400.000
23	0.513	53	2.779	83	47.441	113	400.000
24	0.554	54	3.011	84	53.233	114	400.000
25	0.602	55	3.254	85	59.855	115	400.000
26	0.655	56	3.529	86	67.514	116	400.000
27	0.688	57	3.845	87	76.340	117	400.000
28	0.710	58	4.213	88	86.388	118	400.000
29	0.727	59	4.631	89	97.634	119	400.000
						120	1000.000

APPENDIX III

Projection Scale G2

Female, Age Nearest Birthday

AGE	G2 _x						
0	0.010	30	0.010	60	0.013	90	0.006
1	0.010	31	0.010	61	0.013	91	0.006
2	0.010	32	0.010	62	0.013	92	0.005
3	0.010	33	0.010	63	0.013	93	0.005
4	0.010	34	0.010	64	0.013	94	0.004
5	0.010	35	0.010	65	0.013	95	0.004
6	0.010	36	0.010	66	0.013	96	0.004
7	0.010	37	0.010	67	0.013	97	0.003
8	0.010	38	0.010	68	0.013	98	0.003
9	0.010	39	0.010	69	0.013	99	0.002
10	0.010	40	0.010	70	0.013	100	0.002
11	0.010	41	0.010	71	0.013	101	0.002
12	0.010	42	0.010	72	0.013	102	0.001

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AGE	G2 _x						
13	0.010	43	0.010	73	0.013	103	0.001
14	0.010	44	0.010	74	0.013	104	0.000
15	0.010	45	0.010	75	0.013	105	0.000
16	0.010	46	0.010	76	0.013	106	0.000
17	0.010	47	0.010	77	0.013	107	0.000
18	0.010	48	0.010	78	0.013	108	0.000
19	0.010	49	0.010	79	0.013	109	0.000
20	0.010	50	0.010	80	0.013	110	0.000
21	0.010	51	0.010	81	0.012	111	0.000
22	0.010	52	0.011	82	0.012	112	0.000
23	0.010	53	0.011	83	0.011	113	0.000
24	0.010	54	0.011	84	0.010	114	0.000
25	0.010	55	0.012	85	0.010	115	0.000
26	0.010	56	0.012	86	0.009	116	0.000
27	0.010	57	0.012	87	0.008	117	0.000
28	0.010	58	0.012	88	0.007	118	0.000
29	0.010	59	0.013	89	0.007	119	0.000
						120	0.000

APPENDIX IV
 Projection Scale G2
 Male, Age Nearest Birthday

AGE	G2 _x						
0	0.010	30	0.010	60	0.015	90	0.007
1	0.010	31	0.010	61	0.015	91	0.007
2	0.010	32	0.010	62	0.015	92	0.006
3	0.010	33	0.010	63	0.015	93	0.005
4	0.010	34	0.010	64	0.015	94	0.005
5	0.010	35	0.010	65	0.015	95	0.004
6	0.010	36	0.010	66	0.015	96	0.004
7	0.010	37	0.010	67	0.015	97	0.003
8	0.010	38	0.010	68	0.015	98	0.003
9	0.010	39	0.010	69	0.015	99	0.002
10	0.010	40	0.010	70	0.015	100	0.002
11	0.010	41	0.010	71	0.015	101	0.002
12	0.010	42	0.010	72	0.015	102	0.001
13	0.010	43	0.010	73	0.015	103	0.001
14	0.010	44	0.010	74	0.015	104	0.000
15	0.010	45	0.010	75	0.015	105	0.000
16	0.010	46	0.010	76	0.015	106	0.000
17	0.010	47	0.010	77	0.015	107	0.000
18	0.010	48	0.010	78	0.015	108	0.000
19	0.010	49	0.010	79	0.015	109	0.000
20	0.010	50	0.010	80	0.015	110	0.000
21	0.010	51	0.011	81	0.014	111	0.000

INSURANCE DIVISION[191](cont'd)

AGE	G2 _x						
22	0.010	52	0.011	82	0.013	112	0.000
23	0.010	53	0.012	83	0.013	113	0.000
24	0.010	54	0.012	84	0.012	114	0.000
25	0.010	55	0.013	85	0.011	115	0.000
26	0.010	56	0.013	86	0.010	116	0.000
27	0.010	57	0.014	87	0.009	117	0.000
28	0.010	58	0.014	88	0.009	118	0.000
29	0.010	59	0.015	89	0.008	119	0.000
						120	0.000

ARC 0951C**LABOR SERVICES DIVISION[875]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby gives Notice of Intended Action to amend Chapter 71, “Administration of the Conveyance Safety Program,” Iowa Administrative Code.

The American Society of Mechanical Engineers standard pertaining to elevator inspector qualifications will end effective January 1, 2014. Currently, Iowa relies on that standard to determine if an applicant is qualified to be an elevator inspector. To stay current, Iowa must update a related definition.

The purposes of this amendment are to make the rule current, protect the health and safety of the public and implement legislative intent.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on September 10, 2013, a public hearing will be held on September 11, 2013, at 10:30 a.m. in the Capitol View Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendment. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than September 11, 2013, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@jwd.iowa.gov.

No variance procedures are included in this rule. Applicable variance procedures are set forth in 875—Chapter 66.

After analysis and review of this rule making, no impact on jobs will occur.

This amendment is intended to implement Iowa Code chapter 89A.

The following amendment is proposed.

Amend rule **875—71.1(89A)**, definition of “CEI,” as follows:

“*CEI*” means a person who is a certified elevator inspector or a certified elevator inspector supervisor pursuant to ASME QEI-1-2007 and who received the certification from a certifying organization that holds a valid document of accreditation issued by an accreditation body in accordance with ANSI/ISO/IEC 17024.

ARC 0977C

MEDICINE BOARD[653]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3(1)“k,” the Board of Medicine hereby proposes to amend Chapter 14, “Iowa Physician Health Committee,” Iowa Administrative Code.

Chapter 14 establishes the Iowa Physician Health Committee and a confidential monitoring and advocacy program for physicians with diagnosed mental health issues, physical disabilities or substance use disorders. The proposed amendments update language throughout Chapter 14 to provide clarity and to more closely align rules with practices of the Committee and the program. The amendments define program participants, the duties of the Committee’s officers, and the discretion of the Committee to report a participant to the Board of Medicine for noncompliance with the participant’s program contract.

The Board approved this Notice of Intended Action during a regularly scheduled meeting on June 28, 2013.

Any interested person may present written comments on the proposed amendments not later than 4:30 p.m. on September 10, 2013. Such written materials should be sent to Mark Bowden, Executive Director, Board of Medicine, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686; or sent by e-mail to mark.bowden@iowa.gov.

There will be a public hearing on September 10, 2013, at 11 a.m. in the Board office, at which time persons may present their views either orally or in writing. The Board office is located at 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

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

These amendments are intended to implement Iowa Code chapters 147, 148, and 272C.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition of “Participant” in rule **653—14.2(272C)**:

“*Participant*” means an applicant or licensee who does any of the following: self-reports an impairment to the Iowa physician health program, is referred to the Iowa physician health program by the board pursuant to 653—14.11(272C), signs an initial agreement with the Iowa physician health committee, or signs a contract with the Iowa physician health committee.

ITEM 2. Amend subrule 14.4(2) as follows:

14.4(2) Officers. The ~~committee~~ IPHC shall elect a chairperson and a co-chairperson or a vice chairperson at the last meeting of each calendar year to begin serving a one-year term on January 1.

a. The chairperson and co-chairperson are responsible for offering guidance and direction to staff between regularly scheduled committee meetings, including negotiation and execution of initial agreements, contracts, and program descriptions and interim restrictions on practice on behalf of the committee. The IPHC retains authority to review all interim decisions at its discretion.

b. The vice chairperson is responsible for providing guidance and direction to staff between regularly scheduled committee meetings if the chairperson is unavailable or unable to assist in a particular matter.

ITEM 3. Amend rule 653—14.5(272C) as follows:

653—14.5(272C) Eligibility. To be eligible for participation in the IPHP, an applicant or a licensee must self-report an impairment or ~~suspected~~ potential impairment directly to the IPHP or be referred by the board for an impairment or ~~suspected~~ potential impairment pursuant to 653—14.11(272C) and be determined by the IPHC to be an appropriate candidate for participation in the IPHP.

MEDICINE BOARD[653](cont'd)

14.5(1) ~~An applicant's or licensee's participation~~ Participation in the program does not divest the board of its authority or jurisdiction over the ~~applicant or licensee participant~~. ~~An applicant or licensee~~ A participant with an impairment or ~~suspected potential impairment~~ as defined at 653—14.2(272C) may retain eligibility to participate in the program if appropriate while subject to investigation or discipline by the board for matters other than the alleged impairment.

14.5(2) ~~An applicant or a licensee~~ A participant may be determined to be ineligible to participate in the program as a self-reporter or a referral from the board if the committee finds sufficient evidence of any of the following:

a. The ~~applicant or licensee participant~~ provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the ~~committee~~ IPHC.

b. The ~~applicant or licensee participant~~ fails to sign a contract when recommended by the ~~committee~~ IPHC.

c. The IPHC determines it will be unable to assist the ~~applicant or licensee participant~~.

14.5(3) The IPHC shall report to the board any knowledge of violations of administrative rules or statutes other than the impairment, including, but not limited to, competency concerns or sexual misconduct.

ITEM 4. Amend rule 653—14.6(272C) as follows:

653—14.6(272C) Type of program. The IPHP is an individualized recovery, rehabilitation, or maintenance program designed to meet the specific needs of the ~~impaired licensee participant~~. The committee, in consultation with an IPHC-approved evaluator, shall determine the type of recovery, rehabilitation, or maintenance program required to treat the ~~applicant's or licensee's participant's~~ impairment. The ~~committee~~ IPHC shall prepare a health contract, to be signed by the ~~applicant or licensee participant~~, that shall provide a detailed description of the goals of the program, the requirements for successful participation, and the ~~applicant's or licensee's participant's~~ obligations therein.

ITEM 5. Amend rule 653—14.7(272C) as follows:

653—14.7(272C) Terms of participation. A ~~licensee or an applicant~~ participant shall agree to comply with the terms for participation in the IPHP established in the initial agreement and contract. Terms of participation specified in the contract shall include, but are not limited to:

14.7(1) Duration. The length of time ~~an applicant or a licensee~~ a participant may participate in the program shall be determined by the ~~committee~~ IPHC in accordance with the following:

a. Participation in the program for ~~applicants or licensees~~ participants impaired as a result of alcohol or drug dependency or addiction is set at a minimum of five years. The ~~committee~~ IPHC may offer a contract with a shorter duration to ~~an applicant or licensee~~ a participant who can demonstrate successful participation in another state's physician health program, who can document similar experience, or who, as a board referral, has successfully completed a portion of the monitoring period established in the board order.

b. Length of participation in the program for ~~applicants or licensees~~ participants with impairments resulting from mental or physical disorders or disabilities will vary depending upon the recommendations provided by an approved evaluator and the determination of the ~~IPHP~~ IPHC following review of all relevant information.

14.7(2) Noncompliance. A ~~licensee or an applicant participating in the program~~ participant is responsible for promptly notifying the committee IPHC of ~~any instance~~ all instances of noncompliance including, ~~but not limited to,~~ a relapse. Notification of noncompliance made to the ~~IPHP~~ IPHC by the ~~applicant or licensee participant~~, any person responsible for ~~providing or monitoring treatment~~ or treating the participant, or another party shall result in the following:

a. First instance. Upon receiving notification of a first instance of significant noncompliance including, but not limited to, a relapse, the ~~IPHP~~ IPHC shall make a report to the board which identifies the ~~applicant or licensee participant~~ by IPHP case number, describes the relevant terms of the ~~applicant's~~

MEDICINE BOARD[653](cont'd)

~~or licensee's participant's contract and the nature of the noncompliance, and includes recommendations the IPHC's recommendation as to whether the applicant or licensee participant should be allowed to remain in the program or whether formal disciplinary charges should be filed by the board. Upon receiving the report, the board shall determine if formal disciplinary charges should be filed, pursuant to 653—subrule 23.1(12).~~

b. Second instance. Upon receiving notification of a second instance of significant noncompliance including, but not limited to, a relapse, the ~~IPHP~~ IPHC shall ~~nullify the contract and~~ refer the case and the participant's identity to the board for ~~the filing of formal charges or other appropriate action a determination of whether formal disciplinary charges should be filed or other appropriate action taken.~~ In its referral, the IPHC may make recommendations as to whether the participant should be allowed to remain in the program.

14.7(3) Practice restrictions. The ~~IPHP~~ IPHC may impose restrictions on the license to practice the applicable profession as a term of the initial agreement or contract until such time as it receives a report from an approved evaluator and the IPHC determines, based on all relevant information, that the ~~licensee participant~~ participant is capable of practicing with reasonable skill and safety. As a condition of participation in the program, a ~~licensee participant~~ participant is required to agree to restrict practice in accordance with the terms specified in the initial agreement or contract. In the event that ~~the licensee or applicant a participant~~ a participant refuses to agree to or comply with the restrictions established in the initial agreement or contract, the ~~committee~~ IPHC shall refer the ~~applicant or licensee participant~~ participant to the board for appropriate action.

ITEM 6. Amend subrule 14.8(2) as follows:

14.8(2) ~~An applicant's or licensee's participation~~ Participation in the program ~~IPHP~~ shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. ~~An applicant or licensee~~ A participant who violates a statute or administrative rule of the board which is unrelated to impairment, including, but not limited to, competency concerns or sexual misconduct, shall be referred to the board in accordance with these administrative rules for appropriate action.

ITEM 7. Amend rule 653—14.9(272C) as follows:

653—14.9(272C) Confidentiality. Information in the possession of the board or the committee shall be subject to the confidentiality requirements of Iowa Code section 272C.6. Information about applicants or licensees in the program shall not be disclosed except as provided in this rule.

14.9(1) The IPHC is authorized pursuant to Iowa Code section 272C.6(4) to communicate information about ~~an a current or former~~ IPHP participant to the applicable regulatory authorities or impaired licensee programs ~~of in the state of Iowa and in~~ any jurisdiction of the United States or foreign nations in which the participant is currently licensed to practice medicine or in which the participant seeks licensure. IPHP participants must report their participation to the applicable physician health program or licensing authority in any state in which the participant is currently licensed or in which the participant seeks licensure.

14.9(2) The IPHC is authorized to communicate information about an IPHP participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance for the duration of the contract.

14.9(3) The IPHC is authorized to communicate information about an IPHP participant to the board in the event a participant does not comply with the terms of the contract as set forth in subrule 14.7(2). The IPHC may provide the board with a participant's IPHP file in the event the participant does not comply with the terms of the contract and the IPHC refers the case to the board for the filing of formal disciplinary charges or other appropriate action. If the board initiates disciplinary action against a licensee for noncompliance with the terms of the contract, the board may include information about a licensee's participation in the IPHP in the statement of charges, settlement agreement and final order, or order following hearing. The IPHC is also authorized to communicate information about an IPHP participant to the board in the event the participant is under investigation by the board.

14.9(4) The IPHC is authorized to communicate information about ~~an a current or former~~ IPHP participant to the board if reliable information held by the IPHC reasonably indicates a significant risk

MEDICINE BOARD[653](cont'd)

to the public exists. If the board initiates disciplinary action based upon this information, the board may include information about a licensee's participation in the IPHP in the statement of charges, settlement agreement and final order, or order following hearing if necessary to address impairment issues related to the violations which are the subject of the disciplinary action.

14.9(5) and 14.9(6) No change.

ITEM 8. Amend rule 653—14.11(272C) as follows:

653—14.11(272C) Board referrals to the Iowa physician health committee program.

14.11(1) Eligibility for board referral to IPHP. The board may refer to the IPHP a licensee or applicant for whom the following circumstances apply:

- a. The applicant or licensee has ~~an~~ a potential impairment as defined in rule 653—14.2(272C).
- b. The board determines that the applicant or licensee is an appropriate candidate for participation in the IPHP.

NOTE: A licensee who is the subject of a formal board disciplinary order relating to an impairment must demonstrate a sufficient period of compliance with the disciplinary order before referral to the ~~IPHC~~ IPHP.

c. No change.

14.11(2) Referral process.

- a. and b. No change.
- c. If the IPHC finds that the applicant or licensee is not an appropriate candidate for participation in the IPHP or if the applicant or licensee fails to sign the health initial agreement or contract in the time period specified by the IPHC, the IPHC shall notify the board promptly.
- d. When the referred applicant or licensee signs the contract, the IPHC shall notify the board ~~that the applicant or licensee is an appropriate candidate for participation in the IPHP and that the referral has been finalized.~~
- e. Upon notification that the referral contract has been finalized for a licensee participant who is the subject of a formal board disciplinary order relating to the impairment, the board shall file an order referring the licensee to the IPHP, and that order shall be a public record.
- f. The IPHC shall notify the board upon the licensee's participant's successful completion of the program. The board may file an order recognizing the licensee's participant's successful completion of the program in cases where the referral was included in a public record. An order recognizing completion of the program shall be a public record.
- g. No change.

14.11(3) No change.

NATURAL RESOURCES DEPARTMENT

Notice of Stakeholder Group

Permits for Diversion, Storage and Withdrawal of Water from the Cambrian-Ordovician Aquifer

Pursuant to Executive Order 80, the Director of the Iowa Department of Natural Resources hereby gives Notice as to the formation of a Stakeholder Group to consider the need for rule changes in the Iowa Administrative Code (IAC): 567—Chapter 50, "Scope of Division," Chapter 52, "Criteria and Conditions for Authorizing Withdrawal, Diversion and Storage of Water," and Chapter 53, "Protected Water Sources."

The purpose of the stakeholder group is to consider alternatives and make recommendations to better manage the Cambrian-Ordovician Aquifer (commonly called the Jordan Aquifer) in Iowa. Currently, the IAC prohibits municipal, commercial, and industrial entities from water use in the Jordan Aquifer that would lower the groundwater table by more than 200 feet from historic levels. It also limits the rate of water withdrawals for industrial use to 2,000 gallons per minute. These restrictions may not

NATURAL RESOURCES DEPARTMENT[561](cont'd)

be appropriate for everyone because the characteristics of the Jordan Aquifer vary greatly across the state. For example, protecting the Jordan Aquifer from overuse may be needed in some parts of the state but may not be necessary in other locations. A rule addressing water usage of the Jordan Aquifer on a more local basis would allow additional usage of the aquifer where sufficient supply exists. It would also prevent someone from significantly investing in developing a Jordan well only later to find that the amount of water that can be withdrawn is severely limited. The stakeholder group will consider rule making to better address usage of the Jordan Aquifer on a more regional level.

All interested stakeholders who represent the varying interests impacted by the concepts mentioned above should contact Director Chuck Gipp, c/o Michael Anderson, IDNR – Water Supply Engineering, 401 SW 7th Street, Suite M, Des Moines, Iowa 50309. The Director will determine which stakeholders should make up the group in order to represent the varied interests. Information may be sent by fax to (515)725-0348 or by e-mail to Michael.Anderson@dnr.iowa.gov no later than September 4, 2013. All stakeholders are asked to provide the following information:

1. Name;
2. Telephone number;
3. E-mail address;
4. City;
5. Profession;
6. General availability to meet;
7. Explanation of stakeholder interest and how the issue impacts the stakeholder; and
8. Description of how the stakeholder can help improve aquifer management.

ARC 0948C

NURSING BOARD[655]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 11, “Examination of Public Records,” Iowa Administrative Code.

The proposed amendment updates the language for purchasing a roster to align with the online process.

Any interested person may make written comments or suggestions on the proposed amendment on or before September 10, 2013. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256 or in the Board office at 400 S.W. 8th Street, by appointment.

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

This amendment is intended to implement Iowa Code sections 17A.2, 22.3A, 152.3 and 272.10.

The following amendment is proposed.

Amend rule 655—11.5(17A,22,147,152,272C) as follows:

655—11.5(17A,22,147,152,272C) Rosters. Rosters of licensees shall be made available to the public in accordance with Iowa Code chapter 22 and sections 147.8 and 147.43.

11.5(1) Roster information and forms Rosters may be accessed via the board’s Web site under “General Information” and “Rosters” or may be requested from the board office IBON Online Services and Purchase a Roster.

NURSING BOARD[655](cont'd)

~~11.5(2)~~ Completed forms may be returned to the board office by either electronic means or in hard copy and must include a signed Purchase of Roster Agreement form to ensure that the materials or publications shall not be published in any manner which could be construed by the public to mean that the board or any of its employees support, endorse, or approve the materials or publications to be disseminated.

~~11.5(3)~~ 11.5(2) A fee of \$40 per data set shall be charged for a roster in electronic format, based on the hourly wage of the office employee processing the request. A fee shall be assessed for a roster in hard copy format, based on the rate of charge set by the outside vendor and the hourly wage of the office employee producing the roster. The fee shall be paid directly to the board and shall be considered a repayment receipt as defined in Iowa Code section 8.2. The roster shall not be released until payment or purchase order has been received.

~~11.5(4)~~ 11.5(3) The executive director may authorize the release of a roster of Iowa licensees without cost in the case of any emergency whereby the interest of the public warrants immediate access to health care personnel.

~~11.5(5)~~ 11.5(4) State agencies that request a roster of Iowa licensees in hard copy format will be invoiced at cost as an expenditure correction. State agencies that request the roster in electronic format will be provided an electronic file of the roster at no cost.

ARC 0973C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 142A.4(10), the Tobacco Use Prevention and Control Commission hereby gives Notice of Intended Action to amend Chapter 151, “Tobacco Use Prevention and Control Community Partnership Initiative,” Iowa Administrative Code.

The rules in Chapter 151 apply to community partnerships established as part of a comprehensive tobacco use prevention and control initiative to reduce tobacco use by youth and pregnant women, to promote compliance by minors and retailers with tobacco sales laws and ordinances, to enhance the capacity of youth to make healthy choices, and to foster a social and legal climate in which tobacco use becomes undesirable and unacceptable.

These proposed amendments affect community partnerships funded by state tobacco appropriations. The changes ensure equitable funding and tobacco control services for all Iowa counties, regardless of population. The changes also impact future applicants for funding by ensuring fairness and reducing barriers to competition. The changes would be implemented beginning in FY15 for all partnerships that apply for tobacco funding.

Any interested person may make written comments or suggestions on the proposed amendments on or before September 10, 2013. Such written comments should be directed to Sheri Stursma, Division of Tobacco Use Prevention and Control, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to Sheri.Stursma@idph.iowa.gov.

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

These amendments are intended to implement Iowa Code sections 142A.8 and 142A.10.

The following amendments are proposed.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Rescind subrules **151.4(8)** to **151.4(10)**.

ITEM 2. Renumber subrules **151.4(4)** to **151.4(7)** as **151.4(5)** to **151.4(8)**.

ITEM 3. Adopt the following **new** subrule 151.4(4):

151.4(4) A description of the community outreach and educational programming services currently provided by the applicant;

ITEM 4. Renumber subrules **151.4(11)** to **151.4(14)** as **151.4(9)** to **151.4(12)**.

ITEM 5. Amend renumbered subrule 151.4(9) as follows:

151.4(9) An assessment of the needs of the community partnership area which incorporates, but is not limited to, the following information for each county in the community partnership area:

a. Tobacco-related information from the community health needs assessment and health improvement plan (CHNA and HIP, Healthy Iowans);

b. to e. No change.

~~*f.* Tobacco-related information from Healthy Iowans 2010;~~

ITEM 6. Amend rule 641—151.6(142A), introductory paragraph, as follows:

641—151.6(142A) Application deadline. ~~Applicants~~ An applicant seeking to be approved as a community partnership for distribution of funds during the 2004 current fiscal year may apply immediately and must apply no later than November 10, 2000 once the RFA/RFP has been posted.

ITEM 7. Rescind and reserve subrule **151.6(1)**.

ITEM 8. Renumber subrules **151.7(2)** to **151.7(5)** as **151.7(3)** to **151.7(6)**.

ITEM 9. Adopt the following **new** subrule 151.7(2):

151.7(2) The department in consultation with the commission shall allocate funding to the community partnerships from the total moneys appropriated to the tobacco use prevention and control initiative. If sufficient funds are available, the department shall distribute the funding allocated to the community partnerships in accordance with this rule.

ITEM 10. Amend renumbered subrule 151.7(3) as follows:

151.7(3) ~~The commission~~ department shall fund one community partnership per community partnership area. Funds shall be distributed equitably among the state's community partnership areas based on general population, school-age population, and designation of county or counties which comprise the community partnership area as a rural county or a metropolitan statistical area an urban county as defined by the U.S. Bureau of the Census Office of Management and Budget. Available funds will be distributed under the following formulas, using United States Census Bureau annual population estimates:

Rural counties:

\$.84 per school-age youth plus an additional \$.84 per non-school-age county resident

~~Metropolitan statistical areas (Black Hawk, Dallas, Dubuque, Johnson, Linn, Polk, Pottawattamie, Scott, Warren, and Woodbury Counties)~~ Urban counties:

\$.52 per school-age youth plus an additional \$.52 per non-school-age county resident; provided that application of the funding formula results in distribution to a community partnership of a minimum amount per county included in each community partnership area as determined annually by the department in consultation with the commission.

If application of the funding formula would result in distribution of less than the minimum established amount, the department shall distribute to such community partnership no less than the minimum established amount per county included in the community partnership area.

As sufficient funds become available, the department in consultation with the commission may also distribute to community partnerships funds for special or pilot projects within a community partnership area.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 11. Amend renumbered subrule 151.7(4) as follows:

151.7(4) Funding received by a community partnership shall be matched on a ~~one-to-one~~ one-to-four basis. ~~At least 25 percent must be a cash match. Up to 75 percent of the~~ The match may include in-kind services, office support, or other tangible support or offset of costs.

Any offers to assist the applicant in reaching the match must be disclosed to the department in writing. In regard to any cash offers that are declined, the applicant must disclose reasons and rationale as to why these offers were declined.

~~Any funds left unallocated under subrules 151.7(2) and 151.7(3) on March 1, 2001, due to the failure of community partnerships to meet the cash match requirement pursuant to subrule 151.7(3) shall be distributed among all the community partnerships no later than June 30, 2001, in proportion to the amount of funding, including any cash match, each community partnership has reported to the department by March 15, 2001.~~

~~Funding distributed to community partnerships from the department shall be matched by the community partnership on a 75 percent basis. The match may include cash, or may include only in-kind services, office support, or other tangible support or offset of costs.~~

~~Any offers to assist the applicant in reaching the match must be disclosed to the department in writing. If any cash offers are declined, the applicant must disclose the reasons and the rationale for rejecting the offer.~~

ARC 0970C

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 543B.9, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 14, “Seller Property Condition Disclosure,” Iowa Administrative Code.

The rules in Chapter 14 describe the requirements of transfers of real estate. This amendment poses additional questions to the sellers about a property so that the buyers of the property will have better knowledge of its condition.

Any interested person may make written suggestions or comments on this proposed amendment prior to September 24, 2013. Such written materials should be directed to Jeff Evans, Iowa Real Estate Commission, 1920 SE Hulsizer Road, Ankeny, Iowa 50021. E-mail may be sent to jeff.evans@iowa.gov. Persons who wish to convey their views orally should contact Jeff Evans at (515)281-7361 or at the Commission offices, Second Floor, 1920 SE Hulsizer Road, Ankeny.

Also, there will be a public hearing on September 24, 2013, at 9 a.m. at the Commission offices, Second Floor, 1920 SE Hulsizer Road, Ankeny, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This proposed amendment is subject to waiver or variance pursuant to 193—Chapter 5.

This proposed amendment was approved by the Commission on August 1, 2013.

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

This amendment is intended to implement Iowa Code section 558A.4.

The following amendment is proposed.

REAL ESTATE COMMISSION[193E](cont'd)

Amend subrule 14.1(6) as follows:

14.1(6) Minimum disclosure statement contents for all transfers. All property disclosure statements, whether or not a licensee assists in the transaction, shall contain at a minimum the information required by the following sample statement. No particular language is required in the disclosure statement provided that the required disclosure items are included and the disclosure complies with Iowa Code chapter 558A. To assist real estate licensees and the public, the commission recommends use of the following sample language:

RESIDENTIAL PROPERTY SELLER DISCLOSURE STATEMENT

Property address: _____

PURPOSE:

Use this statement to disclose information as required by Iowa Code chapter 558A. This law requires certain sellers of residential property that includes at least one and no more than four dwelling units to disclose information about the property to be sold. The following disclosures are made by the seller(s) and not by any agent acting on behalf of the seller(s).

INSTRUCTIONS TO SELLER(S):

- 1. Seller(s) must complete this statement. Respond to all questions, or attach reports allowed by Iowa Code section 558A.4(2);
2. Disclose all known conditions materially affecting this property;
3. If an item does not apply to this property, indicate that it is not applicable (N/A);
4. Please provide information in good faith and make a reasonable effort to ascertain the required information. If the required information is unknown or is unavailable following a reasonable effort, use an approximation of the information, or indicate that the information is unknown (UNK). All approximations must be identified as approximations (AP);
5. Additional pages may be attached as needed;
6. Keep a copy of this statement with your other important papers.

1. Basement/Foundation: Any known water or other problems? Yes [] No []
2. Roof: Any known problems? Yes [] No []
Any known repairs? Yes [] No []
If yes, date of repairs/replacement: ___/___/___
3. Well and Pump: Any known problems? Yes [] No []
Any known repairs? Yes [] No []
If yes, date of repairs/replacement: ___/___/___
Any known water tests? Yes [] No []
If yes, date of last report: ___/___/___
and results: _____
4. Septic Tanks/Drain Fields: Any known problems? Yes [] No []
Location of tank: _____
Date tank last cleaned: ___/___/___
Date tank last inspected: ___/___/___
5. Sewer System: Any known problems? Yes [] No []
Any known repairs? Yes [] No []
If yes, date of repairs/replacement: ___/___/___
6. Heating System(s): Any known problems? Yes [] No []
Any known repairs? Yes [] No []
If yes, date of repairs/replacement: ___/___/___

REAL ESTATE COMMISSION[193E](cont'd)

- 7. Central Cooling System(s): Any known problems? Yes [] No []
 Any known repairs? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
- 8. Plumbing System(s): Any known problems? Yes [] No []
 Any known repairs? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
- 9. Electrical System(s): Any known problems? Yes [] No []
 Any known repairs? Yes [] No []
 If yes, date of repairs/replacement: ____/____/____
- 10. Pest Infestation (e.g., termites, carpenter ants): Any known problems? Yes [] No []
 If yes, date(s) of treatment: ____/____/____
 Any known structural damage? Yes [] No []
 If yes, date(s) of repairs/replacement: ____/____/____
- 11. Asbestos: Any known to be present in the structure? Yes [] No []
 If yes, explain: _____
- 12. Radon: Any known tests for the presence of radon gas? Yes [] No []
 If yes, date of last report: ____/____/____
 Performed by whom: _____
 and results: _____
- 13. Lead-Based Paint: Any known to be present in the structure? Yes [] No []
- 14. Flood Plain: Do you know if the property is located in a flood plain? Yes [] No []
 If yes, what is the flood plain designation? _____
- 15. Zoning: Do you know the zoning classification of the property? Yes [] No []
 If yes, what is the zoning classification? _____
- 16. Covenants: Is the property subject to restrictive ~~covenants~~ covenants? Yes [] No []
 If yes, attach a copy or state where a true, current copy of the ~~covenants~~ covenants can be obtained:

- 17. Shared or Co-Owned Features: Any features of the property known to be shared in common with adjoining landowners, such as walls, fences, roads, and driveways whose use or maintenance responsibility may have an effect on the property? Yes [] No []
 Any known "common areas" such as pools, tennis courts, walkways, or other areas co-owned with others, or a Homeowner's Association which has any authority over the property? Yes [] No []
- 18. Physical Problems: Any known settling, flooding, drainage or grading problems? Yes [] No []
- 19. Structural Damage: Any known structural damage? Yes [] No []
- 20. Structural Modification: Any significant structural modification or alterations to the property? Yes [] No []

You **MUST** explain any "YES" response(s) above. Use the back of this statement or additional sheets as necessary: _____

REAL ESTATE COMMISSION[193E](cont'd)

SELLER(S) DISCLOSURE:

Seller(s) discloses the information regarding this property based on information known or reasonably available to the Seller(s).

The Seller(s) has owned the property since ____/____/____. The Seller(s) certifies that as of the date signed this information is true and accurate to the best of my/our knowledge.

Seller(s) acknowledges requirement that Buyer(s) be provided with the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Public Health.

Seller_____ Seller_____
Date ____/____/____ Date ____/____/____

BUYER(S) ACKNOWLEDGMENT:

Buyer(s) acknowledges receipt of a copy of this Real Estate Disclosure Statement. This statement is not intended to be a warranty or to substitute for any inspection Buyer(s) may wish to obtain.

Buyer(s) acknowledges receipt of the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Public Health.

Buyer_____ Buyer_____
Date ____/____/____ Date ____/____/____

ARC 0976C

REVENUE DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 40, "Determination of Net Income," Chapter 41, "Determination of Taxable Income," Chapter 42, "Adjustments to Computed Tax and Tax Credits," Chapter 45, "Partnerships," Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Chapter 53, "Determination of Net Income," and Chapter 59, "Determination of Net Income," Iowa Administrative Code.

These amendments are proposed as a result of 2013 Iowa Acts, House File 575, and 2013 Iowa Acts, Senate Files 106 and 452.

Item 1 amends subrule 40.2(2) to correct a citation to a United States Supreme Court decision referenced in the subrule.

Item 2 amends rule 701—40.3(422) to update the list of bonds issued by the state of Iowa or its political subdivisions for which the interest income is exempt for both federal and Iowa income tax.

Item 3 amends rule 701—40.60(422) to state that bonus depreciation does not apply for Iowa individual income tax for assets acquired in 2013.

Items 4 and 5 amend rule 701—40.65(422) and the implementation sentence for rule 701—40.65(422) to provide that the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code is allowed for Iowa individual income tax for the 2012 and 2013 tax years.

REVENUE DEPARTMENT[701](cont'd)

Item 6 rescinds and reserves subrules 41.3(5) and 41.3(6), which are outdated rules regarding a federal rebate received in 2001 and a federal rate reduction credit for the 2002 tax year.

Item 7 amends subrule 41.5(2) to provide that the election to deduct state sales and use tax as an itemized deduction for individual income tax is available for the 2012 and 2013 tax years.

Item 8 updates the implementation sentence for rule 701—41.5(422).

Items 9 and 10 amend paragraph 42.11(3)“d” and the implementation sentence for rule 701—42.11(15,422) to update the date for which Iowa is coupled with federal changes to the credit for increasing research activities which is the basis for the Iowa credit for increasing research activities for Iowa individual income tax.

Item 11 amends rules 701—45.1(422) and 701—45.2(422) to provide for changes in the criteria for partnerships, limited partnerships and limited liability companies which are required to file Iowa partnership returns for tax years.

Items 12, 13, 14 and 15 amend paragraphs 52.7(3)“d,” 52.7(5)“d,” and 52.7(6)“d” and the implementation sentence for rule 701—52.7(422) to update the date for which Iowa is coupled with federal changes to the credit for increasing research activities which is the basis for the Iowa credit for increasing research activities for Iowa corporation income tax. This is similar to the changes in Items 9 and 10.

Item 16 amends rule 701—53.22(422) to state that bonus depreciation does not apply for Iowa corporation income tax for assets acquired in 2013. This is similar to the change in Item 3.

Items 17 and 18 amend rule 701—53.23(422) and the implementation sentence for rule 701—53.23(422) to provide that the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code is allowed for Iowa corporation income tax for the 2012 and 2013 tax years. This is similar to the change in Items 4 and 5.

Item 19 amends rule 701—59.23(422) to state that bonus depreciation does not apply for Iowa franchise tax for assets acquired in 2013. This is similar to the change in Items 3 and 16.

Items 20 and 21 amend rule 701—59.24(422) and the implementation sentence for rule 701—59.24(422) to provide that the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code is allowed for Iowa franchise tax for the 2012 and 2013 tax years. This is similar to the change in Items 4, 5, 17 and 18.

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

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

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than September 23, 2013, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 10, 2013. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 10, 2013.

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

These amendments are intended to implement Iowa Code sections 422.7, 422.9, 422.35 and 422.61 as amended by 2013 Iowa Acts, House File 575; Iowa Code sections 15.335, 422.3, 422.9, 422.10, 422.32

REVENUE DEPARTMENT[701](cont'd)

and 422.33 as amended by 2013 Iowa Acts, Senate File 106; and Iowa Code section 422.15 as amended by 2013 Iowa Acts, Senate File 452.

The following amendments are proposed.

ITEM 1. Amend subrule **40.2(2)**, first unnumbered paragraph, as follows:

Interest from repurchase agreements involving federal securities is subject to Iowa income tax. *Nebraska Department of Revenue v. John Loewenstein*, 514 US —, 130 L.Ed.2d 470, 115 S.Ct. — 513 US 123 (1994). *Everett v. State Dept. of Revenue and Finance*, 470 N.W.2d 13 (Iowa 1991).

ITEM 2. Amend rule 701—40.3(422) as follows:

701—40.3(422) Interest and dividends from foreign securities, and securities of state and their political subdivisions. Interest and dividends from foreign securities and from securities of state and their political subdivisions are to be included in Iowa net income. Certain types of interest and dividends, because of specific exemption, are not includable in income for federal tax purposes. To the extent such income has been excluded for federal income tax purposes, unless the item of income is specifically exempted from state taxation by the laws or constitution of Iowa or of the United States, it must be added to Iowa taxable income.

The following is a noninclusive listing of bonds issued by the state of Iowa and its political subdivisions, interest on which is exempt from both federal and state income taxes.

1. Board of Regents: Bonds issued under Iowa Code sections 262.41, 262.51, 262.60, 262A.8, and 263A.6.

2. Urban Renewal: Bonds issued under Iowa Code section 403.9(2).

3. Municipal Housing Law - Low-income housing: Bonds issued under Iowa Code section 403A.12.

4. Subdistricts of soil conservation districts, revenue bonds: Bonds issued under Iowa Code section ~~467A.22 (transferred to Iowa Code section 161A.22 in 1993 Iowa Code)~~.

5. Aviation authorities, revenue bonds: Bonds issued under Iowa Code section 330A.16.

6. Rural water districts: Bonds and notes issued under Iowa Code section 357A.15.

7. Iowa Alcoholic Beverage Control Act - Warehouse project: Bonds issued under Iowa Code section 123.159.

8. County Health Center: Bonds issued under Iowa Code section 331.441(2) "c"(7).

9. Iowa Finance Authority, ~~Sewage treatment~~ Water pollution control works and drinking water facilities financing: Bonds issued under Iowa Code section ~~220.131(6) (transferred to Iowa Code section 16.131(6) in 1993 Iowa Code)~~ 16.131(5).

10. Agricultural Development Authority, Beginning farmer loan program: Bonds issued under Iowa Code section ~~175.17(10)~~.

11. Iowa Finance Authority, Iowa comprehensive petroleum underground storage tank fund: Bonds issued under Iowa Code section 455G.6(14).

12. Iowa Finance Authority, E911 Program notes and bonds: Bonds issued under Iowa Code section ~~477B.20(6) (Transferred to Iowa Code section 34A.20(6) in 1993 Iowa Code.)~~.

13. Quad Cities Interstate Metropolitan Authority Bonds: Bonds issued under Iowa Code section ~~330B.24 (Transferred to Iowa Code section 28A.24 in 1993 Iowa Code.)~~.

14. ~~Iowa Finance Authority, Municipal Investment Recovery Program: Bonds issued under Iowa Code section 220.173(4) (Transferred to Iowa Code section 16.173(4) in 1993 Iowa Code.)~~

~~15.~~ 14. Prison Infrastructure Revenue Bonds: Bonds issued under Iowa Code ~~section~~ sections ~~12.80(3) and 16.177(8)~~.

~~16. Government Flood Damage Program Bonds: Bonds issued under Iowa Code section 16.183(4).~~

~~17. Iowa sewage treatment bonds: Bonds issued under Iowa Code section 16.131(6).~~

~~18.~~ 15. Community college residence halls and dormitories bonds: Bonds issued under Iowa Code section 260C.61.

~~19.~~ 16. Community college bond program bonds: Bonds issued under Iowa Code section 260C.71(6).

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~~20. Regents institutions medical and hospital buildings at University of Iowa bonds: Bonds issued under Iowa Code section 263A.6.~~

~~21. 17. Interstate bridges bonds: Bonds issued under Iowa Code section 313A.36.~~

~~22. 18. Iowa higher education loan authority: Obligations issued by the authority on or after July 1, 2000, pursuant to either division of Iowa Code chapter 261A as authorized in Iowa Code section 261A.27.~~

~~23. 19. Vision Iowa program: Bonds issued on or after July 1, 2000, upon request of the vision Iowa board pursuant to subsection 8 of Iowa Code section 12.71(8).~~

~~20. School infrastructure program bonds: Bonds issued under Iowa Code section 12.81(8).~~

~~24. 21. Honey Creek premier destination park bonds: Bonds issued under Iowa Code Supplement section 463C.12(8).~~

~~25. 22. Iowa utilities board and Iowa consumer advocate building project bonds: Bonds issued under 2006 Iowa Acts, chapter 1179, section 70 Iowa Code section 12.91(9).~~

~~26. 23. Iowa jobs program revenue bonds: Bonds issued under 2009 Iowa Acts, Senate File 376, section 1 Iowa Code section 12.87(8).~~

Interest from repurchase agreements involving obligations of the type discussed in this rule is subject to Iowa income tax. *Nebraska Department of Revenue v. John Loewenstein*, 514 US ___, 130 L.Ed.2d 470, 115 S.Ct. ___, 513 US 123 (1994). *Everett v. State Dept. of Revenue and Finance*, 470 N.W.2d 13 (Iowa 1991).

For the treatment of interest or dividends from regulated investment companies (mutual funds) that invest in obligations of the type discussed in this rule, see rule 701—40.52(422).

Gains and losses from the sale or other disposition of bonds issued by the state of Iowa or its political subdivisions, as distinguished from interest income, shall be taxable for state income tax purposes.

This rule is intended to implement Iowa Code sections ~~12.71, 261A.27, 357A.15, 422.7, 463C.12~~ and Iowa Code Supplement section ~~12.87~~ section 422.7 as amended by 2013 Iowa Acts, House File 575.

ITEM 3. Amend rule 701—40.60(422) as follows:

701—40.60(422) Additional first-year depreciation allowance.

40.60(1) to 40.60(4) No change.

40.60(5) *Assets acquired after December 31, 2009, but before January 1, 2013 2014.* For tax periods beginning after December 31, 2009, but beginning before January 1, 2013 2014, the bonus depreciation authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 111-240, Section 2022, and Public Law No. 111-312, Section 401, and Public Law No. 112-240, Section 331, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2009, but before January 1, 2013 2014, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2009, but before January 1, 2013 2014, can be calculated on Form IA 4562A.

See 701—subrule 53.22(3) for examples illustrating how this subrule is applied.

This rule is intended to implement Iowa Code section 422.7 as amended by ~~2011~~ 2013 Iowa Acts, Senate File ~~512~~ 106.

ITEM 4. Amend rule 701—40.65(422), introductory paragraph, as follows:

701—40.65(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property

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authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, may be taken for Iowa individual income tax. If the taxpayer elects to take the increased Section 179 expensing, the Section 179 expensing allowance on the Iowa individual income tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006. In addition, for tax periods beginning on or after January 1, 2008, but beginning before January 1, 2009, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 110-185, Section 102, may be taken for Iowa individual income tax. For tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 111-5, Section 1202, cannot be taken for Iowa individual income tax purposes. The maximum amount of Section 179 expensing allowed for tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, is \$133,000 for Iowa individual income tax purposes. For tax years beginning on or after January 1, 2010, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 111-240, Section 2021, ~~and~~ Public Law No. 111-312, Section 402, ~~and~~ Public Law No. 112-240, Section 315, may be taken for Iowa individual income tax.

ITEM 5. Amend rule ~~701—40.65(422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.7 as amended by ~~2011~~ 2013 Iowa Acts, Senate File ~~512~~ 106.

ITEM 6. Rescind and reserve subrules ~~41.3(5)~~ and ~~41.3(6)~~.

ITEM 7. Amend subrule 41.5(2), introductory paragraph, as follows:

41.5(2) For the tax years beginning on or after January 1, 2004, and before January 1, 2008, and for tax years beginning on or after January 1, 2010, but before January 1, ~~2012~~ 2014, the itemized deduction for state sales and use taxes is allowed on the Iowa return only if the taxpayer elected to deduct state sales and use taxes as an itemized deduction in lieu of the deduction for state income taxes on the federal return under Section 164 of the Internal Revenue Code.

ITEM 8. Amend rule ~~701—41.5(422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 422.7 and 422.9 as amended by ~~2011~~ 2013 Iowa Acts, Senate File ~~512~~ 106.

ITEM 9. Amend paragraph ~~42.11(3)“d”~~ as follows:

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 42.11(3) “*b*” and the alternative simplified credit described in paragraph 42.11(3) “*c*,” such amounts are limited to research activities conducted within this state. For purposes of this subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2012~~ 2013, and as amended by the American Taxpayer Relief Act of 2012, Public Law No. 112-240.

ITEM 10. Amend rule ~~701—42.11(15,422)~~, implementation sentence, as follows:

This rule is intended to implement ~~2011~~ Iowa Code ~~Supplement~~ sections 15.335 and 422.10 as amended by ~~2012~~ 2013 Iowa Acts, ~~House~~ Senate File ~~2150~~ 106.

ITEM 11. Amend rules ~~701—45.1(422)~~ and ~~701—45.2(422)~~ as follows:

~~701—45.1(422)~~ General rule. An Iowa partnership, limited partnership, or limited liability company required to file a return under the provisions of Iowa Code subsection 422.15(2) shall be a partnership, limited partnership, or limited liability company required to file a partnership return for purposes of federal income tax. A partnership or limited liability company engaged in carrying on business in this state is an Iowa partnership or an Iowa limited liability company. For tax years beginning on or after January 1, 2013, a partnership, limited partnership or limited liability company doing business in Iowa or deriving income from real, tangible or intangible property located or having a situs in Iowa must file

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an Iowa partnership return. For specific criteria related to doing business in Iowa or deriving income from real, tangible or intangible property located or having a situs in Iowa, see rule 701—52.1(422). Iowa follows the Treasury check-the-box regulation, 301.7701-3, for determination of the tax status of partnerships or limited liability companies including single-member limited liability companies.

This rule is intended to implement Iowa Code section 422.15 as amended by 2013 Iowa Acts, Senate File 452.

701—45.2(422) Partnership returns. Every partnership deriving income (1) from property owned within this state or (2) from a business, trade, profession or occupation carried on within the state must make a return of income regardless of the amount of income or loss and regardless of the residence of the partners. For tax years beginning on or after January 1, 2013, every partnership doing business in Iowa or deriving income from real, tangible or intangible property located or having a situs in Iowa must make a return of income regardless of the amount of income or loss and regardless of the residence of the partners. The return shall be made on the proper form and signed by one of the partners. The return shall be made on the same period basis, calendar or fiscal, as the partnership accounts are kept, irrespective of the fact the partners are reporting their incomes on a different period basis. The return shall be filed with the department on or before the last day of the fourth month after the expiration of the tax year.

This rule is intended to implement Iowa Code section 422.15 as amended by 2013 Iowa Acts, Senate File 452, and section 422.21.

ITEM 12. Amend paragraph **52.7(3)“d”** as follows:

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 52.7(3)“*b*” and the alternative simplified credit described in paragraph 52.7(3)“*c*,” such amounts are limited to research activities conducted within this state. For purposes of this subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2012~~ 2013, and as amended by the American Taxpayer Relief Act of 2012, Public Law No. 112-240.

ITEM 13. Amend paragraph **52.7(5)“d”** as follows:

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 52.7(3)“*b*” and the alternative simplified credit described in paragraph 52.7(3)“*c*” of this rule, such amounts are limited to research activities conducted within the enterprise zone. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2011~~ 2013, and as amended by the American Taxpayer Relief Act of 2012, Public Law No. 112-240.

ITEM 14. Amend paragraph **52.7(6)“d”** as follows:

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative simplified credit described in paragraph 52.7(3)“*c*” of this rule, such amounts are limited to research activities conducted within the enterprise zone. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2011~~ 2013, and as amended by the American Taxpayer Relief Act of 2012, Public Law No. 112-240.

ITEM 15. Amend rule **701—52.7(422)**, implementation sentence, as follows:

This rule is intended to implement ~~2011 Iowa Code Supplement section~~ sections 15.335 and 422.33 as amended by ~~2012~~ 2013 Iowa Acts, ~~House~~ Senate File ~~2150~~ 106.

REVENUE DEPARTMENT[701](cont'd)

ITEM 16. Amend rule 701—53.22(422) as follows:

701—53.22(422) Additional first-year depreciation allowance.

53.22(1) to 53.22(4) No change.

53.22(5) *Assets acquired after December 31, 2009, but before January 1, ~~2013~~ 2014.* For tax periods beginning after December 31, 2009, but beginning before January 1, ~~2013~~ 2014, the bonus depreciation authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 111-240, Section 2022, ~~and~~ Public Law No. 111-312, Section 401, ~~and~~ Public Law No. 112-240, Section 331, does not apply for Iowa corporation income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2009, but before January 1, ~~2013~~ 2014, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2009, but before January 1, ~~2013~~ 2014, can be calculated on Form IA 4562A.

See subrule 53.22(3) for examples illustrating how this subrule is applied.

This rule is intended to implement Iowa Code section 422.35 as amended by ~~2011~~ 2013 Iowa Acts, Senate File ~~542~~ 106.

ITEM 17. Amend rule 701—53.23(422), introductory paragraph, as follows:

701—53.23(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, may be taken for Iowa corporation income tax. If the taxpayer elects to take the increased Section 179 expensing, the Section 179 expensing allowance on the Iowa corporation income tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006. In addition, for tax periods beginning on or after January 1, 2008, but beginning before January 1, 2009, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 110-185, Section 102, may be taken for Iowa corporation income tax. For tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 111-5, Section 1202, cannot be taken for Iowa corporation income tax purposes. The maximum amount of Section 179 expensing allowed for tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, is \$133,000 for Iowa corporation income tax purposes. For tax years beginning on or after January 1, 2010, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 111-240, Section 2021, ~~and~~ Public Law No. 111-312, Section 402, ~~and~~ Public Law No. 112-240, Section 315, may be taken for Iowa corporation income tax.

ITEM 18. Amend rule ~~701—53.23(422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.35 as amended by ~~2011~~ 2013 Iowa Acts, Senate File ~~542~~ 106.

ITEM 19. Amend rule 701—59.23(422) as follows:

701—59.23(422) Additional first-year depreciation allowance.

59.23(1) to 59.23(4) No change.

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59.23(5) *Assets acquired after December 31, 2009, but before January 1, ~~2013~~ 2014.* For tax periods beginning after December 31, 2009, but beginning before January 1, ~~2013~~ 2014, the bonus depreciation authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 111-240, Section 2022, ~~and~~ Public Law No. 111-312, Section 401, ~~and~~ Public Law No. 112-240, Section 331, does not apply for Iowa franchise tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2009, but before January 1, ~~2013~~ 2014, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2009, but before January 1, ~~2013~~ 2014, can be calculated on Form IA 4562A.

See 701—subrule 53.22(3) for examples illustrating how this subrule is applied.

This rule is intended to implement Iowa Code section 422.35 as amended by ~~2011~~ 2013 Iowa Acts, Senate File ~~512~~ 106, and section 422.61.

ITEM 20. Amend rule 701—59.24(422), introductory paragraph, as follows:

701—59.24(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, may be taken for Iowa franchise tax. If the taxpayer elects to take the increased Section 179 expensing, the Section 179 expensing allowance on the Iowa franchise tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006. In addition, for tax periods beginning on or after January 1, 2008, but beginning before January 1, 2009, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 110-185, Section 102, may be taken for Iowa franchise tax. For tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 111-5, Section 1202, cannot be taken for Iowa franchise tax purposes. The maximum amount of Section 179 expensing allowed for tax periods beginning on or after January 1, 2009, but beginning before January 1, 2010, is \$133,000 for Iowa franchise tax purposes. For tax years beginning on or after January 1, 2010, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 111-240, Section 2021, ~~and~~ Public Law No. 111-312, Section 402, ~~and~~ Public Law No. 112-240, Section 315, may be taken for Iowa franchise tax.

ITEM 21. Amend rule **701—59.24(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.35 as amended by ~~2011~~ 2013 Iowa Acts, Senate File ~~512~~ 106, and section 422.61.

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REVENUE DEPARTMENT[701]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 50, “Apportionment of Income for Resident Shareholders of S Corporations,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” and Chapter 89, “Fiduciary Income Tax,” Iowa Administrative Code.

These amendments are proposed as a result of 2013 Iowa Acts, House Files 615, 620 and 625, and 2013 Iowa Acts, Senate Files 295 and 452.

Item 1 amends subrule 42.13(2) to reflect the increase in the Iowa earned income tax credit for individual income tax for tax years beginning on or after January 1, 2013.

Item 2 amends the implementation sentence for rule 701—42.13(422).

Items 3 and 4 amend subrule 42.22(4) and the implementation sentence for rule 701—42.22(15E,422) for individual income tax to provide for changes in the innovation fund investment tax credit for tax years beginning on or after January 1, 2013.

Item 5 amends paragraph 42.32(4)“a” for individual income tax to provide for the increase in the cap for the school tuition organization tax credit starting with the 2014 tax year.

Item 6 amends subrule 42.32(5) for individual income tax to provide that partnerships, limited liability companies, S corporations, estates, and trusts are eligible to claim the school tuition organization tax credit for tax years beginning on or after January 1, 2013.

Item 7 amends the implementation sentence for rule 701—42.32(422).

Item 8 amends subrule 42.41(1) for individual income tax to provide for the increase in the redevelopment tax credit for fiscal years beginning on or after July 1, 2012.

Item 9 amends the implementation sentence for rule 701—42.41(15,422).

Item 10 amends rule 701—42.45(15) for individual income tax to reflect the increase in the aggregate tax credit limit for certain economic development programs for fiscal years beginning on or after July 1, 2012.

Item 11 amends 701—Chapter 42 by adopting new rule 701—42.50(422) to provide for the Iowa taxpayers trust fund tax credit for individual income tax for tax years beginning on or after January 1, 2013.

Item 12 amends rule 701—50.1(422) to provide that estates and trusts with a situs in Iowa which are shareholders in S corporations that carry on business within and without Iowa are entitled to take advantage of the apportionment provisions of S corporation income that is currently available to Iowa resident shareholders of S corporations.

Item 13 rescinds and reserves rules 701—50.2(422) and 701—50.9(422) which are outdated rules regarding the apportionment of income for shareholders of S corporations.

Item 14 amends rule 701—50.10(422) to correct terminology used in an example regarding the apportionment of income for shareholders of S corporations.

Items 15 and 16 amend subrule 52.21(4) and the implementation sentence for rule 701—52.21(15E,422) for corporation income tax to provide for changes in the innovation fund investment tax credit for tax years beginning on or after January 1, 2013. These are similar to the changes in Items 3 and 4.

Item 17 amends rule 701—52.38(422) for corporation income tax to provide for changes in the school tuition organization tax credit. This is similar to the change in Items 5 and 6.

REVENUE DEPARTMENT[701](cont'd)

Item 18 amends subrule 52.39(1) for corporation income tax to provide for the increase in the redevelopment tax credit for fiscal years beginning on or after July 1, 2012. This is similar to the change in Item 8.

Item 19 amends the implementation sentence for rule 701—52.39(15,422).

Item 20 amends rule 701—52.41(15) for corporation income tax to reflect the increase in the aggregate tax credit limit for certain economic development programs for fiscal years beginning on or after July 1, 2012. This is similar to the change in Item 10.

Item 21 amends paragraph 89.8(11)“e” for fiduciary income tax to provide that estates and trusts with a situs in Iowa which are shareholders in S corporations that carry on business within and without Iowa are entitled to take advantage of the apportionment provisions of S corporation income. This is similar to the change in Item 12.

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

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

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than September 23, 2013, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 10, 2013. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 10, 2013.

After analysis and review of this rule making, no adverse impact on jobs has been found. The tax credits may positively impact job and economic growth for businesses and individuals in the state of Iowa.

These amendments are intended to implement Iowa Code section 15E.52 as amended by 2013 Iowa Acts, House File 615; Iowa Code section 15.119 as amended by 2013 Iowa Acts, House File 620; Iowa Code section 422.11S as amended by 2013 Iowa Acts, House File 625; Iowa Code section 422.12B as amended by 2013 Iowa Acts, Senate File 295, section 70; and Iowa Code sections 422.5 and 422.8 as amended by 2013 Iowa Acts, Senate File 452; and 2013 Iowa Acts, Senate File 295, section 43.

The following amendments are proposed.

ITEM 1. Amend subrule 42.13(2), introductory paragraph, as follows:

42.13(2) *Tax years beginning on or after January 1, 2007.* Effective for tax years beginning on or after January 1, 2007, but beginning before January 1, 2013, an individual is allowed an Iowa earned income credit equal to 7 percent of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. For tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, an individual is allowed an Iowa earned income tax credit equal to 14 percent of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. For tax years beginning on or after January 1, 2014, an individual is allowed an Iowa earned income tax credit equal to 15 percent of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue

REVENUE DEPARTMENT[701](cont'd)

Code. The Iowa earned income credit is refundable; therefore, the credit may exceed the remaining income tax liability of the taxpayer after the personal exemption credits and other nonrefundable credits are deducted.

ITEM 2. Amend rule **701—42.13(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.12B as amended by 2013 Iowa Acts, Senate File 295.

ITEM 3. Amend subrule 42.22(4) as follows:

42.22(4) Innovation fund investment tax credit. See 261—Chapter 116 for information regarding eligibility for an innovation fund, applications for the investment tax credit for investments in an innovation fund, and the issuance of tax credit certificates by the economic development authority.

The department of revenue will be notified by the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in the form of cash in an innovation fund for tax years beginning and investments made on or after January 1, 2011, and before January 1, 2013. For tax years beginning and investments made on or after January 1, 2013, the taxpayer may claim a tax credit equal to 25 percent of the taxpayer's equity investment in the form of cash in an innovation fund. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. A taxpayer shall ~~not~~ claim the tax credit ~~prior to the third tax year following~~ for the tax year in which the investment is made. ~~For example, if an individual taxpayer makes an equity investment during the 2012 calendar year, the individual taxpayer cannot claim the tax credit until the tax year ending December 31, 2015.~~ For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed \$8 million. No tax credit certificates will be issued prior to September 1, 2014. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed investment was made as stated on the tax credit certificate.

If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the \$8 million cap has been reached, the tax credit may be claimed by the taxpayer for the ~~third~~ tax year following the tax year for which the credit is issued. For example, if an individual taxpayer makes an equity investment in December ~~2012~~ 2013 and the \$8 million cap for the fiscal year ending June 30, ~~2013~~ 2014, had already been reached, the tax credit will be issued for the tax year ending December 31, ~~2013~~ 2014, and ~~cannot~~ can be redeemed ~~until~~ for the tax year ending December 31, ~~2016~~ 2014.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. ~~The tax credit is not transferable to any other taxpayer.~~

The innovation fund tax credit certificate may be transferred once to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the innovation fund tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate

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shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

For equity investments made in an innovation fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

ITEM 4. Amend rule **701—42.22(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 15E.43, ~~as amended by 2011 Iowa Acts, Senate File 517; sections~~ 15E.51, 15E.66, 422.11F, and 422.11G; and ~~2011 Iowa Acts, Senate File 517, section 40~~ section 15E.52 as amended by 2013 Iowa Acts, House File 615.

ITEM 5. Amend paragraph **42.32(4)“a”** as follows:

a. By December 1 of each year, the department will authorize school tuition organizations to issue tax credit certificates for the following tax year. For the tax year beginning in the 2006 calendar year only, the department, by September 1, 2006, will authorize school tuition organizations to issue tax credit certificates for the 2006 calendar year only. The total amount of tax credit certificates that may be authorized is \$2.5 million for the 2006 calendar year, \$5 million for the 2007 calendar year, \$7.5 million for the 2008 through 2011 calendar years, ~~and~~ \$8.75 million for the 2012 and 2013 calendar years, and \$12 million for 2014 and subsequent calendar years.

ITEM 6. Amend subrule 42.32(5) as follows:

42.32(5) Issuance of tax credit certificates. The school tuition organization shall issue tax credit certificates to each taxpayer who made a cash or noncash contribution to the school tuition organization. The tax credit certificate, which will be designed by the department, will contain the name, address and tax identification number of the taxpayer, the amount and date that the contribution was made, the amount of the credit, the tax year that the credit may be applied, the school tuition organization to which the contribution was made, and the tax credit certificate number.

For tax years beginning on or after July 1, 2009, a tax credit certificate may be issued to corporation income taxpayers. For tax years beginning on or after January 1, 2013, a tax credit certificate may be issued to a partnership, limited liability company, S corporation, estate or trust. The amount of credit claimed by an individual shall be based on the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust.

ITEM 7. Amend rule **701—42.32(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.11S as amended by ~~2011~~ 2013 Iowa Acts, ~~Senate House File 533~~ 625.

ITEM 8. Amend subrule 42.41(1) as follows:

42.41(1) Eligibility for the credit. The economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For the fiscal year beginning July 1, 2011, ~~and subsequent fiscal years~~, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million.

ITEM 9. Amend rule **701—42.41(15,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 15.293A ~~as amended by 2011 Iowa Acts, Senate File 514, and section~~ 422.11V and section 15.119 as amended by 2013 Iowa Acts, House File 620.

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ITEM 10. Amend rule 701—42.45(15) as follows:

701—42.45(15) Aggregate tax credit limit for certain economic development programs. Effective for the fiscal year beginning July 1, 2009, awards made under certain economic development programs cannot exceed \$185 million during a fiscal year. ~~These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the film, television and video project promotion program and the high quality jobs program.~~ Effective for fiscal years beginning on or after July 1, 2010, but beginning before July 1, 2012, awards made under these economic development programs cannot exceed \$120 million during a fiscal year. Effective for fiscal years beginning on or after July 1, 2012, awards made under these economic development programs cannot exceed \$170 million. These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the high quality jobs program, the redevelopment tax credit program, tax credits for investments in qualifying businesses and community-based seed capital funds, and the innovation fund tax credit program. The administrative rules for the aggregate tax credit limit for the Iowa ~~department~~ of economic development authority may be found at 261—Chapter 76.

This rule is intended to implement 2009 Iowa Code Supplement section 15.119 as amended by 2010 2013 Iowa Acts, Senate House File 2380 620.

ITEM 11. Adopt the following **new** rule 701—42.50(422):

701—42.50(422) Taxpayers trust fund tax credit. For tax years beginning on or after January 1, 2013, a taxpayers trust fund tax credit is available for Iowa individual income tax. The credit is available for all individual income tax filers, including residents, nonresidents and part-year residents of Iowa, and individuals who file as part of a composite return as described in rule 701—48.1(422), as long as the Iowa return is filed within the extended due date to file an Iowa return.

42.50(1) Calculation of the amount of tax credit. The credit is calculated by taking the amount in the Iowa taxpayers trust fund and dividing it by the number of individual income taxpayers who filed Iowa returns by October 31 of the year preceding the year in which the credit is allowed.

EXAMPLE: There is \$120 million in the Iowa taxpayers trust fund at the end of the fiscal year ending June 30, 2013. There were 2,150,000 individuals who filed Iowa income tax returns by October 31, 2013, for tax years beginning on or after January 1, 2012, but beginning before January 1, 2013. This results in an Iowa taxpayers trust fund tax credit of \$55 for the tax year beginning on or after January 1, 2013, but beginning before January 1, 2014 (\$120,000,000 divided by 2,150,000 equals \$55.81, which is rounded down to the nearest whole dollar). All taxpayers who file their Iowa individual income tax return by October 31, 2014, for the tax period beginning on or after January 1, 2013, but beginning before January 1, 2014, will be entitled to claim a \$55 Iowa taxpayers trust fund tax credit.

If the amount of Iowa taxpayers trust fund tax credits claimed on tax returns for a particular year is less than the amount authorized, the difference will be transferred to the Iowa taxpayers trust fund for the next year and will be available as an Iowa taxpayers trust fund tax credit for the next year. There must be a balance in the Iowa taxpayers trust fund of at least \$30 million in order for the Iowa taxpayers trust fund tax credit to be available.

EXAMPLE: There is \$120 million in the Iowa taxpayers trust fund at the end of the fiscal year ending June 30, 2013. The total amount of Iowa taxpayers trust fund tax credit claimed on Iowa tax returns for tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, which were filed on or before October 31, 2014, is \$90 million. The difference of \$30 million will be transferred to the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. The legislature approves an additional \$60 million to be deposited in the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. This will result in \$90 million in the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. If 2,150,000 individuals file Iowa individual income tax returns for tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, by October 31, 2014, this will result in a \$41 Iowa taxpayers trust fund tax credit for the tax year beginning on or after January 1, 2014, but beginning

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before January 1, 2015 (\$90,000,000 divided by 2,150,000 equals \$41.86, which is rounded down to the nearest whole dollar).

42.50(2) Claiming the credit on the tax return. The Iowa taxpayers trust fund is claimed on the amount of Iowa tax computed after all other nonrefundable credits allowed in division II of Iowa Code chapter 422 (excluding the Iowa taxpayer trust fund tax credit) are deducted, after the amount of school district surtax described in rule 701—42.1(257,422) and emergency medical services income surtax described in rule 701—42.2(422D) is added, and after all refundable credits (excluding estimated payments and tax withheld) allowed in division II of Iowa Code chapter 422 are deducted. Any Iowa taxpayers trust fund tax credit in excess of the tax liability is not refundable and shall not be carried back to the tax year prior to the tax year in which the credit is claimed and cannot be carried forward to a tax year for any following year.

EXAMPLE: A taxpayer reported a tax liability of \$100 on the taxpayer's 2013 Iowa income tax return. The taxpayer claimed a \$40 personal exemption credit and a \$25 franchise tax credit. This resulted in tax due of \$35 before applying the school district surtax. Taxpayer was subject to a \$2 school district surtax which resulted in total tax due of \$37. Taxpayer was entitled to claim a \$55 Iowa taxpayers trust fund tax credit, but only \$37 of credit could be applied on the 2013 Iowa return. The remaining \$18 of credit cannot be refunded, cannot be applied to a prior year tax liability, and cannot be carried forward to be applied to a subsequent year tax liability.

This rule is intended to implement 2013 Iowa Acts, Senate File 295, section 43.

ITEM 12. Amend rule 701—50.1(422) as follows:

701—50.1(422) Apportionment of income for resident shareholders of S corporations. For tax years beginning on or after January 1, 1998, resident shareholders of all S corporations which carry on business within and without Iowa may, at their election, determine the S corporation income allocable to sources within Iowa by allocation and apportionment of the S corporation income. Estates For tax years beginning on or after January 1, 2013, estates and trusts with a situs in Iowa which are shareholders in S corporations cannot which carry on business within and without Iowa can take advantage of these apportionment provisions. The criteria to determine whether the S corporation is carrying on business within and without Iowa is set forth in 701—subrule 54.1(4).

For tax years beginning on or after January 1, 1997, a shareholder in an S corporation which carries on business within and without Iowa which has elected to apportion income and then elects not to apportion income shall not reelect to apportion income for three tax years immediately following the first tax year in which the shareholder elected not to apportion income, unless the director of revenue consents to the election.

This rule is intended to implement Iowa Code section 422.5, subsection 1, paragraph "~~j.~~" "j." as amended by 2013 Iowa Acts, Senate File 452.

ITEM 13. Rescind and reserve rules **701—50.2(422)** and **701—50.9(422)**.

ITEM 14. Amend rule 701—50.10(422) as follows:

701—50.10(422) Example for tax periods beginning on or after January 1, 2002.

EXAMPLE. The following example is based on the following facts. The taxpayers are a husband and wife who have two dependent children. Their income consists of husband's wages of \$50,000; rental loss (\$5,000); wife's S corporation income of \$500,000; joint interest income of \$35,000. They have Iowa itemized deductions of \$20,000, and an out-of-state tax credit of \$1,150 on the S corporation income. The actual cash distribution from the S corporation was \$289,840, none of which has been previously taxed by Iowa. Federal income tax paid during the year totals \$191,214. The S corporation is a value-added corporation which carries on business within and without Iowa with 10 percent of its sales in Iowa.

a. *Computation of tax on a joint return basis.*

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Wages	\$50,000
S corporation income	500,000
Interest	35,000
Rent	(5,000)
Total income	\$580,000
Less federal tax deduction	(191,214)
Subtotal	\$388,786
Less itemized deductions	(20,000)
Taxable income	\$368,786
Tax	\$31,696
Less personal credits husband & wife & two dependents	(160)
Subtotal	\$31,536
Less out-of-state tax credit	(1,150)
Iowa individual tax	\$30,386
<u>Computation of refund credit</u>	
Total income	\$580,000
Less S corporation income	(500,000)
Subtotal	\$80,000
Add the greater of cash distributions not previously taxed, \$289,840 less 100% of federal taxes on S corporation income of \$164,840 = \$125,000, or income attributable to Iowa sources \$50,000	125,000
Income attributable to Iowa sources	\$205,000
Total income	\$580,000
Taxable percentage	35.3449%
Iowa individual tax before credit	\$31,696
Credit percentage	64.6551%
Subtotal	\$20,493
Less out-of-state tax credit	(1,150)
S corporation tax credit	\$19,343
Amount of refund	\$19,343

Computation of 100 percent of federal income tax attributable to S corporation income: $\$191,214 \times \$500,000 / \$580,000 = \$164,840$.

Computation of percent of income attributable to Iowa sources: $100 \times \$205,000 / \$580,000 = 35.3449\%$.

Computation of percent of income attributable to non-Iowa sources: $100 - 35.3449\% = 64.6551\%$.

b. Computation on a separate filing on a combined return basis.

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	Spouse	Taxpayer
Wages	\$50,000	-0-
S corporation income	-0-	\$500,000
Interest	17,500	17,500
Rent	(5,000)	-0-
Total income	\$62,500	\$517,500
Less federal tax deduction	(20,613)	(170,601)
Subtotal	\$41,887	\$346,899
Less itemized deductions	(2,156)	(17,844)
Taxable income	\$39,731	\$329,055
Tax	\$2,293	\$28,128
Less personal credits taxpayer & spouse & two dependents	(120)	(40)
Subtotal	\$2,173	\$28,088
Less out-of-state tax credit	(-0-)	(1,150)
Iowa individual tax	\$2,173	\$26,938
<u>Computation of refund credit</u>		
Total income	\$517,500	
Less S corporation income	(500,000)	
Subtotal	\$17,500	
Add the greater of cash distributions not previously taxed, \$289,840 less 100% of federal taxes on S corporation income of \$164,840 = \$125,000, or income attributable to Iowa sources \$50,000	125,000	
Income attributable to Iowa sources	\$142,500	
Total income	\$517,500	
Taxable percentage	27.5362%	
Iowa individual tax before credit	\$28,128	
Credit percentage	72.4638%	
Subtotal	\$20,383	
Less out-of-state tax credit	(1,150)	
S corporation tax credit	\$19,233	
Amount of refund	<u>\$19,233</u>	

Taxpayer's computation of 100 percent of federal income tax attributable to S corporation income:
 $\$170,601 \times \$500,000 / \$517,500 = \$164,832$.

Taxpayer's computation of percent of income attributable to Iowa sources: $100 \times \$142,500 / \$517,500 = 27.5362\%$.

Taxpayer's computation of percent of income attributable to non-Iowa sources: $100 - 27.5362\% = 72.4638\%$.

This rule is intended to implement Iowa Code section 422.8, subsection 2, paragraph "b," as amended by 2002 Iowa Acts, House File 2078. "b."

ITEM 15. Amend subrule 52.21(4) as follows:

52.21(4) Innovation fund investment tax credit. See 261—Chapter 116 for information regarding eligibility for an innovation fund, applications for the investment tax credit for investments in an innovation fund, and the issuance of tax credit certificates by the economic development authority.

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The department of revenue will be notified by the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in the form of cash in an innovation fund for tax years beginning and investments made on or after January 1, 2011, and before January 1, 2013. For tax years beginning and investments made on or after January 1, 2013, the taxpayer may claim a tax credit equal to 25 percent of the taxpayer's equity investment in the form of cash in an innovation fund. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. A taxpayer shall ~~not~~ claim the tax credit ~~prior to the third tax year following~~ for the tax year in which the investment is made. For example, if a corporation taxpayer whose tax year ends on December 31, 2012, makes an equity investment during the 2012 calendar year, the corporation taxpayer cannot claim the tax credit ~~until the tax year ending December 31, 2015.~~ For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed \$8 million. No tax credit certificates will be issued prior to September 1, 2014. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the ~~credit may be redeemed~~ investment was made as stated on the tax credit certificate.

If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the \$8 million cap has been reached, the tax credit may be claimed by the taxpayer for the ~~third~~ tax year following the tax year for which the credit is issued. For example, if a corporation taxpayer whose tax year ending on December 31, ~~2012~~ 2013, makes an equity investment in December ~~2012~~ 2013 and the \$8 million cap for the fiscal year ending June 30, ~~2013~~ 2014, had already been reached, the tax credit will be issued for the tax year ending December 31, ~~2013~~ 2014, and ~~cannot~~ can be redeemed ~~until~~ for the tax year ending December 31, ~~2016~~ 2014.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. ~~The tax credit is not transferable to any other taxpayer.~~

The innovation fund tax credit certificate may be transferred once to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the innovation fund tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

For equity investments made in an innovation fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

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ITEM 16. Amend rule **701—52.21(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section 15E.66~~; sections 15E.42, 15E.43, 15E.66, and 422.33 as amended by 2011 Iowa Acts, Senate File 517; and 2011 section 15E.22 as amended by 2013 Iowa Acts, Senate House File 517, section 40 615.

ITEM 17. Amend rule 701—52.38(422) as follows:

701—52.38(422) School tuition organization tax credit. Effective for tax years beginning on or after July 1, 2009, a school tuition organization tax credit is available which is equal to 65 percent of the amount of the voluntary cash or noncash contribution made by a corporation taxpayer to a school tuition organization. The For tax years beginning on or after January 1, 2013, the credit is not available for S corporations, partnerships, and limited liability companies, estates and trusts where the income is taxed directly to the individual shareholders, partners, or members or beneficiaries. The amount of credit claimed by an individual shall be based on the pro rata share of the individual's earnings of the corporation, partnership, limited liability company, estate or trust. For information on the initial registration, participation forms and reporting requirements for school tuition organizations, see rule ~~701—42.30(422)~~ 701—42.32(422).

52.38(1) Amount of tax credit authorized. Of the \$7.5 million of school tuition organization tax credits authorized for the 2009 through 2011 calendar years, no more than 25 percent, or \$1,875,000, can be authorized for corporation income tax taxpayers. Of the \$8.75 million of school tuition organization tax credits authorized for 2012 and ~~subsequent calendar years 2013~~, no more than 25 percent, or \$2,187,500, can be authorized for corporation income tax taxpayers. Of the \$12 million of school tuition organization tax credits authorized for 2014 and subsequent calendar years, no more than 25 percent, or \$3 million, can be authorized for corporation income tax taxpayers.

52.38(2) and 52.38(3) No change.

This rule is intended to implement Iowa Code section 422.33.

ITEM 18. Amend subrule 52.39(1) as follows:

52.39(1) Eligibility for the credit. The economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For fiscal years beginning July 1, 2011, ~~and subsequent fiscal years~~, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million.

ITEM 19. Amend rule **701—52.39(15,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section sections~~ 15.293A as amended by 2011 Iowa Acts, Senate File 514, and ~~section~~ 422.33 and section 15.119 as amended by 2013 Iowa Acts, House File 620.

ITEM 20. Amend rule 701—52.41(15) as follows:

701—52.41(15) Aggregate tax credit limit for certain economic development programs. Effective for the fiscal year beginning July 1, 2009, awards made under certain economic development programs cannot exceed \$185 million during a fiscal year. ~~These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the film, television and video project promotion program, and the high quality jobs program.~~ Effective for fiscal years beginning on or after July 1, 2010, but beginning before July 1, 2012, awards made under these economic development programs cannot exceed \$120 million during a fiscal year. Effective for fiscal years beginning on or after July 1, 2012, awards made under these economic development programs cannot exceed \$170 million. These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the high quality jobs program, the redevelopment

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tax credit program, tax credits for investments in qualifying businesses and community-based seed capital funds, and the innovation fund tax credit program. The administrative rules for the aggregate tax credit limit for the Iowa ~~department of economic development~~ authority may be found at 261—Chapter 76.

This rule is intended to implement 2009 Iowa Code Supplement section 15.119 as amended by 2010 2013 Iowa Acts, ~~Senate House File 2380~~ 620.

ITEM 21. Amend paragraph **89.8(11)“e”** as follows:

e. Other tax credits. All other tax credits set forth in Iowa Code chapter 422, division II, are also available for any estate or trust that meets the criteria for claiming these tax credits. For tax years beginning on or after January 1, 2013, estates and trusts with a situs in Iowa which are shareholders in S corporations which carry on business within and without Iowa can take advantage of the apportionment provisions for S corporation income set forth in 701—Chapter 50. The criteria to determine whether the S corporation is carrying on business within and without Iowa is set forth in 701—subrule 54.1(4).

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REVENUE DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68 and 2013 Iowa Acts, Senate File 451, the Department of Revenue hereby proposes to amend Chapter 75, “Property Tax Administration,” and Chapter 77, “Determination of Value of Utility Companies,” and to adopt a new Chapter 78, “Replacement Tax and Statewide Property Tax on Rate-Regulated Water Utilities,” Iowa Administrative Code.

These amendments pertain to rules requiring water utilities to report all information and data necessary for the Department of Revenue to carry out the provisions of 2013 Iowa Acts, Senate File 451, which creates a replacement tax imposed on rate-regulated water utilities.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before September 10, 2013. Such written materials should be sent to Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 10, 2013.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 0965C**. The content of that submission is incorporated by reference.

These amendments are intended to implement 2013 Iowa Acts, Senate File 451.

ARC 0955C

REVENUE DEPARTMENT[701]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 421.17, the Department of Revenue hereby gives Notice of Intended Action to adopt a new Chapter 238, “Flood Mitigation Program,” Iowa Administrative Code.

The subject matter of proposed Chapter 238 is the administration of the sales tax increment fund for the Flood Mitigation Program.

The proposed chapter will necessitate additional expenditures by the Department of Revenue; however, the Department is statutorily required to administer the sales tax increment fund for the Flood Mitigation Program pursuant to Iowa Code chapter 418.

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

The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than September 23, 2013, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 14457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on the proposed rules on or before September 10, 2013. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 14457, Des Moines, Iowa 50306. Electronic submissions may be directed to Alana Stamas at idrpolicy@iowa.gov. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 10, 2013.

New jobs will likely be created as a result of the Flood Mitigation Program due to an increase in funding for development.

These rules are intended to implement Iowa Code sections 418.11 and 418.12.

The following amendment is proposed.

Adopt the following **new** 701—Chapter 238:

CHAPTER 238
FLOOD MITIGATION PROGRAM

701—238.1(418) Flood mitigation program. The flood mitigation program is a program administered by the flood mitigation board with the assistance of the Iowa department of homeland security and emergency management to assist governmental entities in undertaking projects approved under Iowa Code chapter 418. This chapter sets forth the revenue department’s administration of the calculation

REVENUE DEPARTMENT[701](cont'd)

of sales tax increment funding and the remittance of such funding to governmental entities. The administrative rules for other aspects of the flood mitigation program may be found at 605—Chapter 14.

This rule is intended to implement Iowa Code chapter 418 and section 423.2(11).

701—238.2(418) Definitions.

“*Area*” means the area used to determine the sales tax increment as described in subrule 238.3(2).

“*Base year*” means the fiscal year ending during the calendar year in which the governmental entity’s project is approved by the flood mitigation board under Iowa Code section 418.1.

“*Board*” means the flood mitigation board as created in Iowa Code section 418.5.

“*Corresponding quarter*” means the quarter in the base year and the quarter in the year in which the increment is measured that end in the same month. For example, if the base year is fiscal year 2013 and the year in which the increment is first measured is 2014, then the quarter ending in September 2012 of the base year would correspond to the quarter ending in September 2014 of the calendar year.

“*Department*” means the Iowa department of revenue.

“*Governmental entity*” means any of the following:

1. A county.
2. A city.
3. A joint board or other legal or administrative entity established or designated in an agreement pursuant to Iowa Code chapter 28E between any of the following:
 - Two or more cities located in whole or in part within the same county.
 - A county and one or more cities that are located in whole or in part within the county.
 - A county, one or more cities that are located in whole or in part within the county, and a drainage district formed by mutual agreement under Iowa Code section 468.142 located in whole or in part within the county.

“*Project*” means the construction and reconstruction of levees, embankments, impounding reservoirs, or conduits that are necessary for the protection of property from the effects of floodwaters and may include the deepening, widening, alteration, change, diversion, or other improvement of watercourses if necessary for the protection of such property from the effects of floodwaters. A project may consist of one or more phases of construction or reconstruction that are contracted for separately if the larger project, of which the project is a part, otherwise meets the requirements of Iowa Code section 418.4.

“*Retail establishment*” means a business operated by a retailer as defined in Iowa Code section 423.1.

“*Sales subject to the tax*” means the sales made by retail establishments in the area that are taxable under Iowa Code section 423.2.

“*Sales tax*” means the sales and services tax imposed pursuant to Iowa Code section 423.2.

This rule is intended to implement Iowa Code section 418.1.

701—238.3(418) Sales tax increment calculation.

238.3(1) Sales tax increment calculation formula. The department shall calculate quarterly the amount of increased sales tax revenues for each governmental entity approved to use sales tax increment revenues and the amount of such revenues to be transferred to the sales tax increment fund pursuant to Iowa Code section 423.2(11) “*b.*” The department shall calculate the amount of the sales tax increment as follows:

a. Determine the amount of sales subject to the tax under Iowa Code section 423.2 in each applicable area specified in subrule 238.3(2) during the corresponding quarter in the base year from retail establishments in such areas. The base year shall be calculated when the period for processing returns for the final quarter in the base year is complete.

b. Determine the amount of sales subject to the tax under Iowa Code section 423.2 in each applicable area specified in subrule 238.3(2) during the corresponding quarter in each subsequent calendar year from retail establishments in such areas.

REVENUE DEPARTMENT[701](cont'd)

c. Subtract the base year quarterly amount determined under paragraph 238.3(1)“a” from the subsequent calendar year quarterly amount in paragraph 238.3(1)“b.”

d. If the amount determined under paragraph 238.3(1)“c” is positive, the product of the amount determined under paragraph 238.3(1)“c” multiplied by the tax rate imposed under Iowa Code section 423.2 shall constitute the amount of increased sales tax revenue.

e. Only sales that are made by retail establishments in the area are taken into consideration when the sales subject to tax are determined. Sales otherwise sourced to the area are not considered in the calculation.

238.3(2) Area used to determine the increment. The area used to determine the sales tax increment shall include:

a. For projects approved for a governmental entity as defined in Iowa Code section 418.1(4)“a,” only the unincorporated areas of the county.

b. For projects approved for a governmental entity as defined in Iowa Code section 418.1(4)“b,” only the incorporated areas of the city.

c. For projects approved for a governmental entity as defined in Iowa Code section 418.1(4)“c,” the incorporated areas of each city that is participating in the chapter 28E agreement, the unincorporated areas of the participating county, and the area of any participating drainage district not otherwise included in the areas of the participating cities or county, as applicable.

238.3(3) Identification of retailers. Each governmental entity shall assist the department of revenue in identifying retail establishments in the governmental entity’s applicable area that are collecting sales tax. This process shall be ongoing until the governmental entity ceases to utilize sales tax revenue under this chapter.

This rule is intended to implement Iowa Code section 418.11.

701—238.4(418) Sales tax increment fund.

238.4(1) Establishment of the sales tax increment fund. A sales tax increment fund is established as a separate and distinct fund in the state treasury under the control of the department. The fund consists of the amount of the increased state sales and services tax revenues collected by the department within each applicable area specified in Iowa Code section 418.11(3) and deposited in the fund pursuant to Iowa Code section 423.2(11)“b.” Moneys deposited in the fund are appropriated to the department for the purposes of this rule. Moneys in the fund shall only be used for the purposes of this rule.

238.4(2) Sales tax increment accounts. An account is created within the fund for each governmental entity that has adopted a resolution under Iowa Code section 418.4(3)“d.”

238.4(3) Deposits into the sales tax increment fund. The department shall deposit in the fund the moneys described in subrule 238.4(1) beginning the first day of the quarter following receipt of a resolution under Iowa Code section 418.4(3)“d.” However, in no case shall a sales tax increment be calculated under Iowa Code section 418.11 or such moneys be deposited in the fund under this rule prior to January 1, 2014. Additionally, moneys will not be deposited in the fund before the period for processing returns for a given quarter is complete.

238.4(4) Requests for remittances; limitations.

a. Upon request of a governmental entity, the department shall remit the moneys in the governmental entity’s account within the fund to the governmental entity for deposit in the governmental entity’s flood project fund. Such requests shall be made not more than quarterly. Requests for remittance shall be submitted on forms prescribed by the department.

b. In lieu of quarterly requests, a governmental entity may submit a certified schedule of principal and interest payments on bonds issued under Iowa Code section 418.4. If such a certified schedule is submitted, the department shall, subject to the remittance limitations of this chapter, remit from the governmental entity’s account to the governmental entity for deposit in the governmental entity’s flood project fund the amounts necessary for such principal and interest payments in accordance with the certified schedule.

c. Requests for remittance shall be made for the amount of moneys in the governmental entity’s account necessary to pay the governmental entity’s costs or obligations related to the project, according

REVENUE DEPARTMENT[701](cont'd)

to the sales tax revenue funding needs specified in the approved project plan. A governmental entity shall not, however, during any fiscal year receive remittances under this rule exceeding \$15 million or 70 percent of the total yearly amount of increased sales tax increment revenue in the governmental entity's applicable area and deposited in the governmental entity's account or the annual maximum amount established by the board pursuant to Iowa Code section 418.9(4), whichever is less.

d. The total amount of remittances during any fiscal year for all governmental entities approved to use sales tax revenues under this chapter shall not exceed, in the aggregate, \$30 million. Remittances from the department of revenue shall be deposited in the governmental entity's flood project fund under Iowa Code section 418.13.

e. Each quarter, the department will transfer into the sales tax increment fund the full amount of the increased sales tax subject to the limitations stated in this rule. The director of the department may adjust the amount transferred during the year if it becomes apparent that the total amount transferred will exceed the limitations stated in this rule. If, when the total of all the transfers made to a governmental entity during the year is calculated at the end of the fiscal year, it is determined that the governmental entity received more than the maximum amount permissible under this rule, the department may withhold funds in the subsequent fiscal year to recoup the excess payments.

f. If the governmental entity has unused funds from a prior quarter in its account within the sales tax increment fund, subject to paragraphs 238.4(4) "a" to "e," those funds will be available in subsequent quarters so long as the amount is necessary for the purposes of this chapter.

238.4(5) *Remittance of funds to the general fund.* If the department determines that the revenue accruing to the fund or accounts within the fund exceeds \$30 million, or exceeds the amount necessary for the purposes of this chapter if the amount necessary is less than \$30 million, then those excess moneys shall be credited by the department for deposit in the general fund of the state. The board shall assist the department in determining whether the fund or accounts within the fund have met the limitations of this rule.

238.4(6) *Reporting requirements.* Each governmental entity approved by the board to use sales tax increment revenues for a project under this chapter shall submit two reports to the board certifying the total amount of nonpublic investment, as defined in Iowa Code section 418.9(2) "d," that has occurred in the governmental entity's area as defined in Iowa Code section 418.11(3). The first report shall be submitted not later than five years after the board approved the project. The second report shall be submitted to the board not later than ten years after the board approved the project.

238.4(7) *Failure to meet nonpublic investment requirements.* If the nonpublic investment requirements of Iowa Code section 418.9(2) "d" are not satisfied, the board shall reduce the governmental entity's amount of sales tax increment revenues eligible to be remitted during the remaining period of time for receiving remittances by an amount equal to the shortfall in nonpublic investment. However, such a reduction shall not be to an amount less than zero.

This rule is intended to implement Iowa Code section 418.12.

ARC 0979C

SOIL CONSERVATION DIVISION[27]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 161A.71(3) "a," the Division of Soil Conservation hereby gives Notice of Intended Action to adopt a new Chapter 16, "Water Quality Initiative," Iowa Administrative Code.

SOIL CONSERVATION DIVISION[27](cont'd)

The proposed amendment supports the Water Quality Initiative of the Department of Agriculture and Land Stewardship by establishing a new chapter for the initiative. The chapter will provide the rules for the targeted watershed demonstration projects and support individual conservation practices. Eligible practices are identified and requirements for targeted watershed demonstration projects are provided.

Any interested persons may make written suggestions or comments on the proposed rules on or before September 10, 2013. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by e-mail to Margaret.Thomson@IowaAgriculture.gov.

The proposed amendment is subject to the Division's general waiver provisions.

After analysis and review of this rule making, a positive impact on jobs has been found.

These rules are intended to implement 2013 Iowa Acts, House File 648, section 20, and Senate File 435, sections 8, 10, 60 and 61.

The following amendment is proposed.

Adopt the following **new** 27—Chapter 16:

CHAPTER 16
WATER QUALITY INITIATIVE

27—16.1(161A) Purpose. The purpose of these rules is to support the reduction of nutrient losses and exports over time through the adoption of water quality practices and through the establishment and administration of targeted watershed demonstration projects and individual cost-share practices. The purpose is also to assist education and outreach about the feasibility and value of establishing water quality practices.

27—16.2(161A) Definitions.

“*Council*” means the water resources coordinating council established pursuant to Iowa Code section 466B.3.

“*Department*” means the department of agriculture and land stewardship.

“*Division*” means the division of soil conservation, department of agriculture and land stewardship.

“*Eligible cost-share applicants*” means persons who hold a legal interest in agricultural land used in farming.

“*Eligible targeted watershed demonstration project applicants*” means individual or multiple soil and water conservation districts, counties, county conservation boards, cities, not-for-profit organizations authorized by the secretary of state, public water supply utilities or watershed management authorities.

“*Funds*” include the water quality initiative fund in Iowa Code section 466B.45 and may include other moneys appropriated to the department from the environment first fund created in Iowa Code section 8.57A for cost sharing to match federal funds or other nongovernmental funds.

“*Identified watersheds*” means the area identified by the council or by the division.

“*Maintenance/performance agreement*” means an agreement between the division, the recipient and the landowner. The recipient and landowner agree to maintain the soil conservation practices for which financial incentives from the division through the district have been received. The agreement states that the recipient and landowner will maintain, repair, or reconstruct the practices if they are not maintained according to the terms specified in the agreement. The terms of the agreement shall be specified by the division.

“*Nutrient*” includes nitrogen and phosphorus.

“*Nutrient reduction strategy*” means the document created by the department, the department of natural resources, and Iowa State University of Science and Technology initially presented in November 2012 and revised in May 2013.

“*Recipient*” means an eligible applicant who has qualified for and received cost-share payments under this chapter or a project participant who has qualified for and received cost-share payments.

“*Secretary*” means the Iowa secretary of agriculture.

SOIL CONSERVATION DIVISION[27](cont'd)

“*Watershed management authority*” means an authority as defined in Iowa Code section 466B.21.

27—16.3(161A) Cost share. The division’s share of the practice cost shall not exceed the lesser of 50 percent of the estimated cost of establishing the practice as determined by the division or 50 percent of the actual cost of the practice.

27—16.4(161A) Eligible practices. Only practices applied to agricultural crop and pasture land whose primary function is to improve water quality will be eligible for funds. These practices are identified in the nutrient reduction strategy or by the division. Permanent practices eligible for funding include but are not limited to wetlands, bioreactors, and buffers. Management practices eligible for funding include but are not limited to cover crops and living mulches. Application may be made to the division for cost-share funding for individual cost-share practices or for targeted watershed demonstration projects.

27—16.5(161A) Ineligible practices. Repair and maintenance of existing practices are not eligible for funding.

27—16.6(161A) Statewide cost-share practices. Individual statewide cost-share practices may be eligible for funding as determined by the division.

27—16.7(161A) Targeted watershed demonstration projects. Projects shall be conducted in the identified watersheds. The division shall conduct water quality evaluations within supported projects.

27—16.8(161A) Project threshold application requirements.

16.8(1) General application requirements. Project applications shall include the demonstration, outreach, and education objectives of the project and the plan for implementation; project costs, including the estimated cost of each measure to be implemented for each year of participation; anticipated landowner contributions; requested cost-share match; and expected contributions from project participants. Personnel needs and contributions should be outlined.

16.8(2) Landowner interest. An assessment of the interest and participation of the eligible applicants shall be included. A majority of the eligible applicants must reside or own land in the demonstration project. Collaborative participation by eligible applicants in the same identified subwatershed will be viewed favorably.

16.8(3) Project maintenance. Measures to be taken to ensure the long-term viability of the project through maintenance agreements, easements, or other such measures will be outlined in the agreement.

16.8(4) Time frame. The time frame for implementation will be identified in the application and set out in the agreement.

16.8(5) Project evaluation. The criteria for evaluation plans will be identified in the request for applications, and an evaluation plan will be contained in the project application.

27—16.9(161A) Application review. Identified watershed projects meeting the threshold requirements will be reviewed, evaluated and ranked by the division using criteria described in the request for applications. Funding recommendations will take into account the program objective to demonstrate and promote a variety of conservation practices in combination with education and outreach.

27—16.10(161A) Annual review. The division will review each project annually. The division may establish a budget for the next project year; renegotiate with the applicant or recipient about the objectives, procedures, budget, reports or time schedule; or terminate the project.

27—16.11(161A) Contract requirements. Recipients must complete performance and maintenance of the practice as required by the contract. Practices shall meet applicable Natural Resources Conservation Service conservation standards and specifications or applicable standards and specifications set out in the contract. The division may, for cause, find that a recipient is not in compliance with the requirements. At the division’s discretion, remedies for noncompliance may include penalties up to

SOIL CONSERVATION DIVISION[27](cont'd)

and including the return of funds to the division. Reasons for a finding of noncompliance include but are not limited to the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded projects in a timely manner, the recipient's failure to carry out the terms of the performance/maintenance agreement, the recipient's failure to comply with applicable state or local rules or regulations, or the lack of a continuing capacity of the recipient to carry out the approved project in a timely manner.

27—16.12(161A) Appeal. A recipient who has been ordered to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement may, as appropriate, review the order with the division. When a recipient wishes to appeal an order to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement, the recipient may file a written request for review with the division. The division review shall be conducted by the division director or the director's designee. This proceeding shall be informal. The recipient shall request the review with the secretary in writing within 30 days following the review with the division. The secretary or the secretary's designee will either affirm, modify, or vacate the administrative order following the completion of the contested case hearing.

These rules are intended to implement 2013 Iowa Acts, House File 648, section 20, and Senate File 435, sections 8, 10, 60 and 61.

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA

Public Notice

NOTICE OF OFFICIAL CONTRACT LIMITATION AMOUNT ADJUSTMENT FOR THE PERIOD COMMENCING SEPTEMBER 1, 2013, AND ENDING AUGUST 31, 2014

In accordance with Iowa Code section 8D.11, subsection 1, paragraph "c," the Iowa Telecommunications and Technology Commission's (Iowa Communications Network) Executive Director hereby publishes the official adjusted contract limitation amount for the period commencing on September 1, 2013, and ending on August 31, 2014, of \$2,245,307.50.

The adjusted contract limitation amount becomes effective on September 1, 2013. The amount was determined by applying the formula specified in the statute. According to the federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 1.8 percent from June 2012 to June 2013.

Pursuant to Iowa Code section 8D.11, subsection 1, paragraph "c," this notice is exempt from the rule-making process in Iowa Code chapter 17A.

Questions with respect to this notice should be directed to:

David Lingren, Executive Director
Iowa Telecommunications and Technology Commission
400 E. 14th Street
Des Moines, Iowa 50319
Telephone: (515)725-4707
E-mail: dave.lingren@iowa.gov

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking James M. Schipper, and Auditor of State Mary Mosiman have established today the following rates of interest for public obligations and special assessments. The usury rate for August is 4.25%.

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 August 9, 2013, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

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

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

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

ARC 0965C

REVENUE DEPARTMENT[701]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 421.14 and 422.68 and 2013 Iowa Acts, Senate File 451, the Department of Revenue hereby amends Chapter 75, "Property Tax Administration," and Chapter 77, "Determination of Value of Utility Companies," and adopts a new Chapter 78, "Replacement Tax and Statewide Property Tax on Rate-Regulated Water Utilities," Iowa Administrative Code.

These amendments implement changes required as a result of 2013 Iowa Acts, Senate File 451, which created a replacement tax imposed on rate-regulated water utilities.

Section 34 of 2013 Iowa Acts, Senate File 451, requires the Department of Revenue to adopt emergency administrative rules pursuant to Iowa Code section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b," to implement rules requiring water utilities to report all information and data necessary for the Department of Revenue to carry out the provisions of 2013 Iowa Acts, Senate File 451.

Item 1 amends rule 701—75.5(428,433,434,437,437A,438) to state that the release of information contained in any reports filed under 2013 Iowa Acts, Senate File 451, sections 10 to 30, (new Iowa Code chapter 437B) or obtained by the Department in the administration of that chapter is governed by the general provisions of Iowa Code chapter 22.

Item 2 amends subrule 77.1(1) to state that beginning with property tax assessment years and replacement tax years beginning on or after January 1, 2013, any utility company subject to taxation under 2013 Iowa Acts, Senate File 451, sections 10 to 30, (new Iowa Code chapter 437B) shall not be subject to valuation under 701—Chapter 77, Iowa Administrative Code.

Item 3 adopts new Chapter 78 to implement 2013 Iowa Acts, Senate File 451, sections 10 to 30 (new Iowa Code chapter 437B).

Section 34 of 2013 Iowa Acts, Senate File 451, requires that these rules become effective immediately upon filing, unless a later date is specified in the rules. A later date is not specified in these rules. Therefore, the Department finds that, pursuant to Iowa Code section 17A.5(2)"b"(1), the normal effective date of the amendments should be waived and these amendments should be made effective upon filing.

These amendments are also published herein under Notice of Intended Action as **ARC 0966C** to allow for public comment.

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

These amendments are intended to implement 2013 Iowa Acts, Senate File 451.

These amendments became effective on August 2, 2013.

The following amendments are adopted.

ITEM 1. Amend rule 701—75.5(428,433,434,437,437A,438) as follows:

701—75.5(428,433,434,437,437A,438,85GA,SF451) Central assessment confidentiality. The release of information contained in any reports filed under Iowa Code chapters 428, 433, 434, 437, 437A, and 438 and 2013 Iowa Acts, Senate File 451, sections 10 to 30, or obtained by the department in the administration of those chapters, is governed by the general provisions of Iowa Code chapter 22 since there are no specific provisions relating to confidential information contained in those chapters. Any request for information must be made pursuant to rule 701—6.2(17A). See rule 701—6.3(17A).

Any request for information pertaining to a taxpayer's business affairs, operations, source of income, profits, losses, or expenditures must be made in writing to the director. The taxpayer to whom the information relates will be notified of the request for information and will be allowed 20 days to substantiate any claim of confidentiality under Iowa Code chapter 22 or any other statute such as Iowa Code section 422.72. If substantiated, the request will be denied; otherwise, the information will be

REVENUE DEPARTMENT[701](cont'd)

released to the requesting party. This rule will not prevent the exchange of information between state and federal agencies.

This rule is intended to implement Iowa Code chapters 428, 433, 434, 437, 437A, and 438 and 2013 Iowa Acts, Senate File 451, sections 10 to 30.

ITEM 2. Amend subrule 77.1(1) as follows:

77.1(1) The term “*utility company*” shall mean and include all persons engaged in the operating of gasworks, waterworks, telephones, including telecommunication companies and cities that own or operate a municipal utility providing local exchange services pursuant to Iowa Code chapter 476, pipelines, electric transmission lines, and electric light or power plants, as set forth in Iowa Code chapters 428, 433, 437, and 438. Any utility company subject to taxation under Iowa Code chapter 437A shall not be subject to valuation under this chapter. Beginning with property tax assessment years and replacement tax years beginning on or after January 1, 2013, any utility company subject to taxation under 2013 Iowa Acts, Senate File 451, sections 10 to 30, shall not be subject to valuation under this chapter.

ITEM 3. Adopt the following **new** 701—Chapter 78:

CHAPTER 78
REPLACEMENT TAX AND STATEWIDE PROPERTY
TAX ON RATE-REGULATED WATER UTILITIES

REPLACEMENT TAX

701—78.1(85GA,SF451) Who must file return. Beginning with property tax years and replacement tax years beginning on or after January 1, 2013, each taxpayer, as defined in 2013 Iowa Acts, Senate File 451, section 11(13), shall file a true and accurate return with the director. The return shall include all of the information prescribed in 2013 Iowa Acts, Senate File 451, section 13(1) “a” and “b,” and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity subject to the replacement tax during the tax year, the return must contain a statement to that effect.

701—78.2(85GA,SF451) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

A taxpayer whose replacement tax liability before credits is \$300 or less is not required to file a return. A taxpayer should not file a replacement tax return under such circumstances.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after the due date for filing. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—78.3(85GA,SF451) Form for filing. Returns must be made by taxpayers on forms supplied by the department. Taxpayers not supplied with the proper forms shall make application for proper forms to the department in ample time to have the taxpayers’ returns made, verified and filed on or before the due date. Each taxpayer shall carefully prepare the taxpayer’s return so as to fully and clearly set forth the data required. All information shall be supplied and each direction complied with in the same manner as if the forms were embodied in these rules.

REVENUE DEPARTMENT[701](cont'd)

Failure to receive the proper forms does not relieve the taxpayer from the obligation of making the replacement tax return.

Returns received which are not completed, but merely state “see schedule attached,” “no tax due,” or some other conclusionary statement are not considered to be properly filed returns and may be returned to the taxpayer for proper completion. This may result in the imposition of penalties and interest due to the return’s being filed after the due date.

701—78.4(85GA,SF451) Payment of tax. Payment of tax shall not accompany the filing of the replacement tax return with the director. Payment of tax shall not be made to the director or the state of Iowa. Payment of the proper amount of tax due shall be made to the appropriate county treasurer upon notification by the county treasurer to the taxpayer of the taxpayer’s replacement tax obligation.

701—78.5(85GA,SF451) Statute of limitations.

78.5(1) The director has three years after a return is filed to determine the tax due if the return is found to be incorrect and to give notice to the taxpayer of the determination. This three-year statute of limitations does not apply in the instances specified in subrule 78.5(2).

78.5(2) If a taxpayer files a false or fraudulent return with the intent to evade any tax, the correct amount of tax due may be determined by the director at any time after the return has been filed.

78.5(3) If a taxpayer fails to file a return, the three-year statute of limitations does not begin until the return is filed with the director.

78.5(4) Waiver of statute of limitations. The department and the taxpayer may extend the three-year period of limitations provided in subrule 78.5(1) above by signing a waiver agreement form provided by the department. The agreement shall designate the period of extension and the tax year for which the extension applies. The agreement shall provide that the taxpayer may file a claim for refund of replacement tax at any time prior to the expiration of the agreement.

701—78.6(85GA,SF451) Billings.

78.6(1) Notice of adjustments.

a. Authorization to send notice of adjustments. An agent, auditor, clerk, or employee of the department, designated by the director to examine returns and make audits, who discovers discrepancies in returns or learns that items subject to tax may not have been listed or included as taxable, in whole or in part, or that no return was filed when one was due is authorized to notify the taxpayer of this discovery by ordinary mail. This notice is not an assessment. It informs the taxpayer what amount would be due if the information discovered is correct. A copy of such notice shall also be sent to the appropriate county treasurer.

b. Right of taxpayer upon receipt of notice of adjustment. A taxpayer who has received notice of an adjustment in connection with a return may pay the additional amount stated to be due to the appropriate county treasurer. If payment is made, and the taxpayer wishes to contest the matter, the taxpayer should file a timely claim for refund. However, payment will not be required until an assessment has been made, although interest will continue to accrue if timely payment is not made. If no payment has been made, the taxpayer may discuss with the agent, auditor, clerk, or employee who notified the taxpayer of the discrepancy, either in person or through correspondence, all matters of fact and law which may be relevant to the situation. The taxpayer may also ask for a conference with the Department of Revenue, Property Tax Division, Hoover State Office Building, Des Moines, Iowa. Documents and records supporting the taxpayer’s position may be required.

c. Power of agent, auditor, or employee to compromise tax claim. No employee of the department has the power to compromise any tax claims. The power of the agent, auditor, clerk, or employee who notified the taxpayer of the discrepancy is limited to the determination of the correct amount of tax.

78.6(2) Notice of assessment. If, after following the procedure outlined in paragraph 78.6(1) “b,” no agreement is reached and the taxpayer does not pay the amount determined to be correct to the appropriate county treasurer, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment

REVENUE DEPARTMENT[701](cont'd)

shall bear the signature of the director and will be sent by ordinary mail to the taxpayer with a copy sent to the appropriate county treasurer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—7.8(17A) or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) to the appropriate county treasurer and file a refund claim with the director within the applicable period provided in 2013 Iowa Acts, Senate File 451, section 19(1)“b,” for filing such claims.

78.6(3) *Supplemental assessments and refund adjustments.* The director may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If an assessment or refund adjustment is appealed (protested under rule 701—7.8(17A)) and is resolved whether by informal proceedings or by adjudication, the director shall notify the appropriate county treasurer. Such resolution shall preclude the director and the taxpayer from making a supplemental assessment or refund adjustment concerning the same issue involved in the appeal for the same tax year unless there is a showing of mathematical or clerical error or showing of fraud or misrepresentation.

701—78.7(85GA,SF451) Refunds.

78.7(1) A claim for refund of replacement tax may be made on a form obtainable from the department. All claims for refund should be filed with the director and not with the county treasurer. In the case of a refund claim filed by an agent or representative of the taxpayer, a power of attorney must accompany the claim. All claims for refund must be in writing.

78.7(2) A taxpayer shall not offset a refund or overpayment of tax for one tax year as a prior payment of tax of a subsequent tax year on the tax return of a subsequent year unless the provisions of 2013 Iowa Acts, Senate File 451, section 13(5), are applicable.

78.7(3) Refunds—statute of limitations. The statute of limitations with respect to which refunds or credits may be claimed are:

a. The later of three years after the due date of the tax payment upon which the refund or credit is claimed or one year after which such payment was actually made.

b. Ninety days after the due date of the tax payment upon which refund or credit is claimed if the tax is alleged to be unconstitutional.

78.7(4) No credit or refund of taxes alleged to be unconstitutional shall be allowed if such taxes were not paid to the appropriate county treasurer under written protest which specifies the particulars of the alleged unconstitutionality.

78.7(5) The taxpayer responsible for paying the tax, or the taxpayer’s successors, are the only persons eligible to file claims for refund or credit of the tax with the director and are the only persons eligible to receive such refunds or credits.

78.7(6) The director will promptly notify the appropriate county treasurer of the acceptance or denial of any refund claim or credit. The county treasurer shall pay the refund claim or portion thereof accepted by the director.

78.7(7) A taxpayer has 60 days from the date of the notice of denial of a refund or credit, in whole or in part, to file a protest according to the provisions of rule 701—7.8(17A).

701—78.8(85GA,SF451) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to replacement tax. In the event that the taxpayer files a request for abatement with the director, the appropriate county treasurer shall be notified. The director’s decision on the abatement request shall be sent to the taxpayer and the appropriate county treasurer.

701—78.9(85GA,SF451) Taxpayers required to keep records.

78.9(1) Records required by taxpayers taxed under 2013 Iowa Acts, Senate File 451, sections 10 to 30. The records required in this rule must be made available for examination upon request by the

REVENUE DEPARTMENT[701](cont'd)

director or the director's authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

a. Records associated with the total number of gallons of water carried through the taxpayer's distribution system during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total number of gallons of water carried through the taxpayer's distribution system is calculated as though 2013 Iowa Acts, Senate File 451, sections 10 to 30, was in effect for such calendar year.

b. Records associated with the total amount of nonrevenue water, as that term is defined in 2013 Iowa Acts, Senate File 451, section 11(9), carried through the taxpayer's distribution system during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total number of gallons of nonrevenue water carried through the taxpayer's distribution system is calculated as though 2013 Iowa Acts, Senate File 451, sections 10 to 30, was in effect for such calendar year.

c. Records associated with the total taxable gallons of water delivered by the taxpayer to consumers, as that term is defined in 2013 Iowa Acts, Senate File 451, section 11(2), within the service area during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total taxable gallons delivered by the taxpayer to consumers by the water utility is the difference between the gallons of water calculated in paragraphs 78.9(1) "a" and "b."

d. For tax years 2013, 2014, and 2015, records associated with property tax amounts due and payable as the result of assessment years 2010 and 2011.

e. Records associated with the taxpayer's calculation of the tentative replacement taxes due for the tax year and required to be shown on the tax return.

f. Records associated with increases or decreases in the tentative replacement tax required to be shown to be due where the replacement delivery tax rates are subject to recalculation under the provisions of 2013 Iowa Acts, Senate File 451, section 13(5).

g. All work papers associated with any of the records described in this subrule.

h. Records pertaining to any additions or deletions of property described as exempt from local property tax in 2013 Iowa Acts, Senate File 451, section 21.

i. Records associated with allocation of property described in paragraph 78.9(1) "h" above among local taxing districts.

78.9(2) The records required to be maintained by this rule shall be maintained by taxpayers for a period of ten years following the later of the original due date for the filing of a tax return in which the replacement taxes are reported or the date on which such return is filed. Upon application to the director and for good cause shown, the director may shorten the period for which any records should be maintained by a taxpayer.

701—78.10(85GA,SF451) Credentials. Employees of the department have official credentials, and the taxpayer should require proof of the identity of persons claiming to represent the department. No charges shall be made nor gratuities of any kind accepted by an employee of the department for assistance given in or out of the office of the department.

701—78.11(85GA,SF451) Audit of records. The director or the director's authorized representative shall have the right to examine or cause to be examined the books, papers, records, memoranda or documents of a taxpayer for the purpose of verifying the correctness of a tax return filed or of information presented or for estimating the tax liability of a taxpayer. When a taxpayer fails or refuses to produce the records for examination upon request, the director shall have authority to require, by a subpoena, the attendance of the taxpayer and any other witness(es) whom the director deems necessary or expedient to examine and compel the taxpayer and witness(es) to produce books, papers, records, memoranda or documents relating in any manner to the replacement tax.

701—78.12(85GA,SF451) Information confidential. 2013 Iowa Acts, Senate File 451, sections 19(2) and 19(3), apply generally to the director, deputies, auditors, and present or former officers and

REVENUE DEPARTMENT[701](cont'd)

employees of the department. Disclosure of the gallons of water delivered by a taxpayer taxed under 2013 Iowa Acts, Senate File 451, sections 10 to 30, in a service area disclosed on a tax return, return information, or investigative or audit information is prohibited. Other persons having acquired this confidential information will be bound by the same rules of secrecy under these Iowa Code provisions as any member of the department and will be subject to the same penalties for violations as provided by law.

STATEWIDE PROPERTY TAX

701—78.13(85GA,SF451) Who must file return. Each taxpayer shall file a true and accurate return with the director. The return shall include all of the information prescribed in 2013 Iowa Acts, Senate File 451, section 26, and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity for which the taxpayer's property was subject to the statewide property tax during the tax year, the return must contain a statement to that effect.

701—78.14(85GA,SF451) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—78.15(85GA,SF451) Form for filing. Rule 701—78.3(85GA,SF451) is incorporated herein by reference.

701—78.16(85GA,SF451) Payment of tax. Payment of the tax required to be shown due on the statewide property tax return shall accompany the filing of the return. All checks shall be made payable to Treasurer, State of Iowa. Failure to pay the tax required to be shown due on the tax return by the due date shall render the tax delinquent.

701—78.17(85GA,SF451) Statute of limitations. Rule 701—78.5(85GA,SF451) is incorporated herein by reference.

701—78.18(85GA,SF451) Billings.

78.18(1) Notice of adjustments. Subrule 78.6(1) is incorporated herein by reference.

78.18(2) Notice of assessment. If, after following the procedure outlined in paragraph 78.6(1) "b," no agreement is reached and the person does not pay the amount determined to be correct to the director, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—7.8(17A) or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) to the director and file a refund claim with the director within the applicable period provided in 2013 Iowa Acts, Senate File 451, sections 19 and 27, for filing such claims.

78.18(3) Supplemental assessments. Subrule 78.6(3) is incorporated herein by reference.

REVENUE DEPARTMENT[701](cont'd)

701—78.19(85GA,SF451) Refunds. Subrules 78.7(1) to 78.7(3), 78.7(5) and 78.7(7) are incorporated herein by reference.

No credit or refund of taxes alleged to be unconstitutional shall be allowed if such taxes were not paid under written protest which specifies the particulars of the alleged unconstitutionality.

701—78.20(85GA,SF451) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to the statewide property tax.

701—78.21(85GA,SF451) Taxpayers required to keep records.

78.21(1) Records required. The records required in this rule must be made available for examination upon request by the director or the director's authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

a. Records associated with the assessed value and base year assessed value of property subject to the statewide property tax.

b. Records associated with the computation of the statewide property tax required to be shown due on the tax return.

c. Records associated with the book value of the local amount of any major addition by the local taxing district.

d. Records associated with the book value of the statewide amount of any major addition.

e. Records associated with the transfer or disposal of all operating property, as that term is defined in 2013 Iowa Acts, Senate File 451, section 11(10), in the preceding calendar year, by local taxing district.

f. Records associated with the book value of all other taxpayer property subject to the statewide property tax.

g. Records associated with the book value of any major addition, by situs, eligible for the urban revitalization exemption provided for in Iowa Code chapter 404.

h. All work papers associated with any of the records described in this rule.

i. Records associated with allocation of property subject to statewide property tax among local taxing districts.

78.21(2) The records required to be maintained by these rules shall be maintained by taxpayers for a period of ten years following the later of the original due date for the filing of a tax return in which the statewide property tax is reported or the date on which such return is filed. Upon application to the director and for good cause shown, the director may shorten the period for which any records should be maintained by a taxpayer.

701—78.22(85GA,SF451) Credentials. Rule 701—78.10(85GA,SF451) is incorporated herein by reference.

701—78.23(85GA,SF451) Audit of records. Rule 701—78.11(85GA,SF451) is incorporated herein by reference.

These rules are intended to implement 2013 Iowa Acts, Senate File 451.

[Filed Emergency 8/2/13, effective 8/2/13]

[Published 8/21/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/21/13.

ARC 0952C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services amends Chapter 1, "Department Organization," and renumbers Chapters 105 to 108 as Chapters 117 to 120, Iowa Administrative Code.

The Department of Administrative Services is amending its organizational structure to reflect changes made in an effort to best manage and administer the duties assigned to the Department by Iowa Code chapter 8A. These changes will enable the Department to offer more transparent and more efficient services to the several state agencies and ultimately the taxpayers of the State of Iowa. Creating Title VI and renumbering Chapters 105 to 108 as Chapters 117 to 120 for the rules that address central procurement is consistent with the organization of the other enterprises of the Department. This change also eliminates any confusion caused by having the rules that address central procurement embedded with the rules for general services.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 26, 2013, as ARC 0812C. No public comment was received. No changes were made to the amendments published under Notice.

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

These amendments are intended to implement Iowa Code chapter 8A.

These amendments will become effective September 25, 2013.

The following amendments are adopted.

ITEM 1. Amend rule 11—1.4(8A) as follows:

11—1.4(8A) Administration of the department. In order to carry out the functions of the department, the following enterprises and bureaus have been established:

1.4(1) General services enterprise. The mission of the general services enterprise is to act as the state's business agent to meet agencies' needs for quality, timely, reliable and cost-effective support services and provide a work environment that is healthy, safe, and well-maintained. The chief operating officer, appointed by the director, heads the general services enterprise. The following bureaus have been established within the general services enterprise:

a. Capitol complex maintenance. The capitol complex maintenance bureau is responsible for the maintenance, appearance, and facility sanitation of the capitol complex buildings and grounds, including environmental control (heating, ventilation and cooling) and all support features including, but not limited to, parking lot maintenance, main electrical distribution, power generation, water supply, utilities, energy efficiency, wastewater removal, on-site safety consultation, ~~and~~ work requests for the capitol complex, major maintenance projects associated with the capitol complex, special event coordination, monuments, physical security and access control.

b. Design and construction resources. The design and construction resources bureau is responsible for ~~vertical infrastructure management; building and monument restoration; management of leases and office space on and off the capitol complex; assignment of office space on the capitol complex; utilities management; and management of capital projects, including architectural, engineering, and construction management services for state agencies except for the board of regents, the department of transportation, the national guard, the natural resource commission and the Iowa public employees' retirement system.~~ provides administration of public improvement projects, including design services, contracting for construction, and construction management oversight for state agencies except any agency of the state exempted by law. Capital funding appropriated to participating state agencies shall be transferred to the design and construction resources bureau for administration. The design and construction resources bureau is responsible for the administration of major maintenance for agencies in accordance with Iowa Code section 8A.302(4).

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

c. Fleet and mail. The fleet and mail bureau is responsible for the management of vehicular risk and travel requirements for state agencies not exempted by law and for the processing and delivering of mail for state agencies on the capitol complex and in the Des Moines metropolitan area.

d. Mail. The mail bureau is responsible for the processing and distribution of mail, which consists of U.S. Mail, UPS, Federal Express, courier service and interoffice mail for the state agencies on the capitol complex and in designated areas in the Des Moines metropolitan area.

d. e. Service delivery. The service delivery bureau is responsible for the following functions for the enterprise: parking and building access, collection of fines and other payments; coordination of special events in the public area of the capitol, in other buildings on the capitol complex (excluding the historical building), and on the capitol complex grounds; and providing general information, and work requests for the capitol complex; statewide purchasing and electronic procurement, including managing procurement of commodities, equipment and services for all state agencies not exempted by law; and administration of surplus property regarding the buildings and grounds on the capitol complex.

f. Real estate services. The real estate services bureau is directly responsible for the management of all leased real estate across the state while also providing real estate consultation services pertaining to acquisition, disposition, and development of real property. Specific services may include market research, opinion of property value, financial analysis, long-term real estate strategy, and project management in accordance with Iowa Code section 8A.321(6). Space planning, including moves, additions, and changes, and surplus property are also coordinated by the bureau.

1.4(2) to 1.4(6) No change.

1.4(7) Central procurement enterprise.

a. The central procurement enterprise is charged with procuring goods and services for agencies by Iowa Code chapter 8A. The chief operating officer of the enterprise is appointed by the director and directs the work of the enterprise. These rules and applicable Iowa Code sections apply to the purchase of goods and services of general use by any unit of the state executive branch, except any agencies or instrumentalities of the state exempted by law.

b. The central procurement enterprise shall manage statewide purchasing and electronic procurement, including managing procurement of commodities, equipment and services for all state agencies not exempted by law.

ITEM 2. Renumber **11—Chapter 105** to **11—Chapter 108** as **11—Chapter 117** to **11—Chapter 120** in new Title VI, Central Procurement.

[Filed 7/31/13, effective 9/25/13]

[Published 8/21/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/21/13.

ARC 0949C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 717F.2(1)“a,” the Department of Agriculture and Land Stewardship hereby amends Chapter 77, “Wild Animals,” Iowa Administrative Code.

The amendments provide an exemption for certain cats from the definition of “dangerous wild animal.” Crosses between a domestic cat and a bengal or savannah are exempted if a separation of at least four filial generations exists. The amendments also update citations and implementation sentences for the provisions.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0786C** on June 12, 2013. No comments were received from the public. The adopted amendments are identical to the noticed amendments.

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

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

These amendments are intended to implement Iowa Code section 717F.1(5)“b” as amended by 2013 Iowa Acts, Senate File 247.

These amendments will become effective September 25, 2013.

The following amendments are adopted.

ITEM 1. Amend rules **21—77.1(82GA,SF564,SF601)** to **21—77.14(82GA,SF564,SF601)**, parenthetical implementation statute, as follows:

~~(82GA,SF564,SF601~~ 717F)

ITEM 2. Amend rule **21—77.1(717F)**, definition of “Dangerous wild animal,” as follows:

“*Dangerous wild animal*” means any of the following:

1. to 11. No change.

“Dangerous wild animal” includes an animal which is the offspring of an animal listed in paragraphs “1” to “11” and another animal listed in those paragraphs or any other animal. It also includes animals which are the offspring of each subsequent generation. However, a dangerous wild animal does not include the offspring of a domestic dog and a wolf, or the offspring from each subsequent generation in which at least one parent is a domestic dog. A dangerous wild animal does not include the offspring of a domestic cat and another member of the family felidae classified as a bengal or savannah as long as the bengal or savannah is the fourth or later filial generation of offspring.

ITEM 3. Amend subparagraph **77.6(2)“c”(7)** as follows:

(7) A copy of a current liability insurance policy as required in rule ~~77.4(82GA,SF564,SF601)~~ 21—77.4(717F). The person shall submit a copy of the current liability policy to the department each year.

ITEM 4. Amend **21—Chapter 77**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 717F as amended by ~~2007~~ 2013 Iowa Acts, Senate Files ~~564 and 601~~ File 247.

[Filed 7/30/13, effective 9/25/13]

[Published 8/21/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/21/13.

ARC 0953C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 214.10, 214A.2(1) and 215.24, the Department of Agriculture and Land Stewardship hereby amends Chapter 85, “Weights and Measures,” Iowa Administrative Code.

The amendments specify the standards used for motor fuel and update the rules for weights and measures. The amendments clarify that the gas price displayed may not reflect a discount offered for cash payment and that discounts offered for cash payment must be displayed in a manner clear to the purchaser. The amendments restate from the statutory provision the minimum octane rating for regular and premium gasoline.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0815C** on June 26, 2013.

Two generally supportive comments were received. One comment suggested making additional changes in the posting of octane ratings, and the other comment suggested the addition of a minimum distillation limit for ethanol gasoline.

The adopted amendments are identical to the noticed amendments.

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

These amendments are intended to implement Iowa Code chapter 214A as amended by 2013 Iowa Acts, House File 458, section 5.

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

These amendments will become effective September 25, 2013.

The following amendments are adopted.

ITEM 1. Amend rule 21—85.33(214A,208A) as follows:

21—85.33(214A,208A) Motor fuel and antifreeze tests and standards. In the interest of uniformity, the tests and standards for motor fuel, including but not limited to renewable fuels such as ethanol blended gasoline, biodiesel, biodiesel blended fuel, and components such as an oxygenate, raffinate natural gasoline and motor vehicle antifreeze shall unless otherwise required by statute be those established by the American Society for Testing and Materials (ASTM) in effect on ~~October~~ July 1, 2006 2013, with the exception of ASTM D4814-13 for the distillation of gasoline for ethanol blended gasoline classified as higher than E-10 and up to E-50. Diesel fuel which does not comply with ASTM international specifications may be stored in Iowa only if the blended with biodiesel, additives or other diesel fuel is stored at a terminal for the purposes of blending the diesel fuel with biodiesel so that the finished ~~biodiesel~~ blended product does meet the applicable specifications. In addition, a motor fuel that contains more than one-half of 1 percent of methyl tertiary butyl ether (MTBE) by volume shall not be sold, offered for sale, or stored in Iowa.

This rule is intended to implement Iowa Code sections 208A.5, 208A.6, 214A.2 as amended by 2013 Iowa Acts, House File 458, and 215.18 and 2006 Iowa Acts, House File 2754.

ITEM 2. Amend rule 21—85.39(189,215) as follows:

21—85.39(189,215) Weights and measures. The specifications, tolerances and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the National Institute of Standards and Technology and published in National Institute of Standards and Technology Handbook 44 amended or revised as of July ~~16, 2009~~ 1, 2013, shall be the specifications, tolerances and regulations for commercial weighing and measuring devices in the state of Iowa, except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship and not rescinded.

The National Institute of Standards and Technology (NIST) Handbooks 130 and 133: Weights and Measures Law, Packaging and Labeling, Method of Sale, Type Evaluation, and Checking the Net Contents of Packaged Goods, and Uniform Engine Fuels and Automotive Lubricants Regulation, and all supplements, as ~~promulgated~~ published by the National Institute of Standards and Technology amended or revised as of July ~~16, 2009~~ 1, 2013, are adopted in their entirety by ~~this reference~~ except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship.

This rule is intended to implement Iowa Code sections 189.9, 189.13, 189.17, 215.14, 215.18 and 215.23.

ITEM 3. Amend subrule 85.48(2) as follows:

85.48(2) Petroleum product retailers, if they elect to advertise the unit price of their petroleum products at or near the curb, storefront or billboard, shall display the price per gallon or liter. The advertised price shall equal the computer price settings shown on the metering pump or shall be displayed in a manner clear to the purchaser for discounts offered for cash payment.

ITEM 4. Amend subrule 85.48(14) as follows:

85.48(14) Octane rating of fuel offered for sale shall be posted on the pump in a conspicuous place. The octane rating shall be posted for registered fuels. No octane rating shall be posted on the pump for ethanol blended gasoline classified as higher than E-15. The minimum octane rating for gasoline offered for sale by a retail dealer is 87 for regular grade gasoline and 90 for premium grade gasoline.

[Filed 8/1/13, effective 9/25/13]

[Published 8/21/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/21/13.

ARC 0945C**COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.3, the Iowa College Student Aid Commission hereby amends Chapter 36, "Governor Terry E. Branstad Iowa State Fair Scholarship Program," Iowa Administrative Code.

Chapter 36 describes the administration of the Governor Terry E. Branstad Iowa State Fair Scholarship Program. This amendment eliminates the requirement for applicants to provide references.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0780C** on June 12, 2013. No comments were received. The adopted amendment is identical to that published under Notice.

This amendment was approved during the July 19, 2013, meeting of the Iowa College Student Aid Commission.

After analysis and review of this rule making, the Commission finds that there is no impact on jobs.

This amendment is intended to implement Iowa Code chapter 261.

This amendment will become effective on September 25, 2013.

The following amendment is adopted.

Amend subrule 36.1(2) as follows:

36.1(2) Eligibility for scholarship.

a. An applicant must be an Iowa resident who has graduated from an accredited secondary school in Iowa.

b. An applicant for assistance under this program must enroll at an eligible institution.

c. An applicant must release test scores, rank in class, grade point average, and need analysis information to the commission on forms specified by the commission, by the deadline date determined by the commission. In addition, each applicant must provide the following information, as stated in the application instructions: essay, description of state fair participation, description of school and community activities, and description of community services, ~~and references~~.

[Filed 7/22/13, effective 9/25/13]

[Published 8/21/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/21/13.

ARC 0961C**INSPECTIONS AND APPEALS DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 231B.2(1), 231C.3(1), and 231D.2(2), the Department of Inspections and Appeals hereby amends Chapter 67, "General Provisions for Elder Group Homes, Assisted Living Programs, and Adult Day Services," Iowa Administrative Code.

These amendments provide clarification of rules related to nurse delegation in elder group homes, assisted living programs and adult day services. Previously, the Department had relied on Nursing Board rules to explain the provision of nursing services in assisted living programs, elder group homes and adult day services programs. Over time, the Department and affected groups determined that amendments were necessary to further clarify the provision of nursing services in these programs. The Department consulted with the Nursing Board and affected groups in writing regarding the amendments.

The Department does not believe that the amendments pose a financial hardship on any regulated entity or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 26, 2013, as **ARC 0809C**. Comments were received from the Iowa Health Care Association, LeadingAge Iowa and

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the Iowa Assisted Living Association. After consideration of the comments, the following changes were made:

The definition of “nurse delegation” in rule 481—67.1(231B,231C,231D) was further amended to state that licensed practical nurses may delegate within the scope of their license “with the supervision of a registered nurse.” The phrase “with the supervision of a registered nurse” had been removed in the Notice and, based on comments received, the Department determined the language is necessary to provide clarity.

Subrule 67.9(4) was amended to clarify that the program must have training records and staffing schedules on file, and documentation of training must include training of certified and noncertified staff on nurse-delegated procedures.

Paragraph 67.9(5)“a” was amended to clarify that the program’s newly hired registered nurse is the one with 60 days to document a review to ensure that staff are sufficiently trained and competent in all tasks assigned or delegated.

Paragraph 67.9(5)“b” was rewritten to clarify that all program staff must receive training within 30 days of beginning employment.

One commenter noted that the language in paragraph 67.9(5)“d” implies that wound care, pain management, rehabilitation needs and hospice care are required curriculum. By placing this list in parenthesis and using “e.g.” (“for example”), the paragraph lists these as merely examples of the type of training that may be provided. No changes to the paragraph were made.

One commenter suggested that paragraph 67.9(5)“d” required further amendment to clarify whether the training needed to be done every time there was a change of the program registered nurse. Subrule 67.9(5) may be read as a whole to determine when training is required. No changes to the paragraph were made.

One commenter asked the Department to define “temporary absence” in paragraph 67.9(5)“h.” It is up to the program and the nurse assuming the duties of the program’s registered nurse to determine if the length of a temporary absence by the program’s registered nurse requires more than what is required by the paragraph, such as retraining of staff or redelegation of nursing tasks. No changes to the paragraph were made.

In addition, cross references in Items 4 and 5 were updated to reflect the change in numbering made in Item 2 of **ARC 0963C** herein.

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

These amendments are intended to implement Iowa Code section 231C.3(1).

These amendments shall become effective September 25, 2013.

The following amendments are adopted.

ITEM 1. Amend rule **481—67.1(231B,231C,231D)**, definition of “Nurse delegation,” as follows:

“*Nurse delegation*” means the action of a registered nurse, advanced registered nurse practitioner, or licensed practical nurse to direct competent individuals certified and noncertified staff to perform selected nursing tasks in selected situations, ~~pursuant to subrule 655—6.2(5), paragraph “e.”~~ The decision of a nurse to delegate is based on the delegation process, including assessment, planning, implementation, supervision, and evaluation of the tenant, nursing tasks, personnel, and the situation. The nurse, as a licensed professional, retains accountability for the delegation process and the decision to delegate. Licensed practical nurses ~~are allowed to~~ may delegate within the scope of their license with the supervision of a registered nurse.

ITEM 2. Rescind the definition of “Nurse-delegated assistance” in rule **481—67.1(231B,231C,231D)**.

ITEM 3. Adopt the following **new** definitions in rule **481—67.1(231B,231C,231D)**:

“*Assignment*” means the distribution of work for which each staff member, regardless of certification or licensure status, is responsible during a given work period and includes a nurse directing an individual to do something the individual is already authorized to do.

“*Certified staff*” means certified nursing assistants (CNAs) and certified medication assistants (CMAs) employed by the program.

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“*Direct supervision*” means the provision of guidance and oversight of a delegated nursing task through the physical presence of the licensed nurse to observe and direct certified and noncertified staff.

“*Indirect supervision*” means the provision of guidance and oversight of a delegated nursing task through means other than direct supervision, including written and verbal communication.

“*Noncertified staff*” means unlicensed and uncertified personnel employed by the program.

“*Program staff*” means all employees of the program, regardless of certification or licensure status.

ITEM 4. Amend paragraph **67.5(2)“c”** as follows:

c. The program assumes partial control of medication setup at the direction of the tenant. The medication plan shall not be implemented by the program unless the program’s registered nurse deems it appropriate under applicable requirements, including those in ~~655—Chapter 6 governing nurse delegation~~ Iowa Code section 231C.16A and subrule 67.9(4). The program’s registered nurse must agree to the medication plan.

ITEM 5. Amend subrule 67.5(6) as follows:

67.5(6) When medications are administered traditionally by the program:

a. The administration of medications shall be provided by a registered nurse, licensed practical nurse or advanced registered nurse practitioner registered in Iowa or by ~~unlicensed assistive personnel certified and noncertified staff~~ in accordance with requirements in ~~655—Chapter 6 governing nurse delegation~~ subrule 67.9(4).

b. and c. No change.

ITEM 6. Amend subrules 67.9(1), 67.9(2) and 67.9(4) to 67.9(6) as follows:

67.9(1) *Number of staff*. A sufficient number of trained staff shall be available at all times to fully meet tenants’ identified needs.

67.9(2) *Emergency procedures*. All program staff shall be able to implement the accident, fire safety, and emergency procedures.

67.9(4) *Training documentation*. The program shall have training records and staffing plans schedules on file and shall maintain documentation of training received by program staff, including training of certified and noncertified staff on nurse-delegated procedures.

67.9(5) *Nurse delegation procedures*. ~~Any nursing services shall be provided in accordance with Iowa Code chapter 152 and 655—Chapter 6~~. The program’s registered nurse shall ensure certified and noncertified staff are competent to meet the individual needs of tenants. Nurse delegation shall, at a minimum, include the following:

a. The program’s newly hired registered nurse shall within 60 days of beginning employment as the program’s registered nurse document a review to ensure that staff are sufficiently trained and competent in all tasks that are assigned or delegated.

b. Within 30 days of beginning employment, all program staff shall receive training by the program’s registered nurse(s).

c. Training for noncertified staff shall include, at a minimum, the provision of activities of daily living and instrumental activities of daily living.

d. Certified and noncertified staff shall receive training regarding service plan tasks (e.g., wound care, pain management, rehabilitation needs and hospice care) in accordance with medical or nursing directives and the acuity of the tenants’ health, cognitive or functional status.

e. The program’s registered nurse(s) shall provide direct or indirect supervision of all certified and noncertified staff as necessary in the professional judgment of the program’s registered nurse and in accordance with the needs of the tenants and certified and noncertified staff.

f. Services shall be provided to tenants in accordance with the training provided.

g. The program shall have in place a system by which certified or noncertified staff communicate in writing occurrences that differ from the tenant’s normal health, functional and cognitive status. The program’s registered nurse or designee shall train certified and noncertified staff on reporting to the program’s registered nurse or designee and documenting occurrences that differ from the tenant’s normal health, functional and cognitive status. The written communication required by this paragraph shall be

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retained by the program for a period of not less than three years, and shall be accessible to the department upon request.

h. In the absence of the program's registered nurse due to vacation or other temporary circumstances, the nurse assuming the duties of the program's registered nurse shall have access to staff training in relation to tenant needs.

67.9(6) *Prohibited services.* A program staff member shall not be designated as attorney-in-fact, guardian, conservator, or representative payee for a tenant unless the program staff member is related to the tenant by blood, marriage, or adoption.

[Filed 8/2/13, effective 9/25/13]

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ARC 0963C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 231B.2(1), 231C.3(1) and 231D.2(2), the Department of Inspections and Appeals hereby amends Chapter 67, "General Provisions for Elder Group Homes, Assisted Living Programs, and Adult Day Services," Iowa Administrative Code.

These amendments implement legislative changes, including 2013 Iowa Acts, Senate File 347, which amends Iowa Code section 135C.33 and requires elder group homes, assisted living programs and adult day services programs to conduct criminal history record checks and child abuse and dependent adult abuse record checks of prospective employees.

The Department does not believe that the adopted amendments impose any financial hardship on any regulated entity, body, or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 26, 2013, as **ARC 0808C**. The Department received one question during the public comment period. No changes were made to the noticed amendments.

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

These amendments are intended to implement Iowa Code sections 231B.2(1), 231C.3(1), 231D.2(2), and 135C.33 and 2013 Iowa Acts, Senate File 347.

These amendments shall become effective September 25, 2013.

The following amendments are adopted.

ITEM 1. Rescind subrule **67.9(3)**.

ITEM 2. Renumber subrules **67.9(4)** to **67.9(6)** as **67.9(3)** to **67.9(5)**.

ITEM 3. Adopt the following **new** rule 481—67.19(135C,231B,231C,231D):

481—67.19(135C,231B,231C,231D) Criminal, dependent adult abuse, and child abuse record checks.

67.19(1) *Definitions.* The following definitions apply for the purposes of this rule.

"*Background check*" or "*record check*" means criminal history, child abuse and dependent adult abuse record checks.

"*Direct services*" means services provided through person-to-person contact. "Direct services" excludes services provided by individuals such as building contractors, repair workers, or others who are in a program for a very limited purpose, who are not in the program on a regular basis, and who do not provide any treatment or services for residents, patients, tenants, or participants of the provider.

"*Employed in a program*" or "*employment within a program*" means all of the following, if the provider is regulated by the state or receives any federal or state funding:

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1. An employee of an assisted living program certified under Iowa Code chapter 231C, if the employee provides direct services to consumers;
2. An employee of an elder group home certified under Iowa Code chapter 231B, if the employee provides direct services to consumers;
3. An employee of an adult day services program certified under Iowa Code chapter 231D, if the employee provides direct services to consumers.

“Employee” means any individual who is paid, either by the program or any other entity (i.e., temporary agency, private duty, Medicare/Medicaid or independent contractors).

“Evaluation” means review by the department of human services to determine whether a founded child abuse, dependent adult abuse or criminal conviction warrants the person’s being prohibited from employment in a program.

“Indirect services” means services provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance.

“Program,” for purposes of this rule, means all of the following, if the provider is regulated by the state or receives any federal or state funding:

1. An assisted living program certified under Iowa Code chapter 231C;
2. An elder group home certified under Iowa Code chapter 231B; and
3. An adult day services program certified under Iowa Code chapter 231D.

67.19(2) Explanation of “crime.” For purposes of this rule, the term “crime” does not include offenses under Iowa Code chapter 321 classified as simple misdemeanor or equivalent simple misdemeanor offenses from another jurisdiction.

67.19(3) Requirements for employer prior to employing an individual. Prior to employment of a person in a program, the program shall request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state.

a. Informing the prospective employee. A program shall ask each person seeking employment by the program, “Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime other than a simple misdemeanor offense relating to motor vehicles and laws of the road under Iowa Code chapter 321 or equivalent provisions in this state or any other state?” The person shall also be informed that a background check will be conducted. The person shall indicate, by signature, that the person has been informed that the background check will be conducted.

b. Conducting a background check. The program may access the single contact repository (SING) to perform the required background check. If the SING is used, the program shall submit the person’s maiden name, if applicable, with the background check request. If SING is not used, the program must obtain a criminal history check from the department of public safety and a check of the child and dependent adult abuse registries from the department of human services.

c. If a person considered for employment has been convicted of a crime. If a person being considered for employment in a program has been convicted of a crime under a law of any state, the department of public safety shall notify the program that upon the request of the program the department of human services will perform an evaluation to determine whether the crime warrants prohibition of the person’s employment in the program.

d. If a person considered for employment has a record of founded child abuse or dependent adult abuse. If a department of human services child or dependent adult abuse record check shows that a person being considered for employment in a program has a record of founded child or dependent adult abuse, the department of human services shall notify the program that upon the request of the program the department of human services will perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of employment in the program.

e. Employment pending evaluation. The program may employ a person for not more than 60 calendar days pending the completion of the evaluation by the department of human services if all of the following apply. The 60-day period begins on the first day of the person’s employment.

- (1) The person is being considered for employment other than employment involving the operation of a motor vehicle;

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- (2) The person does not have a record of founded child or dependent adult abuse;
- (3) The person has been convicted of a crime that is a simple misdemeanor offense under Iowa Code section 123.47 or a first offense of operating a motor vehicle while intoxicated under Iowa Code section 321J.2, subsection 1; and
- (4) The program has requested an evaluation to determine whether the crime warrants prohibition of the person's employment.

67.19(4) *Validity of background check results.* The results of a background check conducted pursuant to this rule shall be valid for a period of 30 calendar days from the date the results of the background check are received by the program.

67.19(5) *Employment prohibition.* A person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a program unless an evaluation has been performed by the department of human services.

67.19(6) *Transfer of an employee to another program owned or operated by the same person.* If an employee transfers from one program to another program owned or operated by the same person, without a lapse in employment, the program is not required to request additional criminal and child and dependent adult abuse record checks of that employee.

67.19(7) *Transfer of ownership of a program.* If the ownership of a program is transferred, at the time of transfer the background check required by this rule shall be performed for each employee for whom there is no documentation that such background check has been performed. The program may continue to employ such employee pending the performance of the background check and any related evaluation.

67.19(8) *Change of employment—person with criminal or abuse record—exception to record check evaluation requirements.* A person with a criminal or abuse record who is or was employed by a certified program and is hired by another certified program shall be subject to the background check.

a. A reevaluation of the latest record check is not required, and the person may commence employment with the other certified program if the following requirements are met:

- (1) The department of human services previously performed an evaluation concerning the person's criminal or abuse record and concluded the record did not warrant prohibition of the person's employment;
- (2) The latest background check does not indicate a crime was committed or founded abuse record was entered subsequent to the prior evaluation;
- (3) The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed;
- (4) Any restrictions placed on the person's employment in the previous evaluation by the department of human services and still applicable shall remain applicable in the person's subsequent employment; and
- (5) The person subject to the background check has maintained a copy of the previous evaluation and provided it to the subsequent employer, or the previous employer provides the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, a current record check evaluation shall be performed.

b. For purposes of this subrule, a position is "substantially the same or has the same job responsibilities" if the position requires the same certification, licensure, or advanced training. For example, a licensed nurse has substantially the same or the same job responsibilities as a director of nursing; a certified nurse aide does not have substantially the same or the same job responsibilities as a licensed nurse.

c. The subsequent employer must maintain the previous evaluation in the employee's personnel file for verification of the exception to the requirement for a record check evaluation.

d. The subsequent employer may request a reevaluation of the background check and may employ the person while the reevaluation is being performed, even though an exemption under paragraph 67.19(8) "a" may be authorized.

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67.19(9) *Employee notification of criminal convictions or founded abuse after employment.* If a person employed by an employer that is subject to this rule is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person's employment application date, the person shall inform the employer of such information within 48 hours of the criminal conviction or entry of the record of founded child or dependent adult abuse.

a. The employer shall act to verify the information within 48 hours of notification. "Verify," for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

b. If the information is verified, the program shall follow the requirements of paragraphs 67.19(3) "c" and "d."

c. The employer may continue to employ the person pending the performance of an evaluation by the department of human services.

d. A person who is required by this subrule to inform the person's employer of a conviction or entry of an abuse record and fails to do so within the required period commits a serious misdemeanor under Iowa Code section 135C.33.

e. The employer may notify the county attorney for the county where the employer is located of any violation or failure by an employee to notify the employer of a criminal conviction or entry of an abuse record within the period required under this subrule.

67.19(10) *Program receipt of credible information that an employee has been convicted of a crime or founded for abuse.* If the program receives credible information, as determined by the program, from someone other than the employee, that the employee has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after employment, and the employee has not informed the employer of the information within the time required by subrule 67.19(9), the program shall take the following actions:

a. The program shall act to verify credible information within 48 hours of receipt. "Verify," for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

b. If the information is verified, the program shall follow the requirements of paragraphs 67.19(3) "c" and "d."

67.19(11) *Proof of background checks for temporary employment agencies and contractors.* Proof of background checks may be kept in the files maintained by temporary employment agencies and contractors. Facilities may require temporary employment agencies and contractors to provide a copy of the result of the background checks. Copies of such results shall be made available to the department upon request.

This rule is intended to implement Iowa Code sections 231B.2(1), 231C.3(1), 231D.2(2), and 135C.33 and 2013 Iowa Acts, Senate File 347.

[Filed 8/2/13, effective 9/25/13]

[Published 8/21/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/21/13.

ARC 0981C**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 505.8(19) and 522D.10, the Insurance Division hereby adopts new Chapter 85, "Regulation of Navigators," Iowa Administrative Code.

Chapter 85 is needed to provide additional guidance to navigators as required by Iowa Code chapter 522D. Navigators are individuals or entities that are regulated by the Iowa Insurance Division and that will provide assistance to Iowa consumers in all areas required by the federal Patient Protection and Affordable Care Act and related regulations. The purpose of Chapter 85 is to provide the licensing, training, application, and other minimum practice standards for entities and individuals acting as navigators. The adopted rules shall become effective September 25, 2013. Compliance with the adopted rules will also begin on September 25, 2013, in order to allow enforcement of the rules before navigators begin their required enrollment duties on October 1, 2013.

These rules were published under Notice of Intended Action in the June 26, 2013, Iowa Administrative Bulletin as **ARC 0816C**.

The Insurance Division held a public hearing following publication of the Notice of Intended Action. The hearing was held on July 19, 2013, at 10 a.m. The vast majority of comments, both verbal and written, regarded the elimination of the reference to non-navigators. All references to non-navigators have been eliminated from the rules. Due to concerns regarding access to free training from the U.S. Department of Health and Human Services, a waiver provision has been added regarding initial training hours. The Division has made no other changes to the rules.

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

These rules are intended to implement Iowa Code section 505.8(19) and chapter 522D.

These rules will become effective September 25, 2013.

The following amendment is adopted.

Adopt the following **new** 191—Chapter 85:

CHAPTER 85
REGULATION OF NAVIGATORS

191—85.1(505,522D) Purpose and authority.

85.1(1) The purpose of these rules is to set out the requirements, procedures and fees relating to the qualification, licensure, training, continuing education and regulation of navigators.

85.1(2) These rules are established based upon the authority provided in Iowa Code sections 505.8(19) and 522D.10.

191—85.2(505,522D) Definitions. As used in this chapter:

"ACA" means, collectively, the Patient Protection and Affordable Care Act (Pub. L. 111-148) and Health Care and Education Reconciliation Act (Pub. L. 111-152).

"Applicant" means an individual or entity applying or intending to apply for a navigator license.

"Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

"Commissioner" means the Iowa commissioner of insurance.

"Credit" means continuing education credit. One credit is 50 minutes of instruction or reading material in an acceptable topic.

"Division" means the Iowa insurance division.

"Health insurance" means insurance that is primarily for the diagnosis, cure, mitigation, treatment, or prevention of disease or amounts paid for the purpose of affecting any structure of the body, including transportation that is essential to obtaining medical care, but excluding:

1. Coverage only for accident or disability income insurance, or any combination thereof;

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2. Coverage issued as a supplement to liability insurance;
3. Liability insurance, including general liability insurance and automobile liability insurance;
4. Workers' compensation or similar insurance;
5. Automobile medical payment insurance;
6. Credit-only insurance;
7. Coverage for on-site medical clinics;
8. Coverage only for limited-scope vision benefits;
9. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;
10. Coverage for specified disease or critical illness;
11. Hospital indemnity or other fixed indemnity insurance;
12. Medicare supplement policies;
13. Medicare, Medicaid, or the Federal Employee Health Benefit Program, 5 U.S.C. §§ 8901 - 8914, as it existed on January 1, 2013;
14. Coverage only for medical and surgical outpatient benefits;
15. Excess or stop-loss insurance; and
16. Other similar insurance coverage under which benefits for health insurance are secondary or incidental to other insurance benefits.

"Individual" means a private or natural person, as distinguished from a partnership, corporation or association.

"License" means the authorization by the commissioner for a person to act as a navigator in the state of Iowa.

"Marketplace" means any health benefit exchange authorized under the ACA and established or operating in this state, including any exchange established or operated by the U.S. Department of Health and Human Services.

"Navigator" means the individual or business entity that is granted the title, duties, and responsibilities under 45 CFR § 155.210 of a navigator by the granting or appointing authority. A navigator would engage in the activities and meet the standards described in 45 CFR § 155.210, including:

1. Maintaining expertise in eligibility, enrollment, and program specification;
2. Conducting public education activities to raise awareness about the marketplace;
3. Providing information and services in a fair, accurate, and impartial manner, including information that acknowledges other health programs such as Medicaid and the healthy and well kids in Iowa program;
4. Facilitating selection of a qualified health plan;
5. Providing referrals for consumers with questions, complaints, or grievances to any applicable office of health insurance consumer assistance or health insurance ombudsman established under Section 2793 of the Public Health Service Act, or other appropriate state agency or agencies;
6. Providing information in a culturally and linguistically appropriate manner, including to persons with limited English proficiency; and
7. Ensuring accessibility and usability of navigator tools and functions for persons with disabilities.

"Navigator renewal notice" means a written or electronic communication issued by the division to inform a navigator about license renewal.

"Negotiate" means the act of advising a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract provided that the person engaged in that act either sells insurance or obtains insurance for purchasers. The definition of "negotiate" shall not include:

1. Impartially informing a purchaser or prospective purchaser about substantive benefits, terms or conditions of a contract while facilitating the enrollment in a qualified health plan by providing fair, impartial, and accurate information that assists a purchaser or prospective purchaser with submitting an eligibility application;

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2. Clarifying the distinctions among qualified health plans; and
3. Helping qualified individuals make informed decisions during a health plan selection process.

“*Person*” means an individual or entity.

“*Producer*” means a person required to be licensed in this state to sell, solicit or negotiate insurance.

“*Qualified health plan*” means a health benefit plan that has in effect a certification that the plan meets the criteria for certification described in Section 1311(c) of the ACA.

“*Sell*” means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

“*Solicit*” means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

“*U.S. Department of Health and Human Services*” means the United States Department of Health and Human Services and any of its subsidiaries.

191—85.3(505,522D) Requirement to hold a license. No person may act as a navigator in Iowa until that person has been issued an Iowa navigator license.

85.3(1) To be licensed as a navigator, a person must satisfy the following requirements:

- a. Be at least 18 years of age;
- b. Demonstrate compliance with the initial training and certification requirements set forth in rule 191—85.10(505,522D);
- c. Have not committed any act that is grounds for denial, suspension or revocation under Iowa Code section 522D.7;
- d. Submit a completed uniform application;
- e. Pass an examination on the duties and responsibilities of a navigator and the insurance laws and regulations of Iowa with a score of 70 percent or higher;
- f. Pay the nonrefundable navigator license fee of \$20; and
- g. Pass a background check or security screening.

85.3(2) The division may require any documents reasonably necessary to verify the information or attestations contained in the application or to verify that the applicant has the character and competency required to receive a navigator license. If an applicant does not provide the additional information requested by the division within 45 days of receipt of the request, the application will expire and the license fee will not be returned.

85.3(3) Except for producers licensed in Iowa, a person acting as a navigator without an Iowa navigator license or a person performing the enrollment duties of a navigator without an appointment, certification, or a grant to perform such duties by the U.S. Department of Health and Human Services shall be in violation of this chapter.

a. Upon the determination by the commissioner that a person is in violation of this chapter, the commissioner may issue a summary order directing the person to cease and desist from engaging in the act or practice in violation of this chapter. A person that has been issued a summary order under this rule may contest the order by filing a request for a contested case proceeding and hearing as provided in Iowa Code chapter 17A.

b. The person shall have at least 30 days from the date that the order is issued in order to file the request. The order shall remain effective from the date of issue unless overturned by a presiding officer of the court following a request for a hearing. If a hearing is not timely requested, the summary order becomes final by operation of law.

c. A person violating a summary order issued under this rule shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person is not in compliance with the order. The court may assess a civil penalty against the person and may issue further orders as it deems appropriate.

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191—85.4(505,522D) Issuance of license.

85.4(1) A person that meets the requirements of this chapter and of Iowa Code sections 522D.4 and 522D.5, unless otherwise denied licensure pursuant to Iowa Code section 522D.7, shall be issued a navigator license. A navigator license shall be valid for three years. A navigator license remains in effect unless revoked or suspended as long as all required fees are paid and continuing education requirements are met. A renewal term is three years. If not renewed, a navigator license automatically terminates on the last day of the month of the initial or renewal term.

85.4(2) An individual navigator whose license has expired may seek reinstatement as set forth in rule 191—85.6(505,522D).

85.4(3) The license shall contain the navigator's name and address, the date of issuance, the date of expiration and any other information the division deems necessary.

85.4(4) If the division issues or renews a navigator license and subsequently determines that payment for the license or renewal was returned without payment to the division by a bank, or that the credit card company does not approve or cancels or refuses amounts charged to the credit card, the license shall be immediately suspended until the payments are made and any fees or penalties charged by the division are paid, at which time the license may be reinstated. The individual may request a hearing within 30 days of receipt of notice by the division that the license was suspended.

191—85.5(505,522D) License renewal. A navigator must apply for license renewal within 60 days prior to the expiration date of the license. Failure to apply to renew a license and pay appropriate fees prior to the expiration date of the license will result in expiration of the license.

191—85.6(505,522D) License reinstatement.

85.6(1) A navigator may reinstate an expired license up to 12 months after the license expiration date by proving that during the continuing education term the navigator met the continuing education requirements of this chapter and by paying a reinstatement fee and license renewal fees. A navigator that fails to apply for license reinstatement within 12 months of the license expiration date must apply for a new license.

85.6(2) A navigator that has surrendered a license for a nondisciplinary reason and stated an intent to exit the insurance business may file a request to reactivate the license. The request must be received at the division within 90 days of the date the license was placed on inactive status. The request will be granted if the former navigator is otherwise eligible to receive the license. If the request is not received within 90 days, the navigator must apply for a new license.

191—85.7(505,522D) Reinstatement or reissuance of a license after suspension, revocation or forfeiture in connection with disciplinary matters; and forfeiture in lieu of compliance.

85.7(1) The term "reinstatement" as used in this rule means the reinstatement of a suspended license. The term "reissuance" as used in this rule means the issuance of a new license following either the revocation of a license or the forfeiture of a license in connection with a disciplinary matter. This rule does not apply to the reinstatement of an expired license.

85.7(2) Any navigator whose license has been revoked or suspended by order, or that forfeited a license in connection with a disciplinary matter, may apply to the commissioner for reinstatement or reissuance in accordance with the terms of the order of revocation or suspension or the order accepting the forfeiture.

a. All proceedings for reinstatement or reissuance shall be initiated by the applicant. The applicant shall file with the commissioner an application for reinstatement or reissuance of a license.

b. An application for reinstatement or reissuance shall allege facts which, if established, will be sufficient to enable the commissioner to determine that the basis of revocation, suspension or forfeiture of the applicant's license no longer exists and that it will be in the public interest for the application to be granted. The burden of proof to establish such facts shall be on the applicant.

c. A navigator may request reinstatement of a suspended license prior to the end of the suspension term.

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d. Unless otherwise provided by law, if the order of revocation or suspension did not establish terms upon which reinstatement or reissuance may occur, or if the license was forfeited, an initial application for reinstatement or reissuance may not be made until at least one year has elapsed from the date of the order of the suspension, revocation, or acceptance of the forfeiture of a license.

85.7(3) All proceedings upon the application for reinstatement or reissuance, including matters preliminary and ancillary thereto, shall be held in accordance with Iowa Code chapter 17A. Such application shall be recorded in the original case in which the original license was suspended, revoked, or forfeited, if a case exists.

85.7(4) An order of reinstatement or reissuance shall be based upon a written decision which incorporates findings of fact and conclusions of law. An order granting an application for reinstatement or reissuance may impose such terms and conditions as the commissioner or the commissioner's designee deems desirable. The order shall be a public record, available to the public, and may be disseminated in accordance with Iowa Code chapter 22.

85.7(5) A request for voluntary forfeiture of a license shall be made in writing to the commissioner. Forfeiture of a license is effective upon submission of the request unless a contested case proceeding is pending at the time the request is submitted. If a contested case proceeding is pending at the time of the request, the forfeiture becomes effective when and upon such conditions as required by order of the commissioner. A forfeiture made during the pendency of a contested case proceeding is considered disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

85.7(6) When a navigator's license has been suspended for a period of time which extends beyond the navigator's license expiration date, the license will terminate. The navigator may request reinstatement pursuant to this rule. If suspension for a period of time ends prior to the navigator's license expiration date, the division shall reinstate the license at the end of the suspension period. The commissioner is not prohibited from bringing an additional immediate action if the navigator has engaged in misconduct during the period of suspension.

191—85.8(505,522D) Change in name, address or state of residence.

85.8(1) If a navigator changes the navigator's legal name, the navigator must file written notification with the division within 30 days of the name change. The notification must include the navigator's previous name and new name.

85.8(2) If a navigator changes the navigator's address, the navigator must file written notification with the division within 30 days of the address change. The notification must include the navigator's name, previous address, and new address. A navigator may designate a business address instead of a residential address at the option of the navigator.

85.8(3) If a navigator has provided an e-mail address to the division, the division has the option to send information to the navigator through the e-mail address rather than through the mail.

191—85.9(505,522D) Licensing of a business entity.

85.9(1) A business entity that has been appointed as a navigator shall obtain a navigator license.

85.9(2) Navigator entities shall be exempt from the requirements of training, examination, and continuing education. All individual navigators that are hired, retained, recruited, employed, affiliated, work for or in conjunction, or as a part of a consortium, with a navigator entity shall be subject to all training, examination, and continuing education requirements under this chapter.

85.9(3) Navigator entities shall be liable for the acts of individual navigators that are hired, retained, recruited, employed, affiliated, work for or in conjunction, or as a part of a consortium, with a navigator entity when the individual navigator is performing the duties of or acting as a navigator.

191—85.10(505,522D) Initial training of navigators.

85.10(1) Individual navigators shall complete a minimum of 32 credits of initial training in courses approved by the commissioner. Initial training must include a minimum of 2 credits of Iowa-specific training on Medicaid and healthy and well kids in Iowa program training, as well as a minimum of

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1 credit in the subject of ethics. Navigators shall be responsible for obtaining their own training. An individual navigator may apply for waiver of this requirement should training not be accessible at the level required.

85.10(2) Courses provided by the federal government or approved by the federal government on ACA-related topics will be considered approved by the commissioner.

85.10(3) Individual navigators shall complete all training and certification requirements provided by the U.S. Department of Health and Human Services.

191—85.11(505,522D) Continuing education requirements for navigators.

85.11(1) Prior to each renewal term, individual navigators must complete a minimum of 36 continuing education credits for each continuing education term in courses approved by the commissioner on subjects relevant to navigators, including health insurance, tax credits, tax penalties, Medicaid, the healthy and well kids in Iowa program, health care-related public assistance programs, or other ACA-related topics.

85.11(2) Courses provided by the federal government or approved by the federal government on ACA-related topics will be considered approved by the commissioner.

85.11(3) A navigator shall not carry over continuing education requirements from one term to the next term.

85.11(4) A navigator shall not receive continuing education credit for the same course taken twice in the term of license.

191—85.12(505,522D) Administration of examinations.

85.12(1) The commissioner will enter into a contractual relationship with an outside testing service to provide the licensing examinations for individual navigators.

85.12(2) The outside testing service will administer all examinations for applicants.

85.12(3) The testing service will inform the applicants of procedures and requirements for taking the licensing examination.

85.12(4) The fee for examination shall be determined by the testing service.

85.12(5) A listing of subjects that could potentially be included on the navigator's examination may be provided on the division's Web site at <http://www.iid.state.ia.us/>.

85.12(6) Examination results are valid for 90 days after the date of the test. Failure to apply for licensure within 90 days after the examination is passed shall void the examination results.

191—85.13(505,522D) Fees.

85.13(1) Fees may be paid by check or credit card.

85.13(2) The fee for issuance or renewal of a navigator license is \$20 for three years.

85.13(3) The fee for reinstatement of a navigator license is a total of the renewal fee plus \$100.

85.13(4) The division may charge a reasonable fee for the compilation and production of navigator licensing records.

191—85.14(505,522D) Evidence of financial responsibility.

85.14(1) Prior to the issuance by the division of a license as a navigator and for the duration of the license, including any renewal thereof, a navigator shall secure and maintain evidence of financial responsibility in the form of a surety bond or other alternative financial responsibility instrument that protects individuals and entities against wrongful acts, misrepresentations, errors, omissions, or negligence of the navigator, or other violation of insurance law.

85.14(2) The minimum coverage for financial responsibility shall be \$50,000.

85.14(3) A navigator shall immediately inform the commissioner in writing of any pending termination of a written financial responsibility instrument. The navigator shall secure a new financial responsibility instrument and provide evidence of new financial responsibility to the commissioner prior to the date of termination for the existing financial responsibility instrument. If evidence of a

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new financial responsibility instrument is not provided to the commissioner prior to termination, the navigator's license shall be forfeited.

85.14(4) An individual navigator may meet the financial responsibility requirement if the individual navigator is covered by the financial responsibility instrument issued to a navigator entity with which the individual navigator is affiliated.

85.14(5) A navigator's financial responsibility instrument shall specifically authorize recovery by the commissioner on behalf of any person in Iowa that sustained damages as the result of wrongful acts, misrepresentations, errors, omissions, or negligence of the navigator, or other violation of insurance law in the individual's or entity's capacity as a navigator.

191—85.15(505,522D) Practices.

85.15(1) Navigators shall comply with all federal and state statutes, regulations, and rules affecting insurance and navigators.

85.15(2) Navigators shall comply with any inquiries or requests submitted by the commissioner. Navigators shall respond to requests by the commissioner within the time designated in the request. A navigator that fails to provide the information in the time requested or fails to obtain an approved extension shall be subject to penalties as set forth in Iowa Code section 522D.8.

85.15(3) Navigators shall be subject to examination upon the discretion of the commissioner and at the cost of the navigator.

85.15(4) Navigators shall maintain detailed records of all assistance provided. Consumer assistance records shall be available to the commissioner upon request.

85.15(5) Navigators shall provide duplicate copies of all data and information submitted to the U.S. Department of Health and Human Services to the commissioner upon request.

85.15(6) Unless licensed as a producer, a navigator shall not:

- a. Sell, select, solicit, refer, or negotiate insurance coverage for individuals or entities;
- b. Advise an individual or entity to cancel, to nonrenew, or to select different insurance coverage;
- c. Recommend or endorse a particular health plan; and
- d. Receive compensation from an insurance company for enrollment or have a conflict of interest while serving as a navigator. A navigator that receives compensation from an insurance company for enrollment or enters into a conflicted relationship must forfeit the navigator's license. A navigator that fails to notify the commissioner of a conflicted relationship or receives compensation from an insurer for enrollment while licensed as a navigator shall be subject to penalties as set forth in Iowa Code section 522D.8.

191—85.16(505,522D) Severability. If any provision of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction or by federal law, the invalidity does not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter that are severable and the valid provisions or applications shall remain in full force and effect.

These rules are intended to implement Iowa Code section 505.8(19) and chapter 522D.

[Filed 8/2/13, effective 9/25/13]

[Published 8/21/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/21/13.

ARC 0950C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby amends Chapter 72, "Conveyances Installed On or After January 1, 1975," Iowa Administrative Code.

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In 2002, the American Society of Mechanical Engineers removed from the Safety Code for Elevators and Escalators a long-standing requirement that automatic passenger elevators be equipped with an alarm bell. In the past year, a very small number of elevators have been installed without an alarm bell. The new rule requires an alarm bell for all automatic passenger elevators installed since 1975. The Elevator Safety Board has determined that an alarm bell is an important, cost-effective safety feature, especially in the event the telephone on the elevator car does not work.

Notice of Intended Action was published in the May 29, 2013, Iowa Administrative Bulletin as **ARC 0753C**. No public comment was received on the proposed amendment. This amendment is identical to that published under Notice of Intended Action.

The purposes of this amendment are to protect the health and safety of the public and implement legislative intent.

No variance procedures are included in this rule. Applicable variance procedures are set forth in 875—Chapter 66.

After analysis and review of this rule making, no impact on jobs will occur.

This amendment is intended to implement Iowa Code chapter 89A.

This amendment shall become effective on September 25, 2013.

The following amendment is adopted.

Adopt the following **new** rule 875—72.25(89A):

875—72.25(89A) Alarm bell. An automatic passenger elevator shall be provided with an alarm bell that is activated by a switch marked “ALARM” located in or adjacent to the car operating panel. The alarm bell shall be audible inside the car and outside the hoistway.

[Filed 7/30/13, effective 9/25/13]

[Published 8/21/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/21/13.

ARC 0962C

LAW ENFORCEMENT ACADEMY[501]

Adopted and Filed

Pursuant to the authority of Iowa Code section 80B.11(1)“c”(3), the Iowa Law Enforcement Academy amends Chapter 8, “Mandatory In-Service Training Requirements,” and Chapter 10, “Reserve Peace Officers,” Iowa Administrative Code.

The rules in Chapters 8 and 10 describe the requirements for mandatory in-service training for certified officers and reserve officers. These new subrules comply with 2012 Iowa Acts, Senate File 2312, which amended Iowa Code section 80B.11(1)“c”(3) to set forth additional requirements for mandatory mental health training. Chapters 8 and 10 are amended to update the description of the firearms training requirements to more accurately describe the current training program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 12, 2013, as **ARC 0782C**. No public comment was received. These amendments are identical to those published under Notice.

These amendments were adopted by the Iowa Law Enforcement Academy Council on August 1, 2013.

After review, the fiscal impact of the amendments cannot be anticipated. The addition of subrules 8.1(4) and 10.206(4) will require the additional expenditures of funds by the agencies affected, but the exact cost cannot be calculated at this time. It is expected that some affected agencies will conduct the mandatory mental health training through an in-house training program, while others will contract with an outside agency for the training. The cost of the individual trainings as well as travel expenses will vary from agency to agency so an accurate estimate is not possible at this time. The amendments to subrules 8.1(1), 10.1(2) and 10.206(1) and rule 501—10.5(80D) should have no fiscal impact as

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these amendments merely memorialize the already-existing firearms training required by the Iowa Law Enforcement Academy.

After review of this rule making, no adverse impact on jobs is anticipated.

These amendments are intended to implement Iowa Code section 80B.11(1).

These amendments shall become effective September 25, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 8.1(1) as follows:

8.1(1) Firearms training. A regular law enforcement officer must qualify with all duty ~~handguns~~ firearms annually on a course of fire using targets approved by the Iowa law enforcement academy and must successfully fire a minimum score as established by the Iowa law enforcement academy. This ~~rule~~ subrule applies to only those law enforcement officers who are authorized to carry ~~handguns~~ firearms by ~~their~~ the officers' employing agency.

ITEM 2. Adopt the following new subrule 8.1(4):

8.1(4) Mental health training. In addition to the requirements of subrules 8.1(1), 8.1(2) and 8.1(3), a regular law enforcement officer must receive mental health in-service training from a course of study approved by the Iowa law enforcement academy.

a. Initial in-service training. Effective September 25, 2013, each regular law enforcement officer shall complete within one year a minimum of 4 hours of mental health training from a course of study approved by the Iowa law enforcement academy council. Successful completion of Mental Health First Aid or Crisis Intervention (Memphis Model or similar model) training after January 1, 2011, shall satisfy the initial requirement.

b. Annual in-service training. Effective September 25, 2013, each regular law enforcement officer shall complete a minimum of 1 hour per year, or 4 hours every four years, of mental health training from a course of study approved by the Iowa law enforcement academy council. This annual in-service training is separate from and in addition to any other in-service training requirements set forth in this chapter, including the initial in-service mental health training required in paragraph 8.1(4) "a."

ITEM 3. Amend subrule 10.1(2) as follows:

10.1(2) Individuals who have been certified through training by the Iowa law enforcement academy as regular officers may be certified to carry weapons as reserve officers without repeating the required reserve officer's weapons training under the following conditions:

a. The academy certification through training was acquired through a school in which firearms training was required; and

(1) The individual is serving as a regular officer for another department at the time of appointment as a reserve officer, or

(2) The individual has served as a regular officer within the two years immediately preceding appointment as a reserve officer.

b. Verification must also be provided to the council that the officer has fired a qualifying score of 80 percent or higher on a ~~tactical revolver~~ firearm course using targets approved by the academy within the past 12 months. This verification must be provided by an academy-trained and -certified firearms instructor.

ITEM 4. Amend rule 501—10.5(80D) as follows:

501—10.5(80D) Annual qualification. All reserve peace officers who are certified to carry firearms must qualify with all duty ~~handguns~~ firearms annually on a course of fire using targets approved by the Iowa law enforcement academy under the supervision of an academy-certified firearms instructor and must successfully fire a minimum score as established by the academy.

ITEM 5. Amend subrule 10.206(1) as follows:

10.206(1) Firearms training. A certified reserve peace officer who is authorized to carry firearms must qualify with all duty ~~handguns~~ firearms annually on a course of fire using targets approved by the Iowa law enforcement academy and must successfully fire a minimum score as established by the Iowa

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law enforcement academy. This subrule applies only to those reserve peace officers who are authorized to carry firearms by ~~their~~ the officers' appointing agency.

ITEM 6. Adopt the following **new** subrule 10.206(4):

10.206(4) Mental health training. In addition to the requirements of subrules 10.206(1) and 10.206(2), a certified reserve peace officer must receive mental health in-service training from a course of study approved by the Iowa law enforcement academy.

a. Initial in-service training. Effective September 25, 2013, each certified reserve peace officer shall complete within one year a minimum of 4 hours of mental health training from a course of study approved by the Iowa law enforcement academy council. Successful completion of Mental Health First Aid or Crisis Intervention (Memphis Model or similar model) training after January 1, 2011, shall satisfy the initial requirement.

b. Annual in-service training. Effective September 25, 2013, each certified reserve peace officer shall complete a minimum of 1 hour per year, or 4 hours every four years, of mental health training from a course of study approved by the Iowa law enforcement academy council. This annual in-service training is separate from and in addition to any other in-service training requirements set forth in this chapter, including the initial in-service mental health training required in paragraph 10.206(4) "a."

[Filed 8/2/13, effective 9/25/13]

[Published 8/21/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/21/13.

AGENCY	RULE	DELAY
Iowa Finance Authority[265]	27.3(2) [IAB 7/10/13, ARC 0827C]	Effective date of August 14, 2013, delayed 70 days by the Administrative Rules Review Committee at its meeting held August 6, 2013. [Pursuant to §17A.4(7)]