



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXV
August 22, 2012

NUMBER 4
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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 2012

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Wednesday, August 29, 2012	September 19, 2012
7	Friday, September 14, 2012	October 3, 2012
8	Friday, September 28, 2012	October 17, 2012

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 11, 2012, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ACCOUNTANCY EXAMINING BOARD[193A]

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

Practice privilege for out-of-state CPAs and CPA firms, 6.1(3), 7.1, 13.6(2), 20.5, 21.3(2),
21.5 Notice **ARC 0254C** 8/8/12

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Chronic wasting disease—age of slaughtered Cervidae subject to testing, 64.106(1) Notice **ARC 0263C**..... 8/8/12

ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]"umbrella"

Updates—organization and operation, uniform rules, amendments to chs 1 to 3, 19 Filed **ARC 0273C**..... 8/8/12
Dramshop policy requirements, 5.8, 12.2(12) Filed **ARC 0274C**..... 8/8/12

CAPITAL INVESTMENT BOARD, IOWA[123]

Verification of tax credits for investment in fund of funds, 4.2, 4.5 Filed **ARC 0290C** 8/22/12

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

Skilled workforce shortage tuition grant program, ch 23 Notice **ARC 0248C**..... 8/8/12
Iowa grant program, 27.1 Notice **ARC 0249C**..... 8/8/12
Governor Terry E. Branstad Iowa state fair scholarship program, 36.1(4)
Filed Emergency After Notice **ARC 0246C** 8/8/12

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure; online filing system; fees, amendments to chs 10 to 15, 20, 22, 25, 29, 51 Filed **ARC 0265C**..... 8/8/12

ECONOMIC DEVELOPMENT AUTHORITY[261]

Organization, 1.1 to 1.5 Notice **ARC 0279C**..... 8/22/12
Regional sports authority districts, ch 38 Notice **ARC 0280C** 8/22/12
High quality jobs program; application review; wage and benefit requirements; contracting
procedures, amendments to chs 68, 74, 75, 165, 171, 172 to 175, 187 to 189 Notice **ARC 0293C**..... 8/22/12

EDUCATION DEPARTMENT[281]

High school credit based on demonstration of competency, 12.5(15) Notice **ARC 0297C**..... 8/22/12
Use of online learning and telecommunications for instruction by schools, ch 15 Notice **ARC 0302C**..... 8/22/12
Senior year plus program career and technical coursework—proficiency requirements, 22.2
Notice **ARC 0298C** 8/22/12
Pretesting of candidates for admission to teacher preparation programs, 79.13(2)"c," 79.15
Notice **ARC 0299C** 8/22/12
Teacher and administrator quality programs—frequency of performance reviews, 83.5(3)"c,"
83.11 Notice **ARC 0300C** 8/22/12
Financial incentives for national board certification, 84.1, 84.3(1), 84.4(1) Notice **ARC 0301C** 8/22/12

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Unethical or illegal conduct, 8.2(6)"a" Notice **ARC 0264C** 8/8/12

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Air quality—fine particulate matter, 33.3 Filed **ARC 0260C** 8/8/12
Wastewater construction and operation permits—disadvantaged community status, 64.3,
64.5(1)"a"(2), 64.7 Notice **ARC 0270C** 8/8/12
Discharge of storm water—reauthorization of General Permit Nos. 1, 2 and 3, 64.15 Filed **ARC 0261C**..... 8/8/12

HISTORICAL DIVISION[223]

CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

Historic preservation program administration, 35.2 Filed **ARC 0267C**..... 8/8/12
Review and compliance program, 42.1 to 42.7 Filed **ARC 0268C**..... 8/8/12

HUMAN SERVICES DEPARTMENT[441]

Forms to obtain client information for public assistance programs, 9.7(1)“b” <u>Notice</u> ARC 0255C	8/8/12
Medicaid reimbursement of pharmacy dispensing fees; licensure of out-of-state retail pharmacies, 77.2, 79.1 <u>Notice</u> ARC 0259C	8/8/12
Child care centers and child development homes—exemption from reevaluation of employees’ record checks, 109.6(6)“g,” 110.7(3) <u>Notice</u> ARC 0258C	8/8/12
Basic rate of maintenance for foster family care, 156.6 <u>Notice</u> ARC 0241C , also <u>Filed Emergency</u> ARC 0240C	8/8/12
Supervised apartment living; eligibility for independent living program, 202.9, 202.11(7)“a” <u>Notice</u> ARC 0257C	8/8/12

INTERIOR DESIGN EXAMINING BOARD[193G]

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

Late fee for renewal of certificate of registration, 8.1 <u>Filed</u> ARC 0252C	8/8/12
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IOWA FINANCE AUTHORITY[265]

Low-income housing tax credit program—2013 qualified allocation plan, 12.1, 12.2 <u>Notice</u> ARC 0284C	8/22/12
Posting of solicitations for formal bids and requests for proposals, 15.4 <u>Notice</u> ARC 0287C	8/22/12
Water pollution control and drinking water state revolving funds—annual loan servicing fee, 26.5(2)“c” <u>Notice</u> ARC 0244C , also <u>Filed Emergency</u> ARC 0245C	8/8/12
HOME partnership program, amendments to ch 39 <u>Notice</u> ARC 0296C	8/22/12

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

OSHA regulations—adoption by reference, 10.20, 26.1 <u>Filed</u> ARC 0282C	8/22/12
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PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Outpatient medication orders—schedule II controlled substance, 7.11(2)“c” <u>Filed</u> ARC 0243C	8/8/12
Pharmacy pilot or demonstration research projects, 8.40 <u>Notice</u> ARC 0256C	8/8/12
Prescription monitoring program—reporting, definition of “dispenser,” 24.3(3), 37.2, 37.3 <u>Filed</u> ARC 0242C	8/8/12

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Massage therapists—licensure, education curriculum, 131.3(1), 132.2(6), 132.4(4) <u>Notice</u> ARC 0288C	8/22/12
Supervision of physician assistants, 326.8 <u>Notice</u> ARC 0283C	8/22/12

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

Fees of neutrals, 1.8 <u>Notice</u> ARC 0262C	8/8/12
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REVENUE DEPARTMENT[701]

Practice and procedure before the department, adopt ch 7; amend chs 6, 8, 11, 12, 38, 40, 42, 43, 51, 52, 54, 57, 59, 67, 68, 70, 81, 84 to 86, 89, 103, 104 <u>Filed</u> ARC 0251C	8/8/12
Administration; individual income, corporation income, franchise, and fiduciary income taxes, amendments to chs 8, 40, 42, 52, 53, 58, 89 <u>Notice</u> ARC 0292C	8/22/12
Geothermal heat pump and solar energy system tax credits, 42.47, 42.48, 52.44 <u>Notice</u> ARC 0253C	8/8/12
Excise tax rates on motor fuel, 68.2(2) <u>Notice</u> ARC 0285C	8/22/12
Classification of real estate—housing development property, assessment of platted lots, 71.1 <u>Notice</u> ARC 0286C	8/22/12
Certain inputs used in taxable vehicle wash and wax services, 225.7 <u>Notice</u> ARC 0294C	8/22/12
Taxability of sales of candy, 231.4 <u>Filed</u> ARC 0281C	8/22/12
Sanctioned baseball and softball tournament facility and movie site, 235.2 <u>Notice</u> ARC 0295C	8/22/12

SECRETARY OF STATE[721]

Absentee ballot receipt deadline; canvass date adjustment, 21.12, 21.13 <u>Filed</u> ARC 0266C	8/8/12
Elections—complaints concerning violations of Iowa Code chapters 39 to 53; noncitizen registered voter identification and removal process, 21.100, 28.5 <u>Notice</u> ARC 0271C , also <u>Filed Emergency</u> ARC 0272C	8/8/12
Unisyn OpenElect voting system, 22.42, 22.260, 22.264, 22.265 <u>Notice</u> ARC 0239C , also <u>Filed Emergency</u> ARC 0238C	8/8/12

SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]“umbrella”

Incentive provisions for soil erosion control—construction of conservation practices in calendar year 2012, 10.60, 10.82(1)“d” Notice **ARC 0303C** 8/22/12

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

Iowa communications network—organizational structure, certified user, notices and minutes of meetings, 1.5, 9.1, 15.3(3) Notice **ARC 0269C** 8/8/12

TRANSPORTATION DEPARTMENT[761]

License suspension for a serious violation—passing a stopped school bus, 615.17 Filed **ARC 0250C** 8/8/12

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”

Recovering certain energy-related costs through an automatic adjustment clause, 20.1(3), 20.9(2)“b,” 20.13(1), 20.17(1) Notice **ARC 0237C** 8/8/12

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

Iowa youth mentoring program certification, amendments to ch 8 Notice **ARC 0291C** 8/22/12

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 Merlin Bartz
2081 410th Street
Grafton, Iowa 50440

Representative David Heaton
510 East Washington Street
Mt. Pleasant, Iowa 52641

Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601

Representative Jo Oldson
4004 Grand Avenue, #302
Des Moines, Iowa 50312

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

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

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

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

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

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

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

ACCOUNTANCY EXAMINING BOARD[193A]

Practice privilege for out-of-state CPAs and CPA firms, 6.1(3), 7.1, 13.6(2), 20.5, 21.3(2), 21.5 IAB 8/8/12 ARC 0254C	Professional Licensing Conference Room Second Floor 1920 SE Hulsizer Rd. Ankeny, Iowa	August 28, 2012 9 a.m.
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BLIND, DEPARTMENT FOR THE[111]

Organization and procedures; personnel; library services; vocational and independent living rehabilitation services, amendments to chs 1 to 3, 6, 8 to 11, 13 IAB 6/27/12 ARC 0181C	Director's Conference Room, First Floor Department for the Blind 524 4th St. Des Moines, Iowa	September 15, 2012 10 a.m.
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EDUCATION DEPARTMENT[281]

High school credit based on demonstration of competency, 12.5(15) IAB 8/22/12 ARC 0297C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 11, 2012 10 to 11 a.m.
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Use of online learning and telecommunications for instruction by schools, ch 15 IAB 8/22/12 ARC 0302C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 11, 2012 9 to 10 a.m.
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Senior year plus program career and technical coursework—proficiency requirements, 22.2 IAB 8/22/12 ARC 0298C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 11, 2012 11 a.m. to 12 noon
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Pretesting of candidates for admission to teacher preparation programs, 79.13(2)“c,” 79.15 IAB 8/22/12 ARC 0299C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 11, 2012 2 to 3 p.m.
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Teacher and administrator quality programs—frequency of performance reviews, 83.5(3)“c,” 83.11 IAB 8/22/12 ARC 0300C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 11, 2012 1 to 2 p.m.
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Financial incentives for national board certification, 84.1, 84.3(1), 84.4(1) IAB 8/22/12 ARC 0301C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 11, 2012 3 to 4 p.m.
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ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Unethical or illegal conduct, 8.2(6)“a” IAB 8/8/12 ARC 0264C	Professional Licensing Bureau Offices 1920 SE Hulsizer Rd. Ankeny, Iowa	August 30, 2012 9 to 11 a.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Wastewater construction and operation permits—disadvantaged community status, 64.3, 64.5(1), 64.7 IAB 8/8/12 ARC 0270C	DNR Field Office 4 1401 Sunnyside Ln. Atlantic, Iowa	August 29, 2012 4 to 6 p.m.
	Public Library 609 Cayuga St. Storm Lake, Iowa	August 30, 2012 4 to 6 p.m.
	Conference Rooms 4 East/West Wallace State Office Bldg. Des Moines, Iowa	September 5, 2012 10 a.m. to 12 noon
	Public Library 805 1st St. East Independence, Iowa	September 6, 2012 4 to 6 p.m.
	Public Library 104 West Adams St. Fairfield, Iowa	September 11, 2012 4 to 6 p.m.

IOWA FINANCE AUTHORITY[265]

Low-income housing tax credit program—2013 qualified allocation plan, 12.1, 12.2 IAB 8/22/12 ARC 0284C	Authority Offices 2015 Grand Ave. Des Moines, Iowa	September 11, 2012 9 to 11 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Massage therapists—licensure, education curriculum, 131.3(1), 132.2(6), 132.4(4) IAB 8/22/12 ARC 0288C	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	September 12, 2012 9:30 to 10 a.m.
Supervision of physician assistants, 326.8 IAB 8/22/12 ARC 0283C	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	September 12, 2012 9 to 9:30 a.m.

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

Iowa communications network—organizational structure, certified user, notices and minutes of meetings, 1.5, 9.1, 15.3(3) IAB 8/8/12 ARC 0269C	ICN Thompson Conference Room Grimes State Office Bldg. Des Moines, Iowa	August 29, 2012 11 a.m.
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UTILITIES DIVISION[199]

Recovering certain energy-related costs through an automatic adjustment clause, 20.1(3), 20.9(2), 20.13(1), 20.17
IAB 8/8/12 **ARC 0237C**

Hearing Room
1375 East Court Ave.
Des Moines, Iowa

September 25, 2012
10 a.m.

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

Iowa youth mentoring program certification, amendments to ch 8
IAB 8/22/12 **ARC 0291C**

Iowa Tourism Conference Room
200 E. Grand Ave.
Des Moines, Iowa

September 13, 2012
1 to 2 p.m.

The following list will be updated as changes occur.

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

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

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

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ARC 0279C

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 2011 Iowa Code Supplement section 15.106A(1)“m,” the Economic Development Authority hereby gives Notice of Intended Action to amend Chapter 1, “Organization,” Iowa Administrative Code.

The amendments herein describe the manner in which the Authority will structure and govern itself so that it may efficiently carry out its duties and pursue its mission. The amendments to Chapter 1 reflect the organizational changes directed by the Legislature in 2011 Iowa Acts, chapter 118. The amendments include changes to the mission of the Agency, the composition and meetings of the Board, and the structure of the Agency.

The Economic Development Authority Board approved these amendments on July 20, 2012, at the Board’s monthly meeting.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on September 11, 2012. Interested persons may submit written comments to Timothy Whipple, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3124; e-mail tim.whipple@iowa.gov.

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

These amendments are intended to implement 2011 Iowa Acts, chapter 118, and Iowa Code chapter 15.

The following amendments are proposed.

ITEM 1. Amend rule 261—1.1(15) as follows:

261—1.1(15) ~~Mission History and mission.~~ The Iowa department of economic development was established in 1986 pursuant to Iowa Code chapter 15. The authority delegated to the department had previously been delegated to the Iowa development commission and the office for planning and programming. In 2011, the general assembly reorganized the delivery of economic development services to the state of Iowa by creating a formal collaboration between the public and private sectors. As part of this reorganization, the department was eliminated and the economic development authority was created as the successor entity to the department. All existing duties, responsibilities, and obligations of the former department are assumed by the authority.

~~The mission of the Iowa department of economic development authority is to continually improve the economic well-being of all Iowans foster the economic vitality of the state by working in focused partnerships with businesses, entrepreneurs, communities and educational entities. The department’s authority’s primary responsibilities are in the areas of finance, marketing, local government and service coordination, exporting, tourism, job training and entrepreneurial assistance, and small business.~~

ITEM 2. Amend rule 261—1.2(15) as follows:

261—1.2(15) Definitions. As used in these rules, unless the context otherwise requires:

“Authority” means the economic development authority created in 2011 Iowa Code Supplement section 15.105.

“Authority’s website” means the information and related content found at <http://www.iowaeconomicdevelopment.com/> and may include content at affiliated sites whose content is integrated with that site, including <http://www.traveliowa.com/>.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

“Board” or “~~IDED~~ board” means the Iowa members of the economic development board created by Iowa Code chapter 15 authority appointed by the governor and in whom the powers of the authority are vested pursuant to 2011 Iowa Code Supplement section 15.105.

“Committee” means a committee established by the board and includes any standing committees established by rule or ad hoc committees created as necessary.

“Corporation” or “IIC” means the Iowa innovation corporation created pursuant to 2011 Iowa Code Supplement section 15.107.

“Department” or “~~IDED~~” means the Iowa department of economic development authorized by Iowa Code chapter 15.

“Director” means the director of the Iowa department of economic development authority or the director’s designee.

ITEM 3. Rescind rule 261—1.3(15) and adopt the following **new** rule in lieu thereof:

261—1.3(15) Economic development authority board.

1.3(1) Composition.

a. The authority’s powers are vested in a board composed of 11 voting members appointed by the governor. These 11 members include 2 members from each of the four United States congressional districts in the state and 3 members selected at large. In addition, the appointed members represent certain industry sectors and have certain business expertise as described in 2011 Iowa Code Supplement section 15.105(1)“a”(2).

b. The board also includes 4 ex officio, nonvoting legislative members and 3 ex officio, nonvoting members from institutions of higher education in the state as described in 2011 Iowa Code Supplement section 15.105(1)“b” and “c.”

1.3(2) Terms. Members of the board are appointed for staggered terms of four years beginning and ending as provided in Iowa Code section 69.19. A person appointed to fill a vacancy serves only for the unexpired portion of the term. A member is eligible for reappointment. A member of the board may be removed from office by the governor for misfeasance, malfeasance, or willful neglect of duty or other just cause, after notice and hearing, unless the notice and hearing is expressly waived in writing. Members of the board cannot serve as directors of the corporation.

1.3(3) Quorum and voting requirements. Seven or more voting members of the board constitute a quorum. The affirmative vote of a majority of the quorum is necessary for any action taken by the authority’s board members.

1.3(4) Board officers. Members of the board elect a chairperson and vice chairperson annually and may elect other officers as and when the members of the board determine. The director, with the assistance of authority staff, serves as secretary to the authority.

1.3(5) Meetings.

a. Meetings of the authority are held at the call of the chairperson or when two members of the board request a meeting. The board generally meets monthly at the authority’s offices located at 200 East Grand Avenue in Des Moines, Iowa. By notice of the regularly published meeting agendas, the board and its committees may hold regular or special meetings at other locations within the state. Meeting agendas are available on the authority’s website.

b. Meetings of the board and any committee it may establish are conducted in accordance with the provisions of Iowa Code chapter 21. Any person may attend and observe the proceedings of the board and committee meetings except for those portions of the meetings conducted in closed session pursuant to Iowa Code section 21.5. Persons observing may use cameras or recording devices during the meeting so long as the use of such devices does not interfere with the proceedings. The chairperson may order any person to discontinue the use of such a device if the chairperson believes it is causing an interference with the proceedings. The chairperson may have any person excluded who fails to comply with such an order. The chairperson may also exclude any person generally causing a disruption of the proceedings.

1.3(6) Functions. The board will perform any duty required of it by law and may perform any other function authorized under the authority’s general powers under 2011 Iowa Code Supplement chapter 15.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

1.3(7) Committees.

a. A due diligence committee is established to assist the board in making awards of incentives and assistance under the authority's programs.

(1) The due diligence committee is an advisory body comprised of voting members of the board who are selected annually by the voting members of the board. The membership and size of the committee as well as the terms of committee members will be established annually by the board.

(2) The members of the due diligence committee will elect a member to serve as chairperson. The chairperson may appoint members of the due diligence committee to serve on a due diligence subcommittee if necessary. Such a subcommittee is advisory only and may perform such duties as may be assigned by the chairperson and members of the due diligence committee.

(3) The duties of the due diligence committee may include reviewing applications for financial assistance, conducting a thorough review of proposed projects, making recommendations to the board regarding the size and conditions of awards, and any other duty assigned by the board in relation to the programs administered by the authority.

(4) A majority of committee members constitutes a quorum. Nonvoting, ex officio members of the board may be appointed by the chairperson of the due diligence committee to serve on the due diligence committee as nonvoting, ex officio members.

b. A technology commercialization committee is established to assist the board in making awards of incentives and assistance under those programs that relate to innovation, commercialization, and early-stage industries including those programs that focus on information technology, advanced manufacturing, and biosciences.

(1) The technology commercialization committee is an advisory body comprised of persons selected annually by the voting members of the board. The membership and size of the committee as well as the terms of committee members will be established annually by the board. At least one member of the board shall serve on the technology commercialization committee.

(2) The members of the technology commercialization committee will elect a member to serve as chairperson. The chairperson may appoint members of the technology commercialization committee to serve on a technology commercialization subcommittee if necessary. Such a subcommittee is advisory only and may perform such duties as may be assigned by the chairperson and members of the technology commercialization committee.

(3) The duties of the technology commercialization committee may include reviewing applications for financial assistance, conducting a thorough review of proposed projects, making recommendations to the board regarding the size and conditions of awards, and any other duty assigned by the board in relation to the programs administered by the authority to the extent such programs relate to the areas and industry sectors described in this paragraph.

(4) An organization designated by the authority, composed of members from both the public and private sectors and composed of subunits or subcommittees in the areas of already identified bioscience platforms, education and workforce development, commercialization, communication, policy and governance, and finance, will provide funding recommendations to the technology commercialization committee.

(5) A majority of committee members constitutes a quorum. Nonvoting, ex officio members of the board may be appointed by the chairperson of the technology commercialization committee to serve on the technology commercialization committee as nonvoting, ex officio members.

c. A finance committee is established to assist the board in the financial management of the authority and its programs.

(1) The finance committee is an advisory body comprised of voting members of the board who are selected annually by the voting members of the board. The membership and size of the committee as well as the terms of committee members will be established annually by the board.

(2) The members of the finance committee will elect a member to serve as chairperson. The duties of the finance committee may include meeting periodically with authority staff to review the authority's regularly maintained financial records and other financial information as may be requested by the board.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

(3) The finance committee may make recommendations to the board, and members of the finance committee may also attend audit entrance and exit interviews conducted by the auditor of state with authority staff.

d. The director may appoint ad hoc committees to serve in an advisory capacity to the authority whenever the director deems them necessary to accomplish the work of the authority. The size of such committees and the terms of committee members will be established by the director. Such committees may be dissolved as deemed appropriate by the director, and other committees may from time to time be established for specific purposes.

ITEM 4. Amend rule 261—1.4(15) as follows:

261—1.4(15) Department Authority structure.

1.4(1) General. ~~The department's authority's~~ organizational structure consists of the board, the director, ~~deputy director, and four divisions~~ and such divisions as the director may from time to time create.

1.4(2) Director. ~~The Iowa department of economic development authority~~ is administered by a director who is appointed by the governor, subject to confirmation by the senate, and who serves at the pleasure of the governor and is subject to confirmation by the senate serves for a four-year term beginning and ending as provided in Iowa Code section 69.19. An appointment by the governor to fill a vacancy in the office of the director is for the balance of the unexpired four-year term. The director is the chief administrative officer of the ~~department~~ authority and in that capacity ~~administers~~ oversees the administration of the authority's programs and services ~~of the department in,~~ ensuring their compliance with applicable federal and state laws, rules, and regulations. ~~The duties responsibilities~~ of the director are as ~~authorized~~ described in ~~2011 Iowa Code Supplement section 15.106~~ 15.106C and include preparing a budget subject to board approval, establishing an internal administrative structure and employing personnel, reviewing and submitting legislative proposals to the board legislative proposals, recommending rules to the board and ensuring their progression through the rule-making process, reporting to the board on grants and contracts awarded by the department authority, and other actions reasonably necessary to administer and direct the programs of the department authority.

~~The administrators of the four divisions and the deputy director report to the director.~~

1.4(3) Deputy director Chief designee. ~~The deputy director, appointed by the director, directs and administers the department may designate an employee to administer the authority in the director's absence. Such employee may bear the title of deputy director, chief operating officer, chief of staff, or other similar title as long as the director has executed an instrument clearly delegating the director's authority to that employee.~~

1.4(4) Divisions. ~~The director has established the following may, from time to time, reorganize the authority into administrative divisions within the department in order to most efficiently and effectively carry out the department's authority's responsibilities. This reorganization may include creating new divisions, eliminating existing divisions, or combining divisions as the director deems necessary. Such divisions may include, but are not limited to, the following:~~

- ~~1. a.~~ Administration division;
- ~~2. b.~~ Business development division;
- ~~3. c.~~ Energy division;
- ~~3. d.~~ Community development division; and
- ~~4. e.~~ ~~Innovation and commercialization~~ Small business division.

1.4(5) Attachment for administrative purposes; board support. ~~The Iowa department of economic development provides staff and employees of the authority provide office space and staff support to the city development board pursuant to 2011 Iowa Code Supplement sections 368.9 and 15.108(3) "a"(2). The department authority provides administrative support to the vision Iowa board pursuant to 2011 Iowa Code Supplement section 15F.104 and the renewable fuel infrastructure board pursuant to Iowa Code section 15G.202.~~

1.4(6) Advisory committees. ~~The director may appoint committees to serve in an advisory capacity to the department that are deemed necessary to accomplish the work of the department. The size of the~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~committee and the terms of committee members will be established by the director. These committees may be dissolved as deemed appropriate by the director, and other committees may from time to time be established for specific purposes.~~

ITEM 5. Amend rule 261—1.5(15) as follows:

261—1.5(15) Information. The general public may obtain information about the Iowa department of economic development authority by contacting the Iowa Department of Economic Development, authority at its offices located at 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4700; or through the department's Web site at www.iowalifechanging.com authority's website.

ITEM 6. Amend **261—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapter 15 as amended by 2009 Iowa Acts, Senate File 344, chapter 15G as amended by 2009 Iowa Acts, Senate File 344, and section 17A.3.

ARC 0280C**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 2011 Iowa Code Supplement section 15.106A, the Economic Development Authority hereby gives Notice of Intended Action to rescind Chapter 38, “Regional Sports Authority Districts,” Iowa Administrative Code, and to adopt a new chapter with the same title.

The proposed rules describe the manner in which the Authority will administer the Regional Sports Authority Districts program. The amendment replaces the existing program rules in Chapter 38 with clearer and more thorough rules for the program, including revised and expanded application procedures, revised certification procedures, clarifications to contract requirements, and additional clarifications regarding the reimbursement of expenses.

The rules also describe the manner in which the Authority will implement the requirements of 2012 Iowa Acts, Senate File 2212, section 8, regarding the certification of sports authority districts on a competitive basis, including new provisions for the weighted scoring of applications based on economic impact and other criteria.

The Economic Development Authority Board approved this amendment on July 20, 2012, at the Board's monthly meeting.

Public comments concerning the proposed rules will be accepted until 4:30 p.m. on September 11, 2012. Interested persons may submit written comments to Timothy Whipple, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3124; e-mail tim.whipple@iowa.gov.

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

These rules are intended to implement 2011 Iowa Code Supplement section 15E.321 as amended by 2012 Iowa Acts, Senate File 2212, section 8.

The following amendment is proposed.

Rescind 261—Chapter 38 and adopt the following **new** chapter in lieu thereof:

CHAPTER 38
REGIONAL SPORTS AUTHORITY DISTRICTS

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

261—38.1(15E) Definitions. For purposes of this chapter unless the context otherwise requires:

“*Actively promote*” or “*active promotion*” means to regularly undertake specific identifiable actions that encourage greater participation in an activity or that make an activity more visible and accessible. Active promotion includes the planning, organizing, advertising, marketing, managing, hosting, and sponsoring of a nonprofessional sporting event.

“*Applicant*” means a CVB that has submitted an application to the authority for certification of a proposed district. For purposes of this chapter, “applicant” may include more than one CVB and one or more area communities located within the proposed district.

“*Authority*” means the economic development authority.

“*Board*” means a regional sports authority district governing board consisting of members of the local communities served by an applicant.

“*Convention and visitors bureau*” or “*CVB*” means an organization engaged primarily in the marketing and promotion of a local community or communities to businesses and to leisure travelers interested in the area’s facilities. Such organizations are typically engaged in a wide range of activities including but not limited to assisting businesses and leisure travelers in identifying meeting locations and convention sites; providing maps and other travel information; providing information on local attractions, lodging, and restaurants; and organizing tours of local historical, recreational, and cultural attractions.

“*District*” means a regional sports authority district certified by the authority pursuant to this chapter.

“*Nonprofessional*” means an activity typically engaged in by amateurs and primarily for pleasure rather than for pecuniary benefit or other reasons indicating a professional interest in the activity.

“*Program*” means the regional sports authority district program authorized under 2011 Iowa Code Supplement section 15E.321 and the rules in this chapter.

“*Sporting event*” means an athletic activity requiring skill or physical prowess, usually competitive in nature and governed by a set of rules provided by a nationally recognized sanctioning body or by a local organization engaged in the development and active promotion of the athletic activity. A sporting event typically includes the placing of competitors into a fixed order of finish, depending upon their respective athletic performance within the rules provided for that activity. For purposes of this chapter, “sporting event” includes but is not limited to youth sports, high school athletic activities, the Special Olympics, and other nonprofessional athletic activities.

261—38.2(15E) Program description.

38.2(1) Each fiscal year in which funding is available, the authority will certify up to ten districts. The authority will certify the districts on a competitive basis. Certification will be based on the criteria described in subrule 38.4(1), and the authority will certify districts in a manner designed to prioritize those events that provide the greatest total benefit to the state as a whole.

38.2(2) The authority will award an equal amount of grant funds to each certified district. Funds will be awarded as reimbursement for expenditures that are directly related to the active promotion of one or more nonprofessional sporting events.

38.2(3) A district certified in one fiscal year retains its certification only for the duration of that fiscal year and must reapply for certification in each subsequent fiscal year.

38.2(4) The certification of districts and the awarding of grant funds are contingent upon the appropriation by the general assembly of moneys for such purposes.

261—38.3(15E) Program eligibility and application requirements.

38.3(1) Eligibility. To be eligible under the program, an applicant shall meet all of the following requirements:

a. The applicant shall propose to operate a regional sports authority district that is governed by a board.

b. The board shall consist of seven members named by the applicant, of whom at least one member shall be a city council member of a city located in the proposed district.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

c. The board shall propose, and be responsible for overseeing, a program of activities designed to foster the active promotion of one or more nonprofessional sporting events in the district during the fiscal year for which the applicant is applying for funding.

d. The applicant shall demonstrate an amount of local match equal to at least 50 percent of the amount of grant funds to be received by the applicant under the program. The local match shall be in the form of cash.

e. The applicant shall submit a completed application including all of the information described in subrule 38.3(2).

f. The applicant shall submit the application on or before the application deadline established in subrule 38.3(3).

38.3(2) Application requirements. When submitting an application for grant funds under the program, an applicant shall include all of the following information:

a. The applicant's name, mailing address, e-mail address, telephone number, contact person, and federal employer identification number.

b. A detailed description of the nonprofessional sporting events the applicant intends to actively promote using funds received under the program.

c. The date each proposed nonprofessional sporting event will be held and the location at which the event will be held.

d. Written documentation establishing the amount and source of the required local cash match.

e. Names and contact information of the board and an indication as to which of the board members are city council members as required under this rule.

f. Detailed information and projections sufficient to enable the authority to accurately assess the economic impact of the nonprofessional sporting events described in the application. Such information shall include the estimated number of participants and the estimated number of spectators expected to attend the event. If the applicant has previously held substantially similar events, the information shall include actual attendance figures from past events.

38.3(3) Deadlines. The authority will only consider applications received on or before the applicable deadline. The deadline shall be 4:30 p.m. on September 1 of each fiscal year unless the authority, at its sole discretion, provides a different deadline for the submission of applications. The authority may provide a different deadline for the program as a whole, but the authority will not change the deadline at the request of any individual applicant. The authority will develop an application process and post all relevant application information, including deadline changes, on its Internet site at www.traveliowa.com.

261—38.4(15E) Application scoring and certification of districts.

38.4(1) Scoring criteria. The authority will not review or score an application unless it meets the requirements and deadlines of rule 261—38.3(15E). An application that meets the requirements and deadlines of rule 261—38.3(15E) will be given a numerical score between 0 and 100. The higher an application's numerical score, the more likely it will receive funding under the program. The criteria used to score the applications and the maximum number of points that may be attributed to each criterion are as follows:

a. Economic impact: 30 points. The authority will consider the amount of economic impact represented by the proposed nonprofessional sporting events and will view favorably events that have a greater economic impact. Economic impact will be determined based on the information required under subrule 38.3(2), and the authority will use that information in combination with the average daily spending data from the Iowa tourism office's most recent marketing follow-up survey to calculate the estimated economic impact of the nonprofessional sporting events proposed in the application. Intentionally inflated estimates of attendance or a history of providing inaccurate estimates will negatively affect the scoring of an application and may result in noncertification of a district.

b. Leveraged funds ratio: 20 points. The authority will consider the proportion of state funds to total funds in the application and will view favorably a greater rate of financial participation from entities other than the state of Iowa.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

c. Novelty and quality: 20 points. The authority will consider the novelty and quality of an event and will view favorably nonprofessional sporting events that are new to Iowa or that have been recently improved, enhanced, or enlarged.

d. Event size and scope: 15 points. The authority will consider the size of an event and will view favorably a project with a larger total budget.

e. Need: 10 points. The authority will consider the financial need of an applicant and will recognize the importance of funding events that would not take place without assistance under the program. The authority will also recognize the importance of funding nonprofessional sporting events that have never before been funded under the program or under another state program.

f. Geographic diversity: 5 points. The authority will consider the geographic diversity represented by the pool of applicants.

38.4(2) Certification process. The authority will certify not more than ten districts each fiscal year in which funding is available for the program. The director of the authority will establish a regional sports authority district review committee within the authority consisting of authority staff. The committee will score all completed applications according to the criteria described in subrule 38.4(1). The authority may certify fewer than ten districts in a fiscal year if fewer than ten completed applications are timely received or if fewer than ten completed applications meet the minimum threshold for certification. The minimum threshold for certification is the accumulation of 50 or more points out of 100 total points on the scoring criteria described in subrule 38.4(1). If, after all of the completed applications have been initially scored, fewer than ten districts would be certified, the authority may allow one or more additional rounds of applications to be submitted and scored. For each additional round of applications, the authority will follow the same eligibility requirements and use the same scoring criteria as used in earlier rounds. The authority may accept as many rounds of applications for certification as it deems appropriate. After the conclusion of all application rounds, the authority will award grant funds to each of the certified districts in equal amounts.

38.4(3) Reallocation of award amounts. If a certified district fails to hold a nonprofessional sporting event described in the application, then that district may reallocate the proposed expenses allocated for that event to another event provided such other event is also included on the application. If there are no other events included on the application to which the proposed expenses may be allocated, then the district shall forfeit the amount of proposed expenses and the authority may award that amount to other applicants or districts. The authority may rescore the application of any applicant seeking to reallocate award amounts and, if the failure to hold a nonprofessional sporting event as described in the initially scored application would cause a material change in the application's overall quality in relation to other applicants, the authority may allow an additional round of applications as described in subrule 38.4(2). No applicant may reallocate award amounts, even after a rescoring, without executing a contract amendment as described in rule 261—38.5(15E).

261—38.5(15E) Contract administration.

38.5(1) Notice of approval. The authority will notify successful applicants in writing of approved requests for certification. Such a notification may include the terms or conditions under which approval is granted.

38.5(2) Contract required. Each successful applicant shall enter into a contract with the authority. The contract will describe the nonprofessional sporting events that the applicant will actively promote as part of the certified district and will include the terms and conditions under which the grant funds will be disbursed. The contract will also include the terms and conditions under which grant funds must be repaid or penalties incurred in the event the district does not fulfill all obligations under the contract.

38.5(3) Contract amendments. All requests by a district for an amendment to the contract will require the approval of the director of the authority. The director will review each such request and approve or deny it. If a request is approved, the district and the director will execute a written amendment to the contract. Only a written amendment duly executed by both parties to the contract will be valid and binding.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

38.5(4) Reports required. Each certified district shall submit a written report to the authority within 90 days of the end of the performance period specified in the contract.

38.5(5) Record keeping. Each certified district shall maintain all records necessary for the verification and validation of the proper use of grant funds under the contract and shall submit such records to the authority upon request.

261—38.6(15E) Expenses, records, and reimbursements.

38.6(1) General. Each certified district shall at all times incur expenses and be reimbursed for such expenses by the authority only as described in this chapter or in a contract executed hereunder. The authority may deny reimbursement for any expenditure not directly related to the active promotion of a nonprofessional sporting event.

38.6(2) Eligible expenses. Only expenditures directly related to the active promotion of a nonprofessional sporting event will be reimbursed under the program. Items that will be considered eligible expenses include but are not limited to bid fees, rights fees, sponsorships, payments to vendors, advertising, marketing, venue rental, equipment rental, promotional materials, production costs, and fees and costs for officiants.

38.6(3) Ineligible expenses. Expenses that are not directly related to the active promotion of a nonprofessional sporting event are not eligible for reimbursement. Ineligible expenses include but are not limited to travel costs of applicant staff, solicitation efforts, lobbying fees, meals or dining on occasions other than the dates of the nonprofessional sporting events described in the application, items that are purchased for resale, prizes given to participants, and alcoholic beverages.

38.6(4) Required records and reimbursements. A district shall submit any records requested by the authority as documentation of the expenditures incurred for purposes of the grant funds awarded under the program. Such records may include invoices, original receipts, or check copies. The authority will only accept records submitted in the name of the district that has executed a contract. If a district pays an expense using a credit card, the district shall submit a copy of a check register or bank statement indicating that the credit card invoice was paid. The authority will not reimburse any expenses included on a receipt that includes both eligible expenses and ineligible expenses. The authority will not reimburse expenses included on a nonitemized receipt.

38.6(5) Repayments of certain funds. If the authority reimburses a district for the cost of a refundable bid fee and the applicant is unsuccessful in the effort to win the right to hold that event, then the district shall return the amount of such reimbursement to the authority.

38.6(6) Reallocation of funds. If, at the time of a district's final reporting of expenses, the district cannot adequately document eligible expenses or documents an amount that is less than the awarded amount, the authority may award additional funds to other certified districts, open additional rounds of certification, or revert the moneys to the general fund. If the authority awards additional funds to already certified districts, such districts shall submit documentation establishing how such funds will be expended, and the authority will execute contract amendments providing for the expenditure of the additional funds.

These rules are intended to implement 2011 Iowa Code Supplement section 15E.321 as amended by 2012 Iowa Acts, Senate File 2212, section 8.

ARC 0293C**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 2011 Iowa Code Supplement section 15.106A and 2012 Iowa Acts, House File 2473, section 27, the Economic Development Authority hereby gives Notice of Intended Action to amend Chapter 68, “High Quality Jobs Program (HQJP),” Chapter 74, “Grow Iowa Values Financial Assistance Program,” Chapter 75, “Opportunities and Threats Program,” Chapter 165, “Allocation of Grow Iowa Values Fund,” Chapter 171, “Supplemental Credit or Points,” Chapter 172, “Environmental Law Compliance; Violations of Law,” Chapter 173, “Standard Definitions,” Chapter 174, “Wage, Benefit, and Investment Requirements,” Chapter 175, “Application Review and Approval Procedures,” Chapter 187, “Contracting,” Chapter 188, “Contract Compliance and Job Counting,” and Chapter 189, “Annual Reporting,” Iowa Administrative Code.

The amendments herein do the following: (1) update existing rules to reflect the repeal of the grow Iowa values fund and financial assistance program effective as of June 30, 2012; (2) implement new program features and requirements for the High Quality Jobs Program, including the provision of project completion assistance, made necessary by the enactment of 2012 Iowa Acts, House File 2473; (3) make conforming changes to existing rules regarding standard application review, wage and benefits requirements, and contracting procedures to reflect other changes enacted in 2012 Iowa Acts, House File 2473; (4) make additional clarifications and conforming changes to support the more efficient administration of the Authority’s programs; and (5) update references from the Department of Economic Development to the Economic Development Authority.

The Economic Development Authority Board approved these amendments on July 20, 2012, at the Board’s monthly meeting.

Public comments will be accepted until 4:30 p.m. on September 11, 2012. Interested persons may submit written comments to: Timothy Whipple, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3124; e-mail tim.whipple@iowa.gov.

After analysis and review of this rule making, the Authority finds that a positive impact on jobs will result. The amendments to the Authority’s rules include an expansion of the High Quality Jobs Program that adds loan-based assistance to the program. Adding such assistance to an existing program not only makes the Authority’s operations more efficient, but it allows the Authority to tailor assistance individually to meet the needs of each business applying to the program.

Moreover, the addition of distress criteria allows businesses in Iowa’s high-unemployment counties to access higher levels of program benefits. The amendments to the High Quality Jobs Program rules achieve this by making more jobs eligible for incentives under the program. Because the Authority awards tax incentives on a per-job basis according to the number of jobs that meet the program’s minimum wage thresholds, allowing a business to trigger incentives for wages at the 100 percent threshold instead of the 120 percent threshold results in more incented jobs for a given project and consequently a greater total incentive. A greater total incentive makes it more likely that a business will locate or expand in Iowa.

These amendments are intended to implement 2012 Iowa Acts, House File 2473, Iowa Code chapter 15 as amended by 2011 Iowa Acts, chapter 118, and Iowa Code chapter 15G as amended by 2011 Iowa Acts, chapter 133.

The following amendments are proposed.

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ITEM 1. Amend subrule 68.1(2) as follows:

68.1(2) Definitions. In addition to the standard definitions located in 261—Chapter 173, the following definitions apply to the HQJP:

~~“Act” means Iowa Code sections 15.326 to 15.337 as amended by 2009 Iowa Acts, Senate File 344.~~

~~“Annual base rent” means the business’s annual lease payment minus taxes, insurance and operating or maintenance expenses.~~

~~“Biotechnology-related processes” means the use of cellular and biomolecular processes to solve problems or make products. For purposes of this definition, farming activities shall not be included.~~

~~“Community” means a city, county, or other entity established pursuant to Iowa Code chapter 28E.~~

~~“Contractor or subcontractor” means a person who contracts with the eligible business or subcontracts with a contractor for the provision of property, materials, or services for the construction or equipping of a facility of the eligible business.~~

~~“Eligible business” means a business meeting the conditions of Iowa Code section 15.329 as amended by 2009 Iowa Acts, Senate File 344, section 12 2012 Iowa Acts, House File 2473.~~

~~“High quality jobs” means created or retained jobs that meet the wage requirements established in subrule 68.2(4) and subrules 68.2(7) and 68.2(8) when applicable.~~

~~“Program” means the high quality jobs program created pursuant to 2011 Iowa Code Supplement chapter 15, part 13, as amended by 2012 Iowa Acts, House File 2473, division I.~~

~~“Project” means the activity, or set of activities, proposed in the application by the business which will result in accomplishing the goals of the program and for which the business is requesting tax incentives and assistance. A project shall include the start-up, location, expansion, or modernization of a business.~~

~~“Project completion assistance” means financial assistance or technical assistance provided to an eligible business in order to facilitate the start-up, location, modernization, or expansion of the business in this state and provided in an expedient manner to ensure the successful completion of the start-up, location, modernization, or expansion project.~~

~~“Retail business” means any business engaged in the business of selling tangible personal property or taxable services at retail in this state. Retail business includes a business obligated to collect sales or use tax under Iowa Code chapter 423.~~

~~“Value-added agricultural products” means agricultural products which, through a series of activities or processes, can be sold at a higher price than the original purchase price.~~

ITEM 2. Amend subrule 68.2(2) as follows:

68.2(2) Closures or relocations Relocations and reductions in operations.

a. The business shall not close or substantially reduce operations in one area of this state and relocate substantially the same operations in a community in another area of this state be solely relocating operations from one area of the state while seeking state or local incentives. A project that does not create new jobs or involve a substantial amount of new capital investment shall be presumed to be a relocation. In determining whether a business is solely relocating operations for purposes of this subrule, the authority will consider whether a letter of support for the move has been provided from the affected local community.

b. The business shall not be in the process of reducing operations in one community while simultaneously applying for assistance under the program. For purposes of this subrule, a reduction in operations within 12 months before or after an application for assistance is submitted to the authority will be presumed to be a reduction in operations while simultaneously applying for assistance under the program.

c. This subrule shall will not be construed to prohibit the business from expanding its operations in a community if existing operations of a similar nature in this state are not closed or substantially reduced.

ITEM 3. Amend subrule 68.2(4) as follows:

68.2(4) Created and retained jobs. The business shall create or retain jobs as part of a project.

a. The business shall pay the qualifying wage threshold for HQJP as established in 261—Chapter 174.

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b. If the business is creating jobs, the business shall demonstrate that the jobs will pay at least 100 percent of the qualifying wage threshold at the start of the project completion period, at least ~~130~~ 120 percent of the qualifying wage threshold by the project completion date, and at least ~~130~~ 120 percent of the qualifying wage threshold until the maintenance period completion date.

c. If the business is retaining jobs, the business shall demonstrate that the jobs retained will pay at least ~~130~~ 120 percent of the qualifying wage threshold throughout both the project completion period and the maintenance period.

d. Notwithstanding paragraphs “b” and “c” of this subrule, a business located in an economically distressed area shall demonstrate that the jobs will pay at least 100 percent of the qualifying wage threshold throughout the applicable contract period.

ITEM 4. Strike “department” wherever it appears in subrules **68.2(6)**, **68.2(7)** and **68.2(8)** and insert “authority” in lieu thereof.

ITEM 5. Amend subrule 68.3(1) as follows:

68.3(1) Application. ~~The department~~ authority shall develop a standardized application and make it available to a business applying for tax incentives and assistance. The application procedures are as follows:

a. ~~An application will not be accepted after project initiation. The project shall not be initiated prior to application. The authority will accept applications only for projects proposed to begin after application and board approval.~~

b. ~~A signature from the appropriate community~~ an official authorized to represent the affected local community shall be ~~is~~ required on the application as an indication that the community is aware of and supports the project. For a project with a qualifying investment of \$10 million or more, the ~~community application shall include an ordinance or resolution of the community’s governing body approving the project shall accompany the application.~~

c. Each application will be reviewed by the ~~department~~ authority. The ~~department~~ authority may request additional information from the business that is applying for tax incentives and assistance or may use other resources to obtain the needed information.

d. If the business meets the eligibility requirements, the ~~department staff~~ authority will prepare a report which includes a summary of the project and a recommendation on the amount of tax incentives and assistance to be offered to the business.

ITEM 6. Amend subrule 68.3(4) as follows:

68.3(4) Negotiations. ~~The department reserves the right to enter into negotiations~~ authority may negotiate with the business regarding the amount of tax incentives and assistance the business ~~shall is~~ to receive under the program. All forms of tax incentives and assistance available under the program ~~may be~~ are subject to negotiations. The ~~department~~ authority shall consider all of the following factors ~~with respect to entering into negotiations in negotiating~~ with the business:

a. Level of need. ~~The three general justifiable reasons for assistance are as follows~~ The following factors will determine the authority’s assessment of need:

(1) ~~The~~ Whether the business can raise only a portion of the debt and equity necessary to complete the project. A gap between sources and uses exists and state or federal funds or both are needed to fill the gap ~~The existence of a gap between the financing required and the financing on hand indicates that tax incentives or assistance may be needed to fill the gap.~~

(2) ~~The business can raise sufficient debt and equity to complete the project, but~~ Whether the likely returns of the project are inadequate to motivate a company decision maker to proceed with the project even if sufficient debt or equity can be raised to finance the project. Project ~~The existence of such a condition indicates that the project’s risks may outweigh the its rewards and that tax incentives or assistance may be needed to reduce the project’s risks.~~

(3) ~~The~~ Whether the business is deciding between a site in Iowa (site A “Iowa site”) and a site in another state (site B “out-of-state site”) for its project and the cost of completing the project at the out-of-state site is demonstrably lower. The business argues that the project will cost less at site B and will require a subsidy to equalize costs in order to locate at site A Such a condition indicates that

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tax incentives or assistance may be needed to equalize the cost differential between the two sites. The ~~objective is~~ authority will attempt to quantify the cost differential between ~~site A and site B~~ the sites.

~~(4) Projects that have already been initiated will not be considered for funding~~ Whether the project has already been initiated. Initiation of a project indicates that additional financing is not necessary to complete the project, and the authority will not provide incentives or assistance to a project that has been initiated prior to application.

b. Quality of the jobs. The ~~department~~ authority shall place greater emphasis on projects involving created or retained jobs that:

(1) to (3) No change.

c. Percentage of created jobs defined as high quality jobs. The ~~department~~ authority will consider the number of high quality jobs to be created versus the total number of created jobs in determining what amount of tax incentives and assistance to offer the business.

d. Economic impact. In measuring the economic impact to this state, the ~~department~~ authority shall place greater emphasis on projects which demonstrate the following:

(1) to (5) No change.

ITEM 7. Amend rule 261—68.4(15) as follows:

261—68.4(15) Tax incentives and assistance.

68.4(1) Sales and use tax refund. Pursuant to Iowa Code section 15.331A, the approved business may ~~be entitled to claim~~ a refund of the sales and use taxes paid under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

a. No change.

b. *Racks, shelving, and conveyor equipment.* If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may be entitled to a refund of sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the ~~department~~ authority for a refund. The application must include the refund amount being requested and documentation such as invoices or contracts which substantiate the requested amount. The ~~department~~ authority, in consultation with the department of revenue, will validate the refund amount and instruct the department of revenue to issue the refund.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the ~~department~~ authority to businesses approved for high quality jobs program and enterprise zone program benefits shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business's application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the approved business's application shall be considered in the succeeding fiscal year.

68.4(2) Corporate tax credit for certain sales taxes paid by third-party developer. Pursuant to Iowa Code section 15.331C, the approved business may claim a corporate tax credit up to an amount equal to the sales and use taxes paid by a third-party developer under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An approved business may elect to receive a refund of all or a portion of an unused tax credit.

a. *Filing a claim.* To receive the tax credit, the approved business shall file a claim ~~with the~~ ~~department~~ as follows:

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(1) The third-party developer shall state under oath, on forms provided by the department of revenue, the amount of sales and use taxes paid and submit the forms to the approved business.

(2) The approved business shall, not more than 12 months following project completion, submit the completed forms to the department authority.

(3) In consultation with the department of revenue, the department authority shall issue a tax credit certificate in an amount equal to all or a portion of the sales and use taxes paid by a third-party developer under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business.

(4) The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate issued by the department authority is attached to the approved business's tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue.

b. Racks, shelving, and conveyor equipment. If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may claim a corporate tax credit up to the amount of sales and use taxes paid by a third-party developer and attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department authority for a tax credit. The application must include the tax credit amount being requested and documentation from the third-party developer such as invoices or contracts which substantiate the requested amount. The department authority, in consultation with the department of revenue, will confirm the tax credit amount and issue a tax credit certificate in an amount equal to all or a portion of the sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate issued by the department authority is attached to the approved business's tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An approved business may elect to receive a refund of all or a portion of an unused tax credit.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the department authority to businesses approved for high quality jobs program and enterprise zone program benefits shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business's application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the approved business's application shall be considered in the succeeding fiscal year.

68.4(3) Value-added property tax exemption. Pursuant to Iowa Code section 15.332, the community may exempt from taxation all or a portion of the actual value added by improvements to real property directly related to jobs created or retained by the location or expansion of the approved business and used in the operations of the approved business. The exemption may be allowed for a period not to exceed 20 years beginning the year the improvements are first assessed for taxation. For purposes of this subrule, improvements include new construction and rehabilitation of and additions to existing structures. The exemption shall apply to all taxing districts in which the real property is located. The community shall provide the department authority and the local assessor with a copy of the resolution adopted by its governing body which indicates the estimated value and duration of the authorized exemption.

68.4(4) Investment tax credit.

a. Claiming the investment tax credit. Pursuant to Iowa Code section 15.333, the approved business may claim an investment tax credit equal to a percentage of the new investment directly related to jobs created or retained by the start-up, location, expansion, or modernization of the approved business under the program. The tax credit shall be earned when the qualifying asset is placed in service.

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(1) Five-year amortization period. The tax credit shall be amortized ~~equally~~ over a five-year period ~~which the department will, in consultation with the approved business, define.~~ The annual amounts that may be claimed by the business during that period are subject to negotiations. The final five-year amortization period and the negotiated annual amounts will be specified in the agreement referenced in subrule 68.5(1) a contract entered into with the authority. The tax credit shall be allowed against taxes imposed under Iowa Code chapter 422, division II, III, or V and against the moneys and credits tax imposed in Iowa Code section 533.24.

(2) and (3) No change.

b. Investment qualifying for the tax credit. For purposes of this subrule, new investment directly related to jobs created or retained by the start-up, location, expansion or modernization of the approved business under the program means all of the following:

(1) to (3) No change.

(4) The annual base rent paid to a third-party developer by an approved business for a period equal to the term of the lease agreement but not to exceed the maximum term ~~of the agreement referenced in subrule 68.5(1)~~ specified in a contract entered into with the authority, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the approved business. Annual base rent shall be considered only when the project includes the construction of a new building or the major renovation of an existing building. The approved business shall enter into a lease agreement with the third-party developer for a minimum of five years.

~~Pursuant to subrule 68.4(9), the~~ The approved business shall not claim a tax credit above the amount defined in the final award documentation or the amount specified in a contract entered into with the authority.

c.—Refunds.

~~(1) Refund of unused tax credit. Subject to prior approval by the department, in consultation with the department of revenue, an approved business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund of all or a portion of an unused tax credit.~~

~~(2) IRS Section 521. For purposes of this paragraph, an approved business includes a cooperative, described in Section 521 of the Internal Revenue Code, that is not required to file an Iowa corporate income tax return and whose project primarily involves the production of ethanol.~~

~~(3) Refund of unused tax credit procedures. For application to receive a refund of all or a portion of an unused tax credit, the following procedures apply:~~

~~1. Department approval required. The department will determine whether an approved business's project primarily involves the production of value-added agricultural products or uses biotechnology-related processes.~~

~~2. Application for a tax credit certificate. The approved business shall apply for a tax credit certificate using the form provided by the department. Requests for tax credit certificates will be accepted between May 1 and May 15 of each fiscal year. Only those approved businesses that have been issued final award documentation pursuant to subrule 68.4(9) before the May 1 filing date may apply for a tax credit certificate.~~

~~The department shall require the cooperative, as described in Section 521 of the Internal Revenue Code, to submit a list of members whom the cooperative wishes to receive a tax credit certificate for their prorated share of ownership. The cooperative shall submit its list in a computerized electronic format that is compatible with the system used or designated by the department. For each cooperative member approved for a tax credit certificate, the computerized list shall, at a minimum, include the name, address, social security number or taxpayer identification number, business telephone number and ownership percentage, carried out to six decimal places. The cooperative shall also submit a total dollar amount of the unused investment tax credit for which the cooperative's members are requesting a tax credit certificate.~~

~~(4) Issuance of tax credit certificates. The department shall not issue tax credit certificates to approved businesses in the high quality jobs program and the enterprise zone program which total more~~

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than \$4 million during a fiscal year. If the department receives applications for tax credit certificates in excess of \$4 million, the applicants shall receive certificates for a prorated amount. In such a case, the tax credit requested by an approved business will be prorated based upon the total dollar amount of requested tax credit certificates received during the fiscal year. This proportion will be applied to the amount requested by each approved business to determine the amount of the tax credit certificate that will be distributed to each business for the fiscal year. For example, if an approved business submits a request in the amount of \$1 million and the total amount of requested tax credit certificates equals \$8 million, the business will be issued a tax credit certificate in the amount of \$500,000 ($\$4 \text{ million} / \$8 \text{ million} = 50\% \times \$1 \text{ million} = \$500,000$). The department will issue tax credit certificates within a reasonable period of time following the May 15 application deadline.

~~(5) Claiming the tax credit certificate. Tax credit certificates shall not be valid until the tax year following the date the final award documentation was issued. The tax credit certificates shall not be transferred except in the case of a cooperative as described in Section 521 of the Internal Revenue Code whose approved project primarily involves the production of ethanol. For such cooperative, the individual members of the cooperative are approved to receive the tax credit certificates. The approved business may not claim a tax credit refund unless a tax credit certificate issued by the department is attached to the taxpayer's tax return for the tax year in which the tax credit refund is claimed.~~

~~(6) Carryforward. An approved business may apply for a tax credit certificate once each year for up to seven years after the final award documentation is issued or until the approved business's unused tax credit is depleted, whichever occurs first. For example, an approved business which receives its final award documentation in October 2005 and has an investment tax credit of \$1 million may apply for a tax credit certificate in May 2006. If, because of proration of the \$4 million of available refundable credits for the fiscal year, the business is awarded a tax credit certificate in the amount of \$300,000, the business may claim the \$300,000 refund and carry forward the unused investment tax credit of \$700,000 up to seven years or until the credit is depleted, whichever occurs first.~~

68.4(5) Insurance premium tax credit. Pursuant to Iowa Code section 15.333A, the approved business may claim an insurance premium tax credit equal to a percentage of the new investment directly related to jobs created or retained by the start-up, location, expansion, or modernization of the approved business under the program.

a. Claiming the tax credit. The tax credit shall be earned when the qualifying asset is placed in service. The tax credit shall be amortized equally over a five-year period which the department authority will, in consultation with the eligible business, define. The five-year amortization period shall be specified in the agreement referenced in subrule 68.5(1) a contract entered into with the authority. The tax credit shall be allowed against taxes imposed under Iowa Code chapter 432. A tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

b. Investment qualifying for the tax credit. For purposes of this subrule, new investment directly related to jobs created or retained by the start-up, location, expansion or modernization of the approved business under the program means all of the following:

(1) to (3) No change.

(4) The annual base rent paid to a third-party developer by an approved business for a period equal to the term of the lease agreement but not to exceed the maximum term of the agreement referenced in subrule 68.5(1) specified in a contract entered into with the authority, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the approved business. Annual base rent shall be considered only when the project includes the construction of a new building or the major renovation of an existing building. The approved business shall enter into a lease agreement with the third-party developer for a minimum of five years.

~~Pursuant to subrule 68.4(9), the~~ The approved business shall not claim a tax credit above the amount defined in the final award documentation or the amount specified in a contract entered into with the authority.

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68.4(6) *Research activities credit.* Pursuant to Iowa Code section 15.335, the approved business may claim a corporate tax credit for increasing research activities in Iowa during the period the approved business is participating in the program.

a. to d. No change.

e. Definitions. For purposes of this subrule, “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 the alternative incremental credit, such amounts are for research conducted within Iowa. For purposes of this subrule, “Internal Revenue Code” means ~~the Internal Revenue Code in effect on January 31, 2005~~ the same as defined in 2011 Iowa Code Supplement section 15.335.

f. No change.

g. Renewable energy generation components. For purposes of this subrule, “research activities” includes the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa. A renewable energy generation component will no longer be considered innovative when more than 200 megawatts of installed effective nameplate capacity has been achieved. Research activities credits awarded under this program and the enterprise zone program for innovative renewable energy generation components shall not exceed ~~\$1 million~~ the amount specified in 2011 Iowa Code Supplement section 15.335.

68.4(7) *Maximum tax incentives available.* Tax incentives ~~and assistance~~ awarded under this program are based upon the number of jobs created or retained that pay the qualifying wage threshold for HQJP as established in 261—Chapter 174 and as defined in 261—Chapter 173 and the amount of qualifying investment. The maximum possible award is based on the following schedule:

a. No high quality jobs are created or retained but economic activity is furthered by the qualifying investment. For purposes of this paragraph, “economic activity” means a modernization project which will result in increased skills and wages for the current employees; ~~or a project involving retained jobs; or a project that involves a waiver, granted by the board pursuant to rule 261—174.6(15E,15G,83GA,SF344), of the qualifying wage threshold calculation if the reason for the waiver is that damages were sustained as a result of a natural disaster in a presidentially declared disaster area.~~

(1) to (3) No change.

b. to j. No change.

68.4(8) *Award limitations.* ~~Each calendar year, the department shall not approve more than \$3.6 million worth of investment tax credits and insurance premium tax credits for projects with qualifying investments of less than \$1 million. Tax credits subject to this limitation will be awarded on a first-come, first-served basis.~~

68.4(9) *Final award amounts.* ~~Rescinded IAB 7/15/09, effective 7/1/09.~~

ITEM 8. Adopt the following new rule 261—68.5(15):

261—68.5(15) Project completion assistance.

68.5(1) *Statutory authority.* In 2012 Iowa Acts, House File 2473, the HQJP was amended to allow for the provision of project completion assistance in addition to the tax incentives already available under the program. Project completion assistance is defined in subrule 68.1(2) and includes loans, forgivable loans, and other forms of direct financial assistance.

68.5(2) *Awards and negotiations.* The authority may award project completion assistance to a business that meets the eligibility requirements of the HQJP. All award determinations are subject to the requirements of 2012 Iowa Acts, House File 2473, section 13, subsection 3. The board, with the assistance of authority staff, will attempt to determine the amount of project completion assistance that will ensure successful completion of a project, and the board will make a good-faith effort to provide only the amount of incentives and assistance necessary to facilitate the project’s successful completion. The amount, type, and terms of the assistance provided typically vary according to the needs of each project, and each award is subject to negotiation. The board and the authority will attempt to treat similarly situated applicants similarly; however, the amount, type, and terms of project completion

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assistance most appropriate for a given project are necessarily dependent on many factors, and awards of project completion assistance shall be entirely at the discretion of the board.

68.5(3) *Factors affecting the amount, type, and terms of project completion assistance.* When determining an award of project completion assistance, the board, with the assistance of authority staff, typically considers many factors, including the following:

- a. The fiscal impact ratio of the project.
- b. Whether the amount of assistance to be awarded is appropriate to the number of jobs that will be created.
- c. The availability of funding.
- d. Whether other forms of assistance, including tax incentives, are available.
- e. The project's level of need, including whether the local community and the private sector are also contributing to the success of the project.
- f. The total amount of funds from other sources that can be leveraged.
- g. The quality of the project.

ITEM 9. Amend **261—Chapter 68**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code sections 15.326 to 15.336 Supplement chapter 15, part 13, as amended by 2009 Iowa Acts, Senate File 344 2012 Iowa Acts, House File 2473, division I.

ITEM 10. Adopt the following new rule 261—74.8(15):

261—74.8(15) Applicability of the grow Iowa values financial assistance program on or after July 1, 2012.

74.8(1) Effective as of July 1, 2012, the grow Iowa values fund and financial assistance program as amended by 2009 Iowa Acts, Senate File 344, and elsewhere in these rules referred to as IVF(2009), was repealed by 2011 Iowa Acts, chapter 133. The repeal took effect on June 30, 2012.

74.8(2) For awards made on or after July 1, 2009, and on or before June 30, 2012, the rules applicable to the IVF(2009) shall be applicable for purposes of contract administration and closeout of projects.

74.8(3) A contract amendment will not be allowed if such an amendment would increase the amount of assistance to be provided under the contract.

ITEM 11. Amend **261—Chapter 74**, implementation sentence, as follows:

These rules are intended to implement 2009 Iowa Acts, Senate File 344, section 3 2011 Iowa Code Supplement chapter 15G, subchapter I.

ITEM 12. Adopt the following new rule 261—75.6(15):

261—75.6(15) Applicability of the opportunities and threats program on or after July 1, 2012.

75.6(1) Effective as of July 1, 2012, the grow Iowa values fund and financial assistance program as amended by 2009 Iowa Acts, Senate File 344, and elsewhere in these rules referred to as IVF(2009), was repealed by 2011 Iowa Acts, chapter 133. The repeal took effect on June 30, 2012.

75.6(2) For awards made on or after July 1, 2009, and on or before June 30, 2012, the rules applicable to the opportunities and threats program shall be applicable for purposes of contract administration and closeout of projects.

75.6(3) A contract amendment will not be allowed if such an amendment would increase the amount of assistance to be provided under the contract.

ITEM 13. Amend **261—Chapter 75**, implementation sentence, as follows:

These rules are intended to implement 2009 Iowa Acts, Senate File 344, section 4 2011 Iowa Code Supplement chapter 15G, subchapter I.

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ITEM 14. Adopt the following new rule 261—165.7(15):

261—165.7(15) Applicability of the grow Iowa values financial assistance program on or after July 1, 2012.

165.7(1) Effective as of July 1, 2012, the grow Iowa values fund and financial assistance program as amended by 2009 Iowa Acts, Senate File 344, and elsewhere in these rules referred to as IVF(2009), was repealed by 2011 Iowa Acts, chapter 133. The repeal took effect on June 30, 2012.

165.7(2) For awards made on or after July 1, 2009, and on or before June 30, 2012, the rules applicable to the IVF(2009) shall be applicable for purposes of contract administration and closeout of projects.

ITEM 15. Amend **261—Chapter 165**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapter 15G ~~as amended by 2009 Iowa Acts, Senate File 344, subchapter I.~~

ITEM 16. Amend rule 261—171.1(15A) as follows:

261—171.1(15A) Applicability. Pursuant to Iowa Code chapter 15A, the ~~department~~ authority will give additional consideration or additional points in the application of rating or evaluation criteria in providing a loan, grant, or other financial assistance for economic development-related purposes to a business or person that meets the requirements of this chapter. Unless prohibited by state or federal law or rule, ~~department~~ authority programs using a point system will provide supplementary credit of up to a maximum of ten points for applicants meeting the requirements of this chapter.

ITEM 17. Strike “department” and “department’s” wherever they appear in rules **261—172.1(15A)** and **261—172.2(15A)** and insert “authority” and “authority’s,” respectively, in lieu thereof.

ITEM 18. Amend rule 261—173.1(15,15G,83GA,SF344) as follows:

261—173.1(15,15G,83GA,SF344) Applicability.

173.1(1) Current programs. Effective July 1, ~~2009~~ 2012, this chapter shall apply to the following programs and funding sources:

- a. EDSA (economic development set-aside) program (261—Chapter 23).
- b. EZ (enterprise zone) program (261—Chapter 59).
- c. HQJP (high quality jobs program) (261—Chapter 68).
- d. ~~Grow Iowa values fund—IVF(2009).~~

173.1(2) Prior programs—transition provision. The programs listed in paragraphs “a” to “f” were repealed by 2009 Iowa Acts, Senate File 344, effective July 1, 2009. The rules in effect on June 30, 2009, under this chapter shall apply to the following prior programs until such time as the contracts for these prior programs are closed by the ~~department~~ authority:

- a. VAAPFAP (value-added agricultural products and processes financial assistance program) (261—Chapter 57).
- b. CEBA (community economic betterment account) program (261—Chapter 53).
- c. EVA (entrepreneurial ventures assistance) program (261—Chapter 60).
- d. TSBFAP (targeted small business financial assistance program) (261—Chapter 55).
- e. PIAP (physical infrastructure assistance program) (261—Chapter 61).
- f. LCG (loan and credit guarantee) program (261—Chapter 69).

173.1(3) Grow Iowa values fund (IVF(2009))—transition provision. The grow Iowa values fund and financial assistance program as amended by 2009 Iowa Acts, Senate File 344, was repealed by 2011 Iowa Acts, chapter 133. The repeal took effect on June 30, 2012. The rules pertaining to the grow Iowa values fund and financial assistance program that were in effect upon the repeal of the program shall apply to all awards made and all contracts entered into under the program after July 1, 2009, and on or before June 30, 2012, and shall continue to apply until such time as all such contracts, including all amendments to such contracts, reach the end of their effective contract periods and are closed by the authority.

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ITEM 19. Amend rule 261—173.2(15,15G,83GA,SF344) as follows:

261—173.2(15,15G,83GA,SF344) Definitions. As used in these rules unless the context otherwise requires:

~~“Agricultural products advisory council” or “APAC” means the council which is composed of five members appointed by the secretary of agriculture and five members appointed by the director of the Iowa department of economic development who are experienced in marketing or exporting agricultural commodities or products, financing the export of agricultural commodities or products, or adding value to and the processing of agricultural products as further described in Iowa Code section 15.203 and which reviews value added agriculture component applications and makes recommendations to the board.~~

“Authority” means the economic development authority created in 2011 Iowa Code Supplement section 15.105.

“Award date” means the date the board or the director approved an application for project completion assistance, other direct financial assistance, or tax credit incentives.

~~“Base employment level” means the number of full-time equivalent positions at a business, as established by the department authority and a business using the business’s payroll records, as of the date a business applies for financial assistance tax incentives or project completion assistance. The number of jobs the business has pledged to create and retain shall be in addition to the base employment level.~~

“Benefits” means all of the following nonwage compensation provided to an employee: medical and dental insurance plans, pension, retirement, and profit-sharing plans, child care services, life insurance coverage, vision insurance coverage, and disability insurance coverage nonwage compensation provided to an employee. Benefits include medical and dental insurance plans, pension, retirement, and profit-sharing plans, child care services, life insurance coverage, vision insurance coverage, and disability insurance coverage. Benefits may include other nonwage compensation as determined by the board.

~~“Board” means the Iowa members of the economic development board established under Iowa Code section 15.103 authority appointed by the governor and in whom the powers of the authority are vested pursuant to 2011 Iowa Code Supplement section 15.105.~~

“Business” means a sole proprietorship, partnership, or corporation, or other business entity organized for profit or not for profit under the laws of the state of Iowa or another state, under federal statutes, or under the laws of another country.

~~“County wage” means the county wage calculation performed by the department pursuant to 2009 Iowa Acts, Senate File 344, section 3.~~

“Created job” means a new, permanent, full-time equivalent (FTE) position added to a business’s payroll in excess of the base employment level at the time of application for tax incentives or project completion assistance.

~~“Department” means the Iowa department of economic development created by Iowa Code section 15.105.~~

~~“Director” means the director of the Iowa department of economic development authority.~~

~~“Due diligence committee” or “DDC” means the due diligence committee composed of members of the board whose duties include, but are not limited to, carrying out any duties assigned by the board in relation to programs administered by the department, reviewing applications for financial assistance, conducting a thorough review of proposed projects and making recommendations to the board regarding funding organized by the board pursuant to 261—Chapter 1.~~

“Employee” means:

1. An individual filling a full-time position that is part of the payroll of the business receiving financial assistance from any of the programs identified in rule 261—173.1(15,15G,83GA,SF344).

2. A business’s leased or contract employee, provided all of the following elements are satisfied:

- The business receiving the state financial tax incentives or project completion assistance has a legally binding contract with a third-party provider to provide the leased or contract employee.

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- The contract between the third-party provider and the business specifically requires the third-party provider to pay the wages and benefits at the levels required and for the time period required by the department authority as conditions of the financial assistance award to the business.
- The contract between the third-party provider and the business specifically requires the third-party provider to submit payroll records to the department authority, in form and content and at the frequency found acceptable to the department authority, for purposes of verifying that the business's job creation/retention and benefit requirements are being met.
- The contract between the third-party provider and the business specifically authorizes the department authority, or its authorized representatives, to access records related to the funded project.
- The business receiving the state financial tax incentives or project completion assistance agrees to be contractually liable to the department authority for the performance or nonperformance of the third-party provider.

"Equity investment" means common or preferred corporate stock or warrants to acquire such stock, membership interests in limited liability companies, partnership interests in partnerships, or near equity. Equity is limited to securities or interests acquired only for cash and does not include securities or interests acquired at any time for services, contributions of property other than cash, or any other non-cash consideration.

"Equity-like investment assistance" means ~~the provision of~~ assistance provided in such a manner that the potential return on investment to the provider varies according to the profitability of the company assisted. This Equity-like assistance includes but is not limited to: royalty arrangements; success payments; warrant arrangements; or other similar forms of investments. Equity-like assistance does not include equity investments.

"Financial assistance" means assistance provided only from the funds, rights, and assets legally available to the authority. Financial assistance includes assistance provided in the form of grants, loans, forgivable loans, float loans, equity-like ~~investment~~ assistance, and royalty payments and other forms of assistance deemed appropriate by the board, consistent with Iowa law.

"Fiscal impact ratio" or "FIR" means a ratio calculated by estimating the amount of taxes to be received by the state from a business and dividing the estimate by the estimated cost to the state of providing certain ~~financial incentives~~ project completion assistance and tax incentives to the business, reflecting a ten-year period of taxation and incentives and expressed in terms of current dollars. "Fiscal impact ratio" does not include taxes received by political subdivisions.

"Full-time equivalent job" or "full-time" means the employment of one person:

1. For 8 hours per day for a 5-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations and other paid leave; or
2. The number of hours or days per week, including paid holidays, vacations and other paid leave, currently established by schedule, custom, or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit, provided that the number of hours per week is at least 32 hours per week for 52 weeks per year including paid holidays, vacations, and other paid leave.

For purposes of this definition, "employment of one person" means the employment of one natural person and does not include "job sharing" or any other means of aggregation or combination of hours worked by more than one natural person.

"Grant" means an award of assistance with the expectation that, with the fulfillment of the conditions, terms and obligations of the contract with the department authority for the project, repayment of funds is not required.

"ICF" means the innovation and commercialization fund ~~established by 2009 Iowa Acts, Senate File 142~~ created in Iowa Code section 15.412.

"IVF(2009)" means the grow Iowa values fund and financial assistance program established by Iowa Code section 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2, and as repealed by 2011 Iowa Acts, chapter 133. IVF(2009) does not include programs funded under the grow Iowa values fund prior to 2009. Rule 261—173.1(15) applies in determining which rules apply to which programs.

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“Laborshed area” means the geographic area surrounding an employment center from which the employment center draws its commuting workers. The Iowa department of workforce development (IWD) determines the employment centers and defines the boundaries of each laborshed area. IWD defines laborshed areas by surveying commuters within the various zip codes surrounding an employment center, combining the zip codes into as many as three zones, and determining how many people commute from a zip code to the employment center from each zone. The zones reflect the fact that as the distance from an employment center increases, the number of people willing to commute to the employment center decreases. When determining the applicable laborshed wage, the authority will use the closest laborshed area, as determined by road distance between the employment center and the zip code of the project location.

“Laborshed wage” means the same as defined in 2011 Iowa Code Supplement section 15.327 as amended by 2012 Iowa Acts, House File 2473. The authority will calculate the laborshed wage as follows:

1. The most current covered wage and employment data available from IWD will be used.
2. The wage will be computed as a mean wage figure and represented in terms of an hourly wage rate.
3. Only the wages paid by employers for jobs performed within the first two zones of a laborshed area will be included.
4. The wages paid by employers in the following categories will be excluded from the calculation: government, retail trade, health care and social assistance, and accommodations and food service. The wages paid by employers in all other categories will be included in the calculation.
5. To the extent that a laborshed area includes zip codes from states other than Iowa, the wages paid by employers in those zip codes may be included if IWD has finalized a data-sharing agreement with the state in question and has received the required data.
6. Only those wages within two standard deviations from the mean wage will be included.

“Loan” means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the conditions of the award. “Loan” includes deferred loans, forgivable loans, and float loans. A “deferred loan” is one for which the payment for principal, interest, or both, is not required for some specified period. A “forgivable loan” is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions. A “float loan” means a short-term loan (maximum of not to exceed 30 months) made from obligated but unexpended IVF(2009) funds moneys.

“Loan and credit guarantee committee” means the loan and credit guarantee committee composed of members of the board and whose duties include, but are not limited to, carrying out any duties assigned by the board in relation to the loan and credit guarantee program administered by the department, reviewing loan and credit guarantee applications and making recommendations to the board regarding funding.

“Loan guarantee” means a guarantee of all or part of a loan made by a commercial lender. Payment of all or a portion of the loan guarantee would occur if the business defaults on its repayment of the loan, provided the lender has exhausted standard legal remedies in an attempt to secure repayment from the borrower.

“Maintenance period” means the period of time between the project completion date and the maintenance period completion date.

“Maintenance period completion date” means the date on which the maintenance period ends. It is the specific date established by the department past the project completion date through which the recipient shall maintain the project, the created jobs, and the retained jobs. The specific date on which the maintenance period ends will be established by contract between the authority and the business. The maintenance period completion date will be a date on or after the project completion date and will be used to establish the period of time during which the project, the created jobs, and the retained jobs must be maintained. Rule 261—187.3(15) provides standard durations for project completion and maintenance periods.

“Project completion,” for in the case of the EZ program and HQJP tax credit programs, for purposes of reporting to the Iowa department of revenue that a project has been completed, means:

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1. For new manufacturing facilities, the first date upon which the average annualized production of finished product for the preceding 90-day period at the manufacturing facility is at least 50 percent of the initial design capacity of the facility.

2. For all other projects, the date of completion of all improvements necessary for the start-up, location, expansion or modernization of a business.

“Project completion assistance” means financial assistance or technical assistance provided to an eligible business in order to facilitate the start-up, location, modernization, or expansion of the business in this state and provided in an expedient manner to ensure the successful completion of the start-up, location, modernization, or expansion project.

“Project completion date” means the date by which a recipient of incentives or assistance has agreed to meet all the terms and obligations contained in an agreement with the authority. The specific date established by the department by which a recipient of financial assistance shall have completed all pledged project activities, met its job creation and job retention obligations, and otherwise satisfied the terms and obligations of the contract with the department for a project on which the project completion period ends will be established by contract between the authority and the business. The project completion date will be a date on which the project must be completed, all incented jobs must be created or retained, and all other applicable requirements must be met. (See rule Rule 261—187.3(15) for a listing of the duration of the project completion period and maintenance period for IDEED’s job creation and tax credit programs.) provides standard durations for project completion and maintenance periods.

“Project completion period” means the period of time between the date financial assistance is awarded (the “award date”) and the project completion date.

“Project initiation” means, for all programs and funding sources except EDSA, any one of the following:

1. The start of construction of new or expanded buildings;
2. The start of rehabilitation of existing buildings;
3. The purchase or leasing of existing buildings; or
4. The installation of new machinery and equipment or new computers to be used in the operation of the business’s project.

The purchase of land or signing an option to purchase land or earth moving or other site development activities not involving actual building construction, expansion or rehabilitation shall not constitute project initiation. The costs of any land purchase and site development work incurred prior to the award are not eligible qualifying investment expenses.

“Qualifying wage threshold” means the county wage or the regional wage, as calculated by the department, whichever is lower laborshed wage for an eligible business. The qualifying wage thresholds for the authority’s programs are described in 261—Chapter 174.

“Regional wage” means the regional wage calculation performed by the department pursuant to 2009 Iowa Acts, Senate File 344, section 3.

“Retained job” means a full-time equivalent permanent position in existence at the time an employer applies for financial assistance which remains continuously filled or authorized to be filled as soon as possible and which is at risk of elimination if the project for which the employer is seeking assistance does not proceed. The authority may require a business to verify that a job is at risk. Such verification may include the signed statement of an officer of the business, documentation that the business is actively exploring other sites for the project, or any other information the authority may reasonably require during the application review process to establish that a job is at risk.

“Sufficient benefits” means that the employer applying for financial assistance offers to each full-time equivalent permanent position a benefits package that meets one of the following:

1. The employer pays 80 percent of the premium costs for a standard medical and dental plan for single employee coverage with a \$750 maximum deductible; or
2. The employer pays 50 percent of the premium costs for a standard medical and dental plan for employee family coverage with a \$1,500 maximum deductible; or
3. The employer provides medical coverage and pays the monetary equivalent of paragraph “1” or “2” above in supplemental employee benefits. Benefits counted toward monetary equivalent could

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include medical coverage, dental coverage, vision insurance, life insurance, pension, retirement (401k), profit sharing, disability insurance, child care services, and other nonwage compensation approved by the board.

“Sufficient benefits credit” means a benefits credit for which a business qualifies if the business provides sufficient benefits to each employee holding a created or retained job. This credit can be applied against the 130 percent qualifying wage requirement. The credit shall be calculated and applied as follows:

1. By multiplying the qualifying wage threshold of the county in which the business is located by one and three tenths.
2. By multiplying the result of paragraph “1” by one tenth.
3. The amount of the result of paragraph “2” shall be credited against the amount of the 130 percent qualifying wage threshold requirement that the business is required to meet.
4. The credit shall not be applied against the 100 percent qualifying wage threshold requirement.

“Technology commercialization committee” means the committee established by the board pursuant to Iowa Code section 15.116 to evaluate and approve funding for projects and programs referred to in Iowa Code section 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2 organized by the board pursuant to 261—Chapter 1.

ITEM 20. Amend **261—Chapter 173**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapters 15, 15G as amended by 2009 2012 Iowa Acts, Senate House File 344 2473, and 15G, subchapter I, and Iowa Code chapter 17A.

ITEM 21. Strike “15, 15G, 83GA, SF344” wherever it appears in rules **261—174.1(15, 15G, 83GA, SF344)**, **261—174.3(15, 15G, 83GA, SF344)**, **261—174.6(15E, 15G, 83GA, SF344)** and **261—174.10(15, 15G, 83GA, SF344)** and insert “15” in lieu thereof.

ITEM 22. Amend rule **261—174.2(15, 15G, 83GA, SF344)** as follows:

261—174.2(15, 15G, 83GA, SF344) Annual qualifying Qualifying wage threshold calculations.

174.2(1) Annual updates. The department authority will update the county and regional qualifying wage thresholds described in this chapter annually each fiscal year, and these. The thresholds will become effective take effect on July 1 of each fiscal year and remain in effect until the end of the fiscal year.

174.2(2) Effective date of county wage and regional wage qualifying thresholds. Businesses that submit a project review form to the department will be subject to county and regional qualifying wage thresholds in effect on the date the department receives the project review form provided that the business’s application is received and approved within six months of the date the project review form was received by the department. If more than six months have elapsed, the business will be subject to the wage thresholds in effect on the date the department receives the business’s completed application. *Applicability to applications.* The qualifying wage threshold applicable to a project is the threshold in effect on the date the fully completed project application for the applicable program is received by the authority. If such an application is received but not acted upon by the board before the qualifying wage thresholds are updated, the thresholds in effect on the date the application was received will remain in effect for a period of three months notwithstanding that the thresholds are subsequently updated. The authority shall have sole discretion in determining whether an application is fully completed.

174.2(3) Phase-in of large increases. Notwithstanding the definition of laborshed wage in 261—Chapter 173, if the authority updates qualifying wage thresholds pursuant to subrule 174.2(1) and determines that, after calculation by IWD, the laborshed wage of a laborshed area would increase by more than one dollar per hour, the authority will limit the amount of that laborshed area’s increase for that annual update to one dollar per hour. This subrule will be applied at each annual update pursuant to subrule 174.2(1) and will be applied by measuring the result of the calculation described in the definition of laborshed area against the most recent qualifying wage threshold published pursuant to subrule 174.2(1). Thus, this subrule will be applied in such a manner as to phase-in the full amount

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of an earlier increase over more than one subsequent update. For example, if, at one annual update, a laborshed wage would increase by three dollars per hour over the current qualifying wage threshold, the authority will limit the amount of the increase in that first annual update to one dollar. But if, at the second annual update, the laborshed wage calculation performed pursuant to 261—Chapter 173 remains what it was at the time of the first annual update, then the authority will apply up to one additional dollar at the second annual update, and so on.

174.2(4) Effective date and applicability. The laborshed-based qualifying wage thresholds adopted in 2012 Iowa Acts, House File 2473, are effective beginning on July 1, 2012, and the authority will apply the provisions of this rule to all qualifying wage threshold calculations made or updated on or after that date.

ITEM 23. Amend rule 261—174.5(15G,83GA,SF344), introductory paragraph, as follows:

261—174.5(15G,83GA,SF344 15) Qualifying wage threshold requirements—on or after July 1, 2009, and on or before June 30, 2012.

ITEM 24. Amend subrule 174.5(4) as follows:

174.5(4) Higher wage threshold applies if multiple programs are used in a project. Notwithstanding the qualifying wage threshold requirements for each program, if a business is a recipient of financial assistance from more than one program administered by the ~~department~~ authority and the qualifying wage thresholds are not the same, the business shall be required to pay the higher qualifying wage for the project.

ITEM 25. Rescind rule 261—174.6(15E,15G,83GA,SF344) and adopt the following new rule in lieu thereof:

261—174.6(15) Qualifying wage threshold requirements—effective on or after July 1, 2012. 2012 Iowa Acts, House File 2473, (“the Act”) became effective on July 1, 2012. Among other things, the Act changed the qualifying wage thresholds applicable to HQJP and the EZ program. As of July 1, 2012, the qualifying wage thresholds described in this rule shall be in effect.

174.6(1) Enterprise zone (EZ) program. The qualifying wage threshold requirement applicable to the EZ program is 90 percent of the laborshed wage.

174.6(2) High quality jobs program (HQJP). The qualifying wage threshold requirement applicable to HQJP is 120 percent of the laborshed wage.

174.6(3) HQJP projects in distressed areas.

a. Notwithstanding subrule 174.6(2), the qualifying wage threshold requirement applicable to an HQJP project may be lowered to 100 percent of the laborshed wage if the eligible business is located in an economically distressed area.

b. For purposes of this subrule, “economically distressed area” means a county that ranks among the bottom 25 of all Iowa counties, as measured by either the average monthly unemployment level for the most recent 12-month period or the average annualized unemployment level for the most recent five-year period.

c. The authority will update the list of economically distressed areas according to the same schedule as the qualifying wage thresholds are updated pursuant to subrule 174.2(1) and will apply the provisions of subrule 174.2(2) to the list of economically distressed areas in the same manner.

174.6(4) Economic development set aside (EDSA) program. The qualifying wage threshold requirement applicable to the EDSA program is 90 percent of the laborshed wage.

ITEM 26. Amend rule 261—174.7(15,15G,83GA,SF344) as follows:

261—174.7(15,15G,83GA,SF344) Job obligations. Jobs that will be created or retained as a result of a project’s receiving state or federal financial assistance, project completion assistance, or tax credit benefits incentives from the ~~department~~ authority shall meet the qualifying wage threshold requirements. Jobs that do not meet the qualifying wage threshold requirements will not be counted toward a business’s job creation or job retention obligations ~~outlined~~ contained in the contract between

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the ~~department~~ authority and the business. A business’s job obligations shall include the business’s base employment level and the number of new jobs required to be created above the base employment level.

ITEM 27. Amend rule 261—174.9(15,15G,83GA,SF344) as follows:

261—174.9(15,15G,83GA,SF344) Sufficient benefits requirement—on or after July 1, 2009.

174.9(1) Requirement. To be eligible to receive state financial assistance, project completion assistance, or tax ~~credit~~ ~~benefits~~ incentives, applicants shall offer sufficient benefits to each FTE permanent position. The term “~~Sufficient~~ ~~sufficient~~ benefits” and “~~sufficient~~ ~~benefits~~ ~~credit~~” are is defined in rule 261—173.2(15,15G,83GA,SF344). The board may consider alternative benefits packages or may adjust the requirement described in this rule to reflect the most current benefits package typically offered by employers.

174.9(2) Options. An employer may select ~~meeting~~ one of the following options ~~to meet~~ will be found to meet the sufficient benefits requirement:

Option 1 80% Single Coverage	Option 2 50% Family Coverage	Option 3 Monetary Equivalent	
Pay 80% of premium costs for a standard medical and dental plan, single coverage. \$750 maximum deductible	Pay 50% of premium costs for a standard medical and dental plan, family coverage. \$1,500 maximum deductible	Provide medical and pay the monetary equivalent of Option 1 or Option 2 in supplemental employee benefits.	Benefits Counted Toward Monetary Equivalent <ul style="list-style-type: none"> ● Medical coverage ● Dental coverage ● Vision insurance ● Life insurance ● Pension ● 401(k) (company’s average contribution) ● Short-/long-term disability insurance ● Child care services ● Other nonwage compensation

ITEM 28. Amend subrule 174.10(1) as follows:

174.10(1) Capital investment. The ~~department~~ authority reports on the amount of capital investment involved with funded projects. This rule lists the categories of expenditures that are included when the ~~department~~ authority determines the amount of capital investment associated with a project.

ITEM 29. Amend **261—Chapter 174**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapters 15, ~~15E~~ and ~~15G~~ as amended by 2009 2012 Iowa Acts, Senate House File 344 2473, 15E and 15G, subchapter I.

ITEM 30. Amend rule 261—175.1(15,83GA,SF344) as follows:

261—175.1(15,83GA,SF344) Applicability. This chapter shall apply to the programs listed in rule 261—173.1(15,15G,83GA,SF344) and to other state and federal programs identified in this chapter. This chapter describes the application review and approval procedures and the role of the advisory groups or board committees and identifies the final decision maker for each program.

ITEM 31. Amend rule 261—175.2(15,83GA,SF344), introductory paragraph, as follows:

261—175.2(15,83GA,SF344) Application procedures for programs administered by the authority.

ITEM 32. Rescind subrule 175.2(1) and adopt the following **new** subrule in lieu thereof:

175.2(1) Financial assistance programs. The authority administers a number of programs that provide direct financial assistance of various types for approved projects. This includes ongoing administration of agreements executed under certain prior programs, such as the grow Iowa values fund and the power fund, that have been repealed. The authority will receive applications for direct assistance under current programs and will continue to receive amendment requests for contracts entered into

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under former programs. Beginning on July 1, 2012, most new applications for direct assistance will be received as requests for project completion assistance under HQJP.

ITEM 33. Amend rule 261—175.3(15,83GA,SF344), introductory paragraph, as follows:

261—175.3(15,83GA,SF344) Standard program requirements. In addition to the eligibility requirements of the individual programs applicable to the financial assistance sought, an applicant shall be subject to all of the following requirements which the authority shall also incorporate into each agreement as continuing obligations and conditions for the receipt of incentives or assistance under the program:

ITEM 34. Amend subrule 175.3(2) as follows:

175.3(2) Sustained operations. The applicant shall ~~not have closed or substantially reduced operations in one area of this state and relocated substantially the same operations in a community in another area of this state. However, this subrule shall not be construed to prohibit a business from expanding its operations in a community if existing operations of a similar nature in this state are not closed or substantially reduced~~ comply with the provisions of 261—subrule 68.2(2) regarding relocations within the state and reductions in operations.

ITEM 35. Amend rule 261—175.4(15,83GA,SF344), introductory paragraph, as follows:

261—175.4(15,83GA,SF344) Review and approval of applications.

ITEM 36. Rescind subrule 175.4(4) and adopt the following new subrule in lieu thereof:

175.4(4) Application approval procedures.

a. Approval. Application approval procedures must comply with the statutory requirements for each individual program or funding source and the applicable administrative rules. In general, the approval process begins with review of a completed application by authority staff. After review by staff, the application may be sent to a committee for further recommendation followed by final action on the application by the board or by the director, as the case may be. The director may take action on any application or activity that is not specifically identified as requiring board action. The authority's various programs and the application procedures are described in paragraph "c," which contains the applicable recommending and approving entities by funding source and program.

b. Key to table.

ACE – The accelerated career education program job credits authorized under Iowa Code chapter 260G.

ASSISTIVE – The assistive device tax credits authorized in Iowa Code section 422.33.

BRN – The brownfield redevelopment advisory council established in Iowa Code section 15.294.

BROWN – Redevelopment tax credits for brownfield and grayfield sites and the brownfield redevelopment fund as established in Iowa Code chapter 15.

CDBG – Federal community development block grant funded programs.

DDC – Due diligence committee organized by the board pursuant to 261—Chapter 1.

EDSA – The economic development set aside component of the CDBG program established in 261—Chapter 23.

ETAP – The export trade assistance program established in 261—Chapter 72.

EZ – Enterprise zone program as established in Iowa Code chapter 15E, including both the business and housing development tax credits.

HQJP – High quality jobs program as established in Iowa Code chapter 15, including both tax incentives and project completion assistance.

INNOVATION – Programs related to innovation, commercialization, and targeted industries development, including the programs described in Iowa Code section 15.411 and the program rules in 261—Part V.

NSP – Neighborhood stabilization program as established in 261—Chapter 27.

TCC – Technology commercialization committee organized by the board pursuant to 261—Chapter

1.

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TJWTC – Targeted jobs withholding tax credit program for pilot project cities established in Iowa Code section 403.19A.

TSB – Targeted small business advisory council established in Iowa Code section 15.247(8).

TSB LOAN – The targeted small business financial assistance program established in Iowa Code section 15.247.

c. Recommendation and approval entities for state and federal programs. The application approval process for applications for tax incentives, project completion assistance, other financial assistance, or other benefits under the authority’s various programs is as follows:

PROGRAM	STATE/FEDERAL	RECOMMENDATION BY	FINAL DECISION BY
HQJP	State	DDC	Board
EZ (Business)	State	DDC	Board
EZ (Housing)	State		Director
INNOVATION	State	TCC	Board
ASSISTIVE	State		Director
EDSA	Federal	DDC	Board
CDBG	Federal		Director
NSP	Federal		Director
BROWN	State	BRN	Director
TSB LOAN	State	TSB	Director
ETAP	State		Director
ACE	State		Director
TJWTC	State		Director

ITEM 37. Rescind rule 261—175.5(15,15G,83GA,SF344) and adopt the following **new** rule in lieu thereof:

261—175.5(15) Local match requirements for project awards.

175.5(1) Requirements. An applicant seeking tax incentives or assistance under one of the programs subject to this chapter shall include a local match for the project. The amount of the local match shall be as follows:

a. For projects seeking direct assistance under any program except EDSA, the amount of the local match shall be 20 percent of the amount of direct financial assistance requested. For projects seeking direct financial assistance under EDSA, the amount of the local match shall be 10 percent of the amount requested.

b. For projects seeking tax incentives, the local match shall be one of the following:

(1) A tax abatement or exemption for the project as provided under Iowa Code chapter 427B. The amount of such a local abatement or exemption will be determined according to the period of partial exemption described in Iowa Code section 427B.3.

(2) Any other acceptable form of local match, as described in this rule, provided the amount of such match is equal to or greater than the value of the tax abatement or exemption described in subparagraph (1).

c. For projects seeking both direct assistance and tax incentives, the amount of local match will be based on the amount required for the direct assistance.

175.5(2) Entities that may provide a local match. When a local match is required, the match may come from a local government entity, a local development organization or chamber of commerce, a utility company, a local nonprofit entity such as a foundation, institution, or endowment, or a council of government.

175.5(3) Acceptable forms of local match. The following types of contributions to a project qualify as acceptable forms of local match:

a. Cash contributions such as grants, loans, forgivable loans, gifts, and endowments.

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- b. Revolving loan funds provided that if a revolving loan fund is the only form of local match the interest rate and term match the terms of the direct assistance to be provided by the authority.
- c. Tax abatement or exemption.
- d. Industrial property tax exemption.
- e. Tax increment financing, including rebates.
- f. Bond financing, including general obligation bonds, tax increment financing bonds, and revenue bonds.
- g. Direct investment in infrastructure that supports a business such as water and sewer extensions, gas and electric service, or street improvements.
- h. Differentials in space or building costs such as subsidized building acquisitions or lease costs.
- i. Differentials in rates provided by service providers, including water and sewer service, electric service, and gas or other services.

175.5(4) Exception. If a project is seeking only tax incentives and the project will not increase local tax revenues, then a local match is not required.

ITEM 38. Amend **261—Chapter 175**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapters 15, ~~15E and 15G~~ as amended by 2009 2012 Iowa Acts, ~~Senate~~ House File 344 2473, 15E and 15G, subchapter I.

ITEM 39. Strike “department” wherever it appears in subrules **187.2(2)**, **187.3(3)**, **187.4(3)**, **187.5(1)**, **187.5(2)** and **187.5(4)**, except in the phrase “department of revenue,” and insert “authority” in lieu thereof.

ITEM 40. Amend subrule 187.3(4) as follows:

187.3(4) The following table describes, by program, the length of the project completion period and the maintenance period:

Program	Project Completion Period	Maintenance Period	Total Contract Length
Grow Iowa Values Financial Assistance Program: <u>(all components)</u>	<u>3</u> years	<u>2</u> more years	<u>5</u> years
130% wage component	3 years	2 more years	5 years
100% wage component	3 years	2 more years	5 years
Entrepreneurial component	3 years	2 more years	5 years
Infrastructure component	3 years	2 more years	5 years
Value-added agriculture component	3 years	2 more years	5 years
Disaster recovery component	3 years	2 more years	5 years
High Quality Jobs Program	3 years	2 more years	5 years
Enterprise Zone Program	3 years	2 more years	5 years

ITEM 41. Adopt the following **new** subrule 187.3(5):

187.3(5) Notwithstanding the standard project completion period and maintenance period lengths described in subrule 187.3(4), the authority may vary the length of the periods provided that the project completion period will not be less than three years and the total contract length will not be less than five years.

ITEM 42. Rescind subrule 187.4(2) and adopt the following **new** subrule in lieu thereof:

187.4(2) Contract amendments.

a. *General.* In general, the amendment process for both awards and contracts mirrors the application process. That is, the same entity that recommended the initial application will also recommend the amendment, and the same entity that had final approval of the initial application will have final approval of the amendment. As with awards, contract amendments must comply with the statutory requirements for each individual program or funding source and the applicable administrative

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rules. In general, the amendment process begins with review of an amendment request by authority staff. After review by staff, the amendment may be sent to a committee for further recommendation followed by final action on the amendment by the board or by the director, as the case may be. The director may take action on any amendment that is not specifically identified as requiring board action. The authority’s various programs and the amendment procedures are described in paragraph 187.4(2) “c,” which contains the applicable recommending and approving entities by funding source and program.

b. Key to table.

ACE – The accelerated career education program job credits authorized under Iowa Code chapter 260G.

ASSISTIVE – The assistive device tax credits authorized in Iowa Code section 422.33.

BRN – The brownfield redevelopment advisory council established in Iowa Code section 15.294.

BROWN – Redevelopment tax credits for brownfield and grayfield sites and the brownfield redevelopment fund as established in Iowa Code chapter 15.

CDBG – Federal community development block grant funded programs.

DDC – Due diligence committee organized by the board pursuant to 261—Chapter 1.

EDSA – The economic development set aside component of the CDBG program established in 261—Chapter 23.

ETAP – The export trade assistance program established in 261—Chapter 72.

EZ – Enterprise zone program as established in Iowa Code chapter 15E, including both the business and housing development tax credits.

FILM – The film and video project promotion program tax credits available under the now repealed Iowa Code section 15.393.

GIVF – The grow Iowa values fund and financial assistance program established pursuant to the now repealed Iowa Code chapter 15G, including all prior versions and funding sources of the program.

HQJP – High quality jobs program, as established in Iowa Code chapter 15, including both tax incentives and project completion assistance.

INNOVATION – Programs related to innovation, commercialization, and targeted industries development, including the programs described in Iowa Code section 15.411 and the program rules in 261—Part V.

LCG – Loan and credit guarantee program as established in the now repealed Iowa Code chapter 15E, division XX.

NSP – Neighborhood stabilization program as established in 261—Chapter 27.

TCC – Technology commercialization committee organized by the board pursuant to 261—Chapter 1.

TJWTC – Targeted jobs withholding tax credit program for pilot project cities established in Iowa Code section 403.19A.

TSB – Targeted small business advisory council established in Iowa Code section 15.247(8).

TSB LOAN – The targeted small business financial assistance program established in Iowa Code section 15.247.

c. Recommendation and approval entities for state and federal programs. The contract amendment process for tax incentives, project completion assistance, other financial assistance, or other benefits under the authority’s various programs is as follows:

PROGRAM	STATE/FEDERAL	RECOMMENDATION BY	FINAL DECISION BY
HQJP	State	DDC	Board
GIVF	State	DDC	Board
EZ (Business)	State	DDC	Board
EZ (Housing)	State		Director
INNOVATION	State	TCC	Board
LCG	State	DDC	Board
FILM	State		Director

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ASSISTIVE	State		Director
EDSA	Federal	DDC	Board
CDBG	Federal		Director
NSP	Federal		Director
HOME	Federal		Director
BROWN	State	BRN	Director
TSB LOAN	State	TSB	Director
ETAP	State		Director
ACE	State		Director
TJWTC	State		Director

d. *Exception.* Notwithstanding paragraph 187.4(2)“c,” the director may approve contract amendments for the targeted industries internship program consistent with 2011 Iowa Code Supplement section 15.106C without board approval.

ITEM 43. Rescind subrule 187.5(3) and adopt the following **new** subrule in lieu thereof:

187.5(3) Authority actions upon default—direct financial assistance programs.

a. The authority will take prompt, appropriate, and aggressive debt collection action to recover any funds misspent by recipients.

b. If the authority determines that the recipient is in default, the authority may seek recovery of all program funds plus interest, assess penalties, negotiate alternative repayment schedules, suspend or discontinue collection efforts, and take other appropriate action as the board deems necessary.

c. Determination of appropriate repayment plan. Upon determination that the recipient has not met the contract obligations, the authority will notify the recipient of the amount to be repaid to the authority. If the enforcement of such penalties would endanger the viability of the recipient, the board may extend the term of the loan to ensure payback, stability, and survival of the recipient. In certain instances, additional flexibility in a repayment plan may be necessary to ensure payback, stability, and survival of the recipient. Flexibility in a repayment plan may include, but is not limited to, deferring principal payments or collecting monthly payments below the amortized amount. In these cases, review and approval by the board, committee or director, as applicable, are necessary before the authority may finalize the repayment plan with the recipient.

d. The authority shall attempt to collect the amount owed. Negotiated settlements, write-offs or discontinuance of collection efforts is subject to final review and approval by the board, committee or director, as applicable, and described in paragraph 187.5(3)“f.”

e. If the authority or board refers defaulted contracts to outside counsel for collection, then the terms of the agreement between the authority and the outside counsel regarding scope of counsel’s authorization to accept settlements shall apply. No additional approvals by the board, committee or director shall be required.

f. The table below describes the approval procedures that shall be followed for all negotiated settlements, write-offs or discontinuance of collection efforts for state direct financial assistance programs, federal programs, and other programs administered by the authority.

PROGRAM	STATE/FEDERAL	RECOMMENDATION BY	FINAL DECISION BY
HQJP	State	DDC	Board
GIVF	State	DDC	Board
EZ (Business)	State	DDC	Board
EZ (Housing)	State		Director
INNOVATION	State	TCC	Board
LCG	State	DDC	Board
FILM	State		Director

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ASSISTIVE	State		Director
EDSA	Federal	DDC	Board
CDBG	Federal		Director
NSP	Federal		Director
HOME	Federal		Director
BROWN	State	BRN	Director
TSB LOAN	State	TSB	Director
ETAP	State		Director
ACE	State		Director
TJWTC	State		Director

ITEM 44. Amend **261—Chapter 187**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapters 15, ~~15E and 15G~~ as amended by ~~2009~~ 2012 Iowa Acts, Senate House File 344 2473, 15E and 15G, subchapter I.

ITEM 45. Strike “department” wherever it appears in rules **261—188.2(15)**, **261—188.4(15)**, and **261—188.5(15)** and insert “authority” in lieu thereof.

ITEM 46. Adopt the following new rule 261—188.6(15):

261—188.6(15) Wage determination for contract compliance purposes.

188.6(1) Applicability. This rule shall apply for purposes of administering contracts that require a determination as to the wage-based compensation provided to employees.

188.6(2) Definition. As used in the authority’s contracts, unless the context otherwise requires, “wage” shall mean monetary compensation, represented in terms of an hourly rate, paid by an employer to an employee for work or services provided, typically on a weekly or biweekly basis.

188.6(3) Determination of wages for contract administration purposes. When determining wages for contract administration purposes, the wage will include only the regular hourly rate that serves as the base level of compensation. The wage will not include non-regular forms of compensation such as bonuses, unusual overtime pay, commissions, stock options, pensions, retirement or death benefits, unemployment benefits, life or other insurance, or other fringe benefits.

ITEM 47. Amend **261—Chapter 188**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapters 15 as amended by 2012 Iowa Acts, House File 2473, 15E and 15G, subchapter I.

ITEM 48. Amend rule 261—189.1(15) as follows:

261—189.1(15) Annual reporting by businesses required (for period ending June 30). Recipients shall report annually to the ~~department~~ authority, in form and content acceptable to the ~~department~~ authority, about the status of the funded project. ~~The report~~ Such reports shall include, but not be limited to, data about base employment, qualifying wages, benefits, project costs, capital investment, and compliance with the contract.

ITEM 49. Amend rule 261—189.2(15) as follows:

261—189.2(15) January 31 report by ~~DED~~ authority to legislature. ~~DED’s~~ The authority’s legal and compliance ~~group team~~ will use the data it collects from businesses to prepare a report on the programs covered in 261—Chapter 173 to be included in ~~DED’s consolidated annual report, which is due to the legislature by January 31 each year pursuant to Iowa Code section 15.104(9) as amended by 2009 Iowa Acts, Senate File 344, section 20~~ the authority’s annual report to the general assembly.

ITEM 50. Amend **261—Chapter 189**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapters 15, ~~15E and 15G~~ as amended by ~~2009~~ 2012 Iowa Acts, Senate House File 344 2473, 15E and 15G, subchapter I.

ARC 0297C

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.

This chapter sets accreditation standards for all Iowa school districts and accredited nonpublic schools. The proposed amendment conforms to 2012 Iowa Acts, Senate File 2284, section 1, by adding that school districts and accredited nonpublic schools have authority to award high school credit to a student who demonstrates mastery of course content regardless of time spent by the student in the course (the traditional concept of “seat time”).

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

Interested individuals may make written comments on the proposed amendment on or before September 11, 2012, at 4:30 p.m. Comments on the proposed amendment should be directed to Mike Cormack, 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 11, 2012, from 10 to 11 a.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 2012 Iowa Acts, Senate File 2284, sections 1 and 4.

The following amendment is proposed.

Amend subrule 12.5(15) as follows:

12.5(15) Credit. A student shall receive a credit or a partial credit upon successful completion of a course which meets one of the criteria in subrule 12.5(14). The board may award high school credit on a performance basis through the administration of an examination, provided the examination covers the content ordinarily included in the regular course to a student who demonstrates required competencies for a course or content area in accordance with assessment methods approved by the local board.

ARC 0302C

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 rescind Chapter 15, “Use of Telecommunications for Instruction by Schools,” and to adopt

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new Chapter 15, "Use of Online Learning and Telecommunications for Instruction by Schools," Iowa Administrative Code.

The proposed amendment rescinds Chapter 15 and adopts a new chapter in lieu thereof. Existing Chapter 15 solely governs telecommunications in compliance with Iowa Code section 256.7, subsections 7 through 9. The current rules are incorporated into proposed Division I. Proposed Divisions II and III are added pursuant to 2012 Iowa Acts, Senate File 2284, sections 13 through 17.

Division II provides guidance and direction for the use of online learning as an instructional tool for students enrolled in kindergarten through grade 12. Division III provides guidance for students and school districts regarding enrollment of students in one or more courses offered by Iowa Learning Online.

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

Interested individuals may make written comments on the proposed rules on or before September 11, 2012, at 4:30 p.m. Comments on the proposed rules should be directed to Mike Cormack, 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 11, 2012, from 9 to 10 a.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.

These rules are intended to implement 2012 Iowa Acts, Senate File 2284, sections 13 to 17.

The following amendment is proposed.

Rescind 281—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15
USE OF ONLINE LEARNING AND TELECOMMUNICATIONS
FOR INSTRUCTION BY SCHOOLS

281—15.1(256) Purpose. It is the purpose of this chapter to give guidance and direction for the use of online learning or the use of telecommunications as an instructional tool for students enrolled in kindergarten through grade 12. It is a further purpose of this chapter to provide guidance for students and school districts regarding enrollment of students in one or more courses offered by Iowa Learning Online.

281—15.2(256) Definitions.

"Appropriately licensed and endorsed" means possession of current and valid licensure by the Iowa board of educational examiners to practice at a prescribed educational level in a specified content area.

"Class size" refers to the total group taught during a time period by a teacher or teaching team with students at one or more sites.

"Delivered primarily over the Internet" means more than 50 percent of the course content or instruction or both is delivered using the global computer network of the World Wide Web or Internet.

"Department" means the department of education.

"Exclusive instruction" means without the use of any other form of instructional delivery.

"Iowa Learning Online" or *"ILO"* means the department's digital learning initiative to provide online courses to students enrolled or dually enrolled in participating school districts and accredited nonpublic schools. ILO is more specifically explained in Division III herein.

"Online learning" or *"online coursework"* means educational instruction and content delivered primarily over the Internet. "Online learning" or "online coursework" does not include print-based correspondence curricula, broadcast television or radio, videocassettes, or stand-alone educational software programs that lack a significant Internet-based instructional component.

EDUCATION DEPARTMENT[281](cont'd)

“Participating school district or accredited nonpublic school” means a school district or accredited nonpublic school that has registered a student in an ILO course and has agreed to provide the student with access, during the school day, to a computer that has Internet connectivity through a direct connection as well as access to a telephone or an ICN classroom and transportation to periodic laboratory components, if needed or required. The district has also agreed to provide a staff member to serve as a site coordinator and contact for the ILO teacher, to monitor progress, and to serve as the student’s advocate by providing academic coaching and technical support. Further, the district has agreed to award a grade and credit on the student’s district-level transcript, based on the end-of-course evaluation by the ILO teacher.

“Telecommunications” means narrowcast communications through systems that are directed toward a narrowly defined audience and includes interactive live communications. “Telecommunications” does not include online learning.

DIVISION I
USE OF TELECOMMUNICATIONS FOR INSTRUCTION BY SCHOOLS

281—15.3(256) Interactivity. Courses delivered primarily via telecommunications shall employ live interactive systems which allow, at a minimum, one-way video and two-way audio communication. An annual waiver may be granted by the department for a telecommunications system that does not include audio but has alternative contemporaneous, interactive communication ability and is consistent with sound instructional practice.

281—15.4(256) Course eligibility. Telecommunications may be employed as a means to deliver any course, including a course required for accreditation by the department, provided it is not the exclusive means of instructional delivery.

281—15.5(256) Teacher preparation and accessibility. A teacher appropriately licensed and endorsed for the educational level and content area being taught shall be present and responsible for the instructional program at the receiving site if a presenter of material transmitted via telecommunications is not an appropriately licensed and endorsed teacher for the educational level and content area. If a presenter of material transmitted via telecommunications is an appropriately licensed and endorsed teacher for the educational level and content area, a supervising teacher, or aide to whom a supervising teacher is readily available for consultation, shall supervise and monitor the curriculum and students and be readily accessible to the students. Prior to being assigned initially to deliver instruction via telecommunications, a teacher shall receive training regarding effective practices which enhance learning by telecommunications.

281—15.6(256) School responsibilities. Each board of a school district or an accredited nonpublic school employing telecommunications for instruction shall develop policies relative to the use of telecommunications in the delivery of the educational program that are consistent with effective clinical practice. The school district or accredited nonpublic school shall report its use of telecommunications for instruction annually to the department on forms provided by the department. This report shall include:

1. To whom the instruction was delivered including class size, type of class (such as seminar or lecture), and grade level;
2. The course description and schedule of instruction;
3. The number, assignment, licensure including the licensing folder number, and the training received regarding effective practices which enhance learning by telecommunications of all staff involved in the teaching/learning process at both the origination and the receiving sites; and
4. The type of telecommunications used for course delivery, e.g., Internet, ICN, Polycom, etc.

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DIVISION II
ONLINE LEARNING OFFERED BY A SCHOOL DISTRICT

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

281—15.8(256) Prohibition regarding open enrollment. Open enrollment of students to a school district that offers online coursework is limited to open enrollment to the receiving school districts of Cumberland-Anita-Massena (CAM) and Clayton Ridge. Participation in online learning at the CAM and Clayton Ridge school districts by means of open enrollment is limited to enrollment during the 2014-2015, 2015-2016, and 2016-2017 school years. Such open enrollments are further restricted as follows:

15.8(1) All applicable open enrollment deadlines set forth in Iowa Code section 282.18 and 281—Chapter 17 apply.

15.8(2) No more than eighteen one-hundredths of one percent (00.18%) of the most recent statewide certified enrollment of all publicly enrolled elementary and secondary students, as published in the department's current annual condition of education report, may participate in online learning by means of open enrollment. In order for the department to determine which students shall be awarded open enrollment if the number of open enrollment requests exceeds this limitation, the sending district shall contact the department and CAM and Clayton Ridge shall provide the specific information on student enrollment to the department.

a. The department shall apply the following priorities in awarding open enrollment.

(1) Highest priority shall be given to students already open enrolled to CAM or Clayton Ridge and to students with a sibling already open enrolled to CAM or Clayton Ridge.

(2) Priority shall be given to students who have been the documented victims of harassment or bullying at school, as defined in Iowa Code section 280.28.

(3) Priority shall be given to a student who is suffering from a serious health condition, or is medically fragile, and for whom an online learning environment would be in the student's best educational interests.

b. Once the priorities listed in subparagraphs 15.8(2)“a”(1) to (3) have been considered and applied, approval of any remaining student requests for open enrollment shall be determined by lottery. In granting open enrollment requests by lottery, the proportion of open enrolled students statewide attending CAM and Clayton Ridge during the previous school year shall be maintained.

15.8(3) No more than one percent of a resident district's certified enrollment may participate in online learning by means of open enrollment. If any resident district has cumulative open enrollment applications to the CAM and Clayton Ridge school districts in excess of one percent of the resident district's certified enrollment, the resident district shall contact the department and provide the specific information on student enrollment to the department.

a. In determining which students shall be awarded open enrollment, the department shall apply the following priorities:

(1) Highest priority shall be given to students already open enrolled to CAM or Clayton Ridge and to students with a sibling already open enrolled to CAM or Clayton Ridge.

(2) Priority shall be given to students who have been the documented victims of harassment or bullying at school, as defined in Iowa Code section 280.28.

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(3) Priority shall be given to a student who is suffering from a serious health condition, or is medically fragile, and for whom an online learning environment would be in the student's best educational interests.

b. Once the above priorities have been considered and applied, approval of any remaining student requests for open enrollment shall be determined by lottery.

281—15.9(256) Special education services. Children with disabilities may not be categorically excluded from admission to online learning programs or from enrollment in online coursework.

15.9(1) Whether an online course or online learning is appropriate to a child with a disability must be determined by the child's needs, not by the child's weightedness. If a child's individualized education program (IEP) goals cannot be met in online learning, with or without supplementary aids and services or modifications, online learning is not appropriate to the child.

15.9(2) If a child's IEP team determines that online learning is inappropriate to the child, the child's parents are entitled to prior written notice pursuant to rule 281—41.503(256B,34CFR300) and to have available to them the procedural safeguards provided under rule 281—41.504(256B,34CFR300).

15.9(3) When a child with an IEP seeks enrollment into an online learning program by means of open enrollment, the child's IEP team shall determine that the child meets the open enrollment requirements under 281—Chapter 17. In addition, the child's IEP team, together with representatives of the resident and receiving districts and the relevant area education agencies, shall determine whether the receiving district is able to provide an appropriate online education to the child, either with or without supplementary aids and services or modifications. Any dispute about whether the receiving district's program is appropriate shall be resolved by the director of special education of the area education agency in which the receiving district is located. The child shall remain in the child's resident district while any dispute about the appropriateness of the receiving district's program is pending.

DIVISION III
IOWA LEARNING ONLINE (ILO)

281—15.10(256) Appropriate applications of ILO coursework. ILO courses are intended to help Iowa school districts expand learning opportunities by providing opportunities for individual students to take one or more courses offered "at a distance" using technologies such as the Internet and interactive videoconferencing. Participating school districts and accredited nonpublic schools may also enroll students in ILO courses if online learning is more suited to a specific student's circumstances.

281—15.11(256) Inappropriate applications of ILO coursework; criteria for waiver. ILO courses are not to be used by a participating school district or accredited nonpublic school as a long-term substitute for any course required to be offered and taught under 281—Chapter 12. The department may grant for one year a waiver from the requirement to offer and teach a specific subject if the school district or accredited nonpublic school documents all of the following:

1. The subject and grading period or periods for which waiver is requested.
2. Reasons why the school district or accredited nonpublic school does not have a teacher employed who is appropriately licensed and endorsed for the educational level and content area being taught.
3. The steps taken by the school district or accredited nonpublic school to employ a teacher who is appropriately licensed and endorsed for the educational level and content area being taught.
4. Approval of the request by the local school board.

281—15.12(256) School and school district responsibilities. Each participating school district and accredited nonpublic school shall submit its online curricula, excluding coursework provided by ILO, to the department for review. Each participating school district and accredited nonpublic school shall include in its comprehensive school improvement plan submitted pursuant to Iowa Code section 256.7, subsection 21, a list and description of the online coursework offered by the school or school district, excluding coursework provided by ILO. Each participating school district and accredited nonpublic

EDUCATION DEPARTMENT[281](cont'd)

school is responsible for recording grades received for ILO coursework in a student's permanent record and for awarding graduation credit for ILO coursework. Each participating school district and accredited nonpublic school shall identify a site coordinator to serve as a student advocate and as a liaison between the initiative staff and teachers and the school district or accredited nonpublic school.

281—15.13(256) Department responsibilities. The department shall annually evaluate the quality of courses offered under ILO to ensure that coursework is rigorous and of high quality and is aligned with Iowa's core curriculum and core content requirements and standards as well as with national standards of quality for online courses issued by an internationally recognized association for elementary and secondary online learning. The department shall ensure that all ILO coursework is taught by a teacher who is appropriately licensed and endorsed for the educational level and content area being taught and who has completed an online-learning-for-Iowa-educators professional development course offered by an area education agency, a teacher preservice program, or comparable coursework.

281—15.14(256) Enrollment in an ILO course. A student must be enrolled in a participating school district or accredited nonpublic school. The student's school of enrollment registers the student for the desired ILO course. Students may not enroll or be enrolled by their parents or guardians in ILO courses directly. Students under competent private instruction may access ILO coursework on the same basis as regularly enrolled students of the school district by dual enrollment in the school district in which the student is a resident.

These rules are intended to implement 2012 Iowa Acts, Senate File 2284, sections 13 to 17, and Iowa Code subsections 256.7(7) to 256.7(9).

ARC 0298C

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 22, “Senior Year Plus Program,” Iowa Administrative Code.

2012 Iowa Acts, Senate File 2284, section 38, exempts a high school student enrolled in a concurrent enrollment career and technical course pursuant to Iowa Code section 261E.8 from the proficiency requirements of Iowa Code section 261E.1(1)“e.” The proposed amendment in Item 1 conforms to that legislative change. Item 2 implements 2012 Iowa Acts, Senate File 2284, section 4, and clarifies that access to advanced placement courses is not dependent on whether a student meets proficiency requirements.

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

Interested individuals may make written comments on the proposed amendments on or before September 11, 2012, at 4:30 p.m. Comments on the proposed amendments should be directed to Mike Cormack, 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 11, 2012, from 11 a.m. to 12 noon 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.

EDUCATION DEPARTMENT[281](cont'd)

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

These amendments are intended to implement 2012 Iowa Acts, Senate File 2284, sections 4 and 38.

The following amendments are proposed.

ITEM 1. Amend rule 281—22.2(261E), introductory paragraph, as follows:

281—22.2(261E) Student eligibility. A student shall meet all of the following criteria as a condition of participation in the programs described in Divisions IV and V of this chapter, ~~except that a student enrolled in a career and technical course under Division IV does not have to meet the proficiency requirements set forth in paragraph 22.2(2) “b.”~~ To the extent that postsecondary credit is available to a student under the programs described in Divisions III and VI, the student shall meet all of the following criteria. A student who desires to participate in the postsecondary enrollment options program under Division V of these rules also shall meet the eligibility requirements set forth in rule 281—22.16(261E).

ITEM 2. Amend paragraph **22.2(2)“b”** as follows:

b. The student shall have demonstrated proficiency in all of the content areas of reading, mathematics, and science as evidenced by achievement scores on the most recent administration of the ~~Iowa tests of basic skills (ITBS) or the Iowa tests of educational development (ITED)~~ Iowa assessments for which scores are available for the student. If the student was absent for the most recent administration of ~~either the ITBS or ITED~~ the Iowa assessments, and such absence was not excused by the student’s school of enrollment, the student is deemed not to be proficient in any of the content areas. The school district may determine whether such student is eligible for qualification under an equivalent qualifying performance measure.

(1) If a student is not proficient in one or more of the content areas of reading, mathematics, and science, the school board may establish alternative but equivalent qualifying performance measures. The school board is not required to establish equivalent performance measures, but if it does so, such measures may include but are not limited to additional administrations of the state assessment, portfolios of student work, student performance rubric, or end-of-course assessments. A school board that establishes equivalent performance measures shall also establish criteria by which its district personnel shall determine comparable student proficiency.

(2) A student who attends an accredited nonpublic school and desires to access ~~advanced placement coursework or~~ postsecondary enrollment options shall meet the same eligibility criteria as students in the school district in which the accredited nonpublic school is located.

(3) A student under competent private instruction shall meet the same proficiency standard as students in the school district in which the student is dually enrolled and shall have the approval of the school board in that school district to register for the postsecondary course. In lieu of ~~ITBS or ITED~~ Iowa assessments scores as the state assessment, a school district shall allow a student under competent private instruction to demonstrate proficiency in reading, mathematics, and science by any one of the following means:

1. to 6. No change.

ARC 0299C**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.

2012 Iowa Acts, Senate File 2284, section 39, amends Iowa Code section 256.16 regarding pretesting of candidates for admission to teacher preparation programs. Whereas presently teacher preparation programs are required to administer a “basic skills test” to admission candidates, the new legislation requires that the test be “a preprofessional skills test offered by a nationally recognized testing service.” The new legislation also imposes a new requirement that, prior to completion of the program, each student in a teacher preparation program achieve scores above the 25th percentile nationally on an assessment that measures pedagogy and knowledge of at least one subject area. The proposed amendments implement this legislation.

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

Interested individuals may make written comments on the proposed amendments on or before September 11, 2012, at 4:30 p.m. Comments on the proposed amendments should be directed to Mike Cormack, Iowa Department of Education, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, 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 11, 2012, from 2 to 3 p.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 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.

These amendments are intended to implement 2012 Iowa Acts, Senate File 2284, section 39, and Iowa Code section 256.16.

The following amendments are proposed.

ITEM 1. Amend paragraph **79.13(2)“c”** as follows:

c. For teacher preparation programs, the system includes the administration of a basic preprofessional skills test offered by a nationally recognized testing service, with program admission denied to any applicant who fails to achieve the institution’s designated criterion score.

ITEM 2. Amend subrule 79.15(1) as follows:

79.15(1) Prior to admission to the teacher preparation program, each teacher candidate attains the qualifying score determined by the unit on a basic preprofessional skills test of reading, writing, and mathematics. administered pursuant to paragraph 79.13(2)“c.”

ITEM 3. Amend paragraph **79.15(7)“a”** as follows:

a. Content/subject matter specialization. The candidate demonstrates an understanding of the central concepts, tools of inquiry, and structure of the discipline(s) the candidate teaches and creates learning experiences that make these aspects of the subject matter meaningful for students. This is evidenced by a completion of a 30-semester-hour teaching major which must minimally include the requirements for at least one of the basic endorsement areas, special education teaching endorsements,

EDUCATION DEPARTMENT[281](cont'd)

or secondary level occupational endorsements. Each elementary candidate must also complete a field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours and must achieve a score above the 25th percentile nationally on subject assessments designed by a nationally recognized testing service that measure pedagogy and knowledge of at least one subject area.

ARC 0300C**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 83, “Teacher and Administrator Quality Programs,” Iowa Administrative Code.

The rules in this chapter implement teacher and school administrator quality programs. These proposed amendments conform to sections 6 and 7 of 2012 Iowa Acts, Senate File 2284, which changes the frequency of the reviews of the performance of teachers and school administrators.

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

Interested individuals may make written comments on the proposed amendments on or before September 11, 2012, at 4:30 p.m. Comments on the proposed amendments should be directed to Mike Cormack, Office of the Director, 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 11, 2012, 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.

These amendments are intended to implement 2012 Iowa Acts, Senate File 2284, sections 6 and 7.

The following amendments are proposed.

ITEM 1. Amend paragraph **83.5(3)“c”** as follows:

~~c. Provisions for the performance reviews of the performance of teachers other than beginning teachers once every three years that include, at a minimum, classroom observation of the teacher, a review of the teacher’s progress on the Iowa teaching standards as set forth in rule 281—83.4(284) and additional standards and criteria if established under subrule 83.4(9), a review of the implementation of the teacher’s individual professional development plan, and supporting documentation from other evaluators, teachers, parents, and students; as follows:~~

(1) Review once every three years by an evaluator to include, at a minimum, classroom observation of the teacher, a review of the teacher’s progress on the Iowa teaching standards as set forth in rule 281—83.4(284) and additional standards and criteria if established under subrule 83.4(9), a review of the implementation of the teacher’s individual professional development plan, and supporting documentation from other evaluators, teachers, parents, and students; and

(2) Review annually, other than the third-year review by an evaluator, by a peer group of teachers in accordance with Iowa Code section 284.8(1) as amended by 2012 Iowa Acts, Senate File 2284, section 6;

EDUCATION DEPARTMENT[281](cont'd)

ITEM 2. Amend rule 281—83.11(284A) as follows:

281—83.11(284A) Evaluation. The board of directors of a school district shall conduct an annual evaluation of an administrator who holds a professional administrator license issued under Iowa Code chapter 272 ~~at least once every three years~~ for purposes of assisting the administrator in making continuous improvements, documenting continued competence in the Iowa standards for school administrators adopted pursuant to 2007 Iowa Code Supplement section 256.7(27), and determining whether the administrator's practice meets the board's expectations for the school district. The ~~review~~ evaluation shall include, at a minimum, an assessment of the administrator's competence in meeting the Iowa standards for school administrators and the goals of the administrator's individual professional development plan, including supporting documentation or artifacts aligned to the Iowa standards for school administrators and the individual administrator's professional development plan.

ARC 0301C

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 84, “Financial Incentives for National Board Certification,” Iowa Administrative Code.

Recent legislation reinstated the financial incentives provided to Iowa teachers who become certified by the National Board for Professional Teaching Standards (NBPTS) that had been phased out by previous legislation in 2007. Any Iowa teacher who registered for such certification after December 31, 2007, now qualifies for the reimbursement award under rule 281—84.3(256) and annual award under rule 281—84.4(256).

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

Interested individuals may make written comments on the proposed amendments on or before September 11, 2012, at 4:30 p.m. Comments on the proposed amendments should be directed to Mike Cormack, 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 11, 2012, from 3 to 4 p.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 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.

These amendments are intended to implement 2012 Iowa Acts, Senate File 2284, sections 29 and 30. The following amendments are proposed.

ITEM 1. Amend rule 281—84.1(256) as follows:

281—84.1(256) Purpose. National Board Certification (NBC) is available to teachers nationwide and requires candidates to demonstrate their teaching practice as measured against high and rigorous standards. NBC teachers enhance the educational experience of their students and motivate fellow teachers toward excellence in classroom teaching. These rules implement the two financial incentive pilot programs enacted by the Iowa legislature to increase the number of NBC teachers in Iowa.

EDUCATION DEPARTMENT[281](cont'd)

NOTE: Pursuant to Iowa Code Supplement section 256.44, the financial incentives for NBC teachers are available only to teachers who registered for National Board Certification on or before December 31, 2007. Funds are available to honor the registration reimbursements in rule 84.3(256) and the annual awards in rule 84.4(256) for eligible individuals.

ITEM 2. Amend subrule 84.3(1) as follows:

84.3(1) Eligibility. Teachers who registered with NBPTS after December 31, 2007, but before July 1, 2012, shall apply to the department by May 1, 2013. All other teachers seeking reimbursement shall apply to the department within one year of registration with NBPTS. Teachers eligible for the registration fee reimbursement program shall meet all of the following qualifications:

a. to d. No change.

e. The individual completes the department's application process, which includes submitting verification of NBC registration. ~~The teacher must have registered with NBPTS no later than December 31, 2007.~~

f. No change.

ITEM 3. Amend subrule 84.4(1) as follows:

84.4(1) Eligibility. In addition to having registered with NBPTS ~~no later than December 31, 2007,~~ and achieving certification within NBPTS-established timelines and policies, individuals eligible for the NBC annual award shall meet all of the following qualifications:

a. to h. No change.

ARC 0284C

IOWA FINANCE AUTHORITY[265]

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(1)“b” and 16.5(1)“r,” the Iowa Finance Authority proposes to amend Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

These amendments replace the current qualified allocation plan for the Low-Income Housing Tax Credit Program with the 2013 qualified allocation plan (QAP), which is incorporated by reference in rule 265—12.1(16).

The qualified allocation plan sets forth the purpose of the plan, the administrative information required for participation in the program, the threshold criteria, the selection criteria, the postreservation requirements, the appeal process, and the compliance monitoring component. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the qualified allocation plan are available upon request from the Authority and are available electronically on the Authority's Web site at www.iowafinanceauthority.gov. It is the Authority's intent to incorporate the 2013 qualified allocation plan by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority's general rules concerning waivers. The qualified allocation plan is subject to state and federal requirements that cannot be waived. (See Internal Revenue Code Section 42 and Iowa Code section 16.52.)

The Authority will receive written comments on the proposed amendments and on the qualified allocation plan until 4:30 p.m. on September 11, 2012. Comments may be addressed to Dave Vaske, Low-Income Housing Tax Credit Manager, Iowa Finance Authority, 2015 Grand Avenue, Des

IOWA FINANCE AUTHORITY[265](cont'd)

Moines, Iowa 50312. Comments may also be faxed to Dave Vaske at (515)725-4901 or e-mailed to dave.vaske@iowa.gov.

The Authority will hold a public hearing on September 11, 2012, to receive public comments on these amendments and on the proposed 2013 qualified allocation plan. The public hearing will be held from 9 to 11 a.m. at the Authority's offices, located at 2015 Grand Avenue, Des Moines, Iowa.

The Authority anticipates that it may make changes to the 2013 qualified allocation plan based on comments received from the public.

After analysis and review of this rule making, the impact on jobs is expected to be consistent with the impact of previous years' QAPs. The Low-Income Housing Tax Credit Program has a substantial positive impact on job creation in Iowa, with many jobs created annually in the construction, finance, and property management fields, among others.

These amendments are intended to implement Iowa Code sections 16.5(1)"r," 16.52, 17A.12, and 17A.16 and IRC Section 42.

The following amendments are proposed.

ITEM 1. Amend rule 265—12.1(16) as follows:

265—12.1(16) Qualified allocation plan. The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program ~~2012~~ 2013 Qualified Allocation Plan shall be the qualified allocation plan for the allocation of ~~2012~~ 2013 low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The qualified allocation plan does not include any amendments or editions created subsequent to ~~December 7, 2011~~ August 1, 2012.

ITEM 2. Amend rule 265—12.2(16) as follows:

265—12.2(16) Location of copies of the plan. The qualified allocation plan can be reviewed and copied in its entirety on the authority's Web site at <http://www.iowafinanceauthority.gov>. Copies of the qualified allocation plan, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's Web site. The plan incorporates by reference IRC Section 42 and the regulations in effect as of ~~December 7, 2011~~ August 1, 2012. Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's Web site.

ARC 0287C

IOWA FINANCE AUTHORITY[265]

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(1)"b," 16.5(1)"f" and 16.5(1)"r," the Iowa Finance Authority proposes to amend Chapter 15, "Purchasing," Iowa Administrative Code.

The purpose of this amendment is to modernize the Authority's purchasing procedure by posting formal bids and requests for proposals on the Internet in lieu of advertising in a newspaper and to implement Iowa Code section 16.5(1)"f."

The Authority does not intend to grant waivers under the provisions of this rule, other than as may be allowed under the Authority's general rules concerning waivers.

IOWA FINANCE AUTHORITY[265](cont'd)

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on September 11, 2012. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to mark.thompson@iowa.gov.

The Authority anticipates that it may make changes to the proposed amendment based on comments received from the public.

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

This amendment is intended to implement Iowa Code sections 16.5(1)“f” and 16.5(1)“r.”

The following amendment is proposed.

Amend rule 265—15.4(16) as follows:

265—15.4(16) Advertising Posting solicitations. Formal bids and requests for proposals issued by the authority shall be ~~advertised in a daily paper in Iowa~~ posted to the authority’s Internet Web site. The ~~advertisement posting~~ shall indicate that it is a notice to prospective bidders, contain the due date and time of opening of the bid or proposal, describe the items to be purchased, and provide the name, address and telephone number of the person to be contacted to obtain official bidding documents.

ARC 0296C

IOWA FINANCE AUTHORITY[265]

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(1)“b,” 16.5(1)“r” and 16.5(1)“m,” the Iowa Finance Authority proposes to amend Chapter 39, “HOME Partnership Program,” Iowa Administrative Code.

The purpose of these amendments is to accommodate changes in proposed federal regulations that are anticipated to be effective by the end of the calendar year.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on September 11, 2012. Comments may be addressed to Carolann Jensen, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Carolann Jensen at (515)725-4901 or e-mailed to carolann.jensen@iowa.gov.

The Authority anticipates that it may make changes to the proposed amendments based on comments received from the public.

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

These amendments are intended to implement Iowa Code section 16.5(1)“m” and 42 U.S.C. Sections 12701 et seq.

The following amendments are proposed.

ITEM 1. Amend **265—Chapter 39**, title, as follows:

HOME PARTNERSHIP INVESTMENT PARTNERSHIPS PROGRAM

ITEM 2. Amend rule 265—39.1(16) as follows:

265—39.1(16) Purpose. The primary purpose of the HOME ~~partnership~~ investment partnerships program is to expand or retain the supply of decent and affordable housing for low- and moderate-income Iowans.

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 3. Adopt the following **new** definitions of “Contract,” “Multifamily housing,” “Period of affordability,” “Project” and “Project completion” in rule **265—39.2(16)**:

“*Contract*” means a binding written agreement between IFA and the recipient or subrecipient for the purpose of utilizing HOME funds to produce affordable housing or provide tenant-based rental assistance.

“*Multifamily housing*” means a structure with five or more dwelling units serving five or more family residences.

“*Period of affordability*” means the length of time a recipient or subrecipient must impose the rent or occupancy income restrictions on the units assisted by HOME funds as established by federal program requirements.

“*Project*” means a site or sites together with any building (including a manufactured housing unit) or buildings located on the site(s) that are under common ownership, management, and financing and are to be assisted with HOME funds as a single undertaking. The project includes all the activities associated with the site and building. For tenant-based rental assistance, project means assistance to one or more families.

“*Project completion*” means that all construction work and title transfer (if applicable) are completed and the final draw of HOME funds has been disbursed. In addition:

1. For homebuyer projects, the beneficiary data have been entered into IDIS;
2. For rental projects, the units have all been initially occupied and the unit data have been entered into IDIS;
3. For tenant-based rental assistance projects, all HOME funds associated with the tenant-based rental assistance contract have been disbursed and beneficiary data have been entered into IDIS.

ITEM 4. Rescind the definitions of “Extremely low income” and “Gut rehabilitation” in rule **265—39.2(16)**.

ITEM 5. Amend rule **265—39.2(16)**, definitions of “Activity,” “CHDO,” “First-time home buyer,” “HOME,” “Low income,” “Program income,” “Reasonable and customary closing costs,” “Recaptured funds,” “Repayment,” “Single-family unit,” “Single parent,” “Subrecipient” and “Very low income,” as follows:

“*Activity*” means one or more specific housing activities, projects or programs assisted through the HOME ~~partnership investment partnerships~~ program.

“*CHDO*” means a community housing development organization, which is a nonprofit organization registered with the Iowa secretary of state and certified as such by IFA, pursuant to 24 CFR 92.2 (~~April 1, 1997~~). (September 16, 1996).

“*First-time ~~home-buyer~~ homebuyer*” or “*homebuyer*” means an individual or an individual and the individual’s spouse who have not owned a home during the three-year period before the purchase of a home with HOME assistance, except that an individual who is a displaced homemaker or single parent may not be excluded from consideration as a first-time ~~home-buyer~~ homebuyer on the basis that the individual, while a homemaker, owned a home with the individual’s spouse or resided in a home owned by a spouse; and an individual may not be excluded from consideration on the basis that the individual owns or owned, as a principal residence during the three-year period before purchase of a home with HOME assistance, a dwelling unit whose structure is (1) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations or (2) not in compliance with state, local or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

“*HOME*” means the HOME Investment ~~Partnership~~ Partnerships Program, authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990.

“*Low-income*” means families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD. An individual does not qualify as a low-income family if the individual is enrolled as a student at an institution of higher education; is under 24 years of age; is not a veteran of the United States military; is unmarried; does not have a dependent child; and is not otherwise individually low-income or does not have parents who qualify as low-income.

IOWA FINANCE AUTHORITY[265](cont'd)

“Program income” means funds generated by a recipient or subrecipient from the use of HOME funds gross income received by the participating jurisdiction, state recipient, or a subrecipient directly generated from the use of HOME funds or matching contributions.

“Reasonable and customary closing costs” means:

1. Seller’s reasonable and customary closing costs incurred include, but are not limited to: abstract updating, title search fees, ~~deed~~ document preparation fees, bringing current the seller’s county taxes, and real estate commission fees. Ineligible costs include, but are not limited to: lender discount points, allowances, inspection fees, and buyer closing costs.

2. Buyer’s reasonable and customary closing costs incurred include, but are not limited to: lender origination fees, credit report fees, fees for the title evidence or title opinion, fees for recording and filing of legal documents, attorneys’ fees, appraisal fees, and required inspection fees. Ineligible costs under this definition include, but are not limited to: prepayment of taxes, prepayment of insurance, ~~and~~ lender discount points and seller’s closing costs.

“Recaptured funds” means HOME funds which are recouped by the recipient when the housing unit assisted by the HOME ~~partnership~~ program ~~home-ownership~~ homebuyer funds does not continue to be the principal residence of the assisted ~~home-buyer~~ homebuyer for the full period of affordability period required by federal statute.

“Repayment” means HOME funds which the recipient ~~must~~ shall repay to IFA because the funds were invested in a project or activity that is terminated before completion or were invested in a project or activity which failed to comply with federal program requirements.

“Single-family ~~unit~~ housing” means ~~one dwelling unit designated or constructed to serve only one household or family as the primary a one- to four-family residence. Single-family units include a detached single unit, condominium unit, cooperative unit, or combined, combination of manufactured housing unit and lot, or manufactured housing lot.~~

“Single parent” means an individual who (1) is unmarried or is legally separated from a spouse; and (2) ~~is pregnant~~ or has one or more minor children ~~for~~ of whom the individual has custody or joint custody, or is pregnant.

“Subrecipient” means a public agency or nonprofit organization selected by IFA to administer all or a portion of an activity to produce affordable housing, provide downpayment assistance, or provide tenant-based rental assistance under the HOME program. “Subrecipient” includes a state recipient pursuant to 24 CFR 92.201(b)(2). A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not a subrecipient. The selection of a subrecipient by IFA is not subject to the procurement procedures and requirements under federal or state law. ~~Eligible activities to be administered by a subrecipient are tenant-based rental assistance and home-ownership assistance without development subsidies.~~

“Very low-income” means families whose annual incomes do not exceed 50 percent of the median income for the area, as determined by HUD. ~~An individual does not qualify as a very low-income family if the individual is enrolled as a student at an institution of higher education; is under 24 years of age; is not a veteran of the United States military; is unmarried; does not have a dependent child; and is not otherwise individually very low-income or does not have parents who qualify as very low-income.~~

ITEM 6. Amend rule 265—39.4(16) as follows:

265—39.4(16) Eligible activities and forms of assistance.

39.4(1) Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion and preservation), rental housing new construction, ~~home-ownership~~ homebuyer assistance that includes some form of direct subsidy to the ~~home-buyer~~ homebuyer (including development subsidies), and other housing-related activities as may be deemed appropriate by IFA. Assisted housing may be single-family housing or multifamily housing and may be designed for occupancy by ~~homeowners~~ homebuyers or tenants.

a. Assisted units shall ~~be affordable~~ meet the period of affordability as set forth in the federal program requirements.

IOWA FINANCE AUTHORITY[265](cont'd)

~~(1) For rental activities, all assisted units shall rent at the lesser of the area fair market rents or a rent that does not exceed 30 percent of 65 percent of the area median family income and, for projects with five or more units, 20 percent of the assisted units shall rent at the lesser of the fair market rent or a rent that does not exceed 30 percent of 50 percent of the area median family income. Assisted units shall remain affordable for a specified period: 20 years for newly constructed units; 15 years for rehabilitated units receiving over \$40,000 per unit in assistance; 10 years for rehabilitated units receiving \$15,000 to \$40,000 per unit in assistance; and 5 years for projects receiving less than \$15,000 per unit.~~

~~(2) For tenant-based rental assistance, gross rents shall not exceed the jurisdiction's applicable rent standard and shall be reasonable, based on rents charged for comparable, unassisted rental units.~~

~~(3) For home ownership homebuyer assistance, the initial purchase price for newly constructed units or the after rehabilitation value for rehabilitated units shall not exceed the single-family housing mortgage limits under Section 203(b) of the National Housing Act established in February 2008 as set forth by HUD's most current maximum purchase price or after rehabilitation value limits. Assisted units shall remain affordable through recapture with net proceeds or resale provisions for a specified period: 5 years for projects receiving less than \$15,000 in assistance per unit; 10 years for projects receiving \$15,000 to \$40,000 in assistance per unit; and 15 years for projects receiving over \$40,000 in assistance per unit.~~

~~b. Assisted households shall meet income limits established by federal program requirements.~~

~~(1) For rental activities for projects with 35 units or fewer, all assisted units shall be rented to low-income households; at initial occupancy, 90 100 percent of the units shall be rented to households with incomes at or below 60 percent of the area's median family income and, for projects with 5 five or more units, 20 percent of the units shall be rented initially to very low-income households.~~

~~(2) For rental activities for projects with 36 units or more, all assisted units shall be rented to low-income households; at initial occupancy and throughout the HOME compliance period, 5 percent of all of the units, assisted or not assisted, in the project shall be rented to extremely low-income households, and the household shall not pay more than the rent established by HUD for extremely low-income households. At initial occupancy, the remainder of the HOME assisted units shall be rented to households with incomes at or below 60 percent of the area's median family income and, for projects with 5 or more units, 20 percent of the units shall be rented initially to very low-income households.~~

~~(3) (2) For tenant-based rental assistance, only households with incomes at or below 80 percent of the area median family income shall be assisted; 90 percent of the households served shall have incomes at or below 60 percent of the area's median family income.~~

~~(4) (3) For home ownership homebuyer assistance, only households with incomes at or below 80 percent of the area median family income shall be assisted.~~

~~c. No change.~~

~~d. Energy Star. All new rental construction must obtain Energy Star certification verified by an Energy Star rater.~~

~~39.4(2) Eligible forms of IFA assistance to its recipients include grants, interest-bearing loans, non-interest-bearing loans, interest subsidies, deferred payment loans, forgivable loans or other forms of assistance as may be approved by IFA.~~

~~39.4(3) For all single-family housing projects or activities assisting homeowners or home buyers homebuyers, the only form of HOME funds assistance to the end beneficiary is a forgivable loan.~~

~~39.4(4) Program income must be returned to IFA, except in the following instances:~~

~~a. Subrecipients who receive program income shall reduce the HOME draw amount requested by the amount of program income received and must report to IFA the amount and source of the program income.~~

~~b. CHDOs that have an IFA approved reuse plan and a written agreement that specifies that program income may be retained by the CHDO may use program income as CHDO proceeds.~~

~~39.4(5) A site including any building located thereon or project acquired or used for rental activities must be held in fee simple title by the recipient upon the disbursement of HOME funds and throughout the contract term with IFA. An installment contract or leasehold interest is not an acceptable recipient interest.~~

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39.4(6) A site including any building located thereon or project acquired or used for homebuyer activities must be held in fee simple title by the recipient or homebuyer upon the disbursement of HOME funds and throughout the contract term with IFA. An installment contract or leasehold interest is not an acceptable recipient or homebuyer interest.

ITEM 7. Amend rule 265—39.5(16) as follows:

265—39.5(16) Application procedure.

39.5(1) HOME applications shall be reviewed at least annually. IFA reserves the right to withhold funding from the annual HOME competitive cycle to compensate for insufficient number of or quality of applications received, to ensure IFA meets its 15 percent CHDO set-aside from HOME funds, to add HOME funds to existing HOME awards within one year of the original award date, to reallocate deobligated or recaptured funds, and to fund projects that are consistent with the Rural Development Section 515 Preservation Demonstration Program as long as the program exists. In the event that funds are withheld from the annual competitive cycle, IFA will entertain additional applications, requests for proposals, or other forms of requests as deemed appropriate by IFA.

39.5(2) Joint applications. For applicants requesting funding from both the HOME partnership and low-income housing tax credit (LIHTC) LIHTC programs, the applicant may request application forms and related materials from the LIHTC program at IFA. IFA will make a joint tax credit and HOME application available to a potential applicant. The applicant must submit to IFA the completed application with required HOME attachments by the deadline established in the application package. An applicant shall meet the requirements of the LIHTC and the HOME program programs to receive an award of HOME funds.

a. and b. No change.

c. An applicant for the HOME partnership program must meet the threshold requirements outlined in rule 265—39.6(16).

ITEM 8. Amend rule 265—39.6(16) as follows:

265—39.6(16) Application requirements. To be considered for HOME assistance, an application shall meet the following threshold criteria.

39.6(1) to 39.6(5) No change.

39.6(6) The application shall include a ~~certification~~ HOME certification that the applicant will comply with all applicable state and federal laws and regulations.

39.6(7) Maximum per-unit subsidy amount and subsidy layering. The following shall apply to all applications:

a. The total amount of HOME funds awarded on a per-unit basis may not exceed the per-unit dollar limitations established under Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the area in which the housing is located.

b. IFA shall evaluate the project in accordance with subsidy layering guidelines adopted by HUD for this purpose.

c. The total amount of HOME funds awarded on a per-unit basis cannot exceed the pro rata or fair share of the total project costs when compared to a similar unit in a rental activity.

39.6(8) An application for a ~~home-ownership~~ homebuyer assistance activity must indicate that recipients will require the beneficiaries of the applicant's ~~home-ownership~~ homebuyer assistance activity to use a principal mortgage loan product that meets the following criteria:

a. With the exception of Habitat for Humanity principal mortgage loan products, the principal mortgage loan must be the only repayable loan in all individual ~~home-ownership~~ homebuyer assistance projects.

b. The HOME assistance must be recorded in second lien position to the principal mortgage loan, if one exists. Recipients of HOME ~~home-ownership~~ homebuyer assistance must maintain their assistance security agreements in the above-stated recording position throughout the applicable period of affordability and will not be allowed to subordinate the required recording position to any other

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form of assistance, such as home equity loans. A ~~home-buyer~~ homebuyer search is required, and any collection/unpaid obligation that would become a judgment or any judgments must be paid in full prior to closing.

c. Any mortgage lending entity's principal mortgage loan products may be used provided they meet all of the following minimum requirements:

(1) The loan must be a fully amortizing, fixed-rate loan with rate not to exceed Fannie Mae 90-day yield + 0.125% or VA-published interest rate at par;

~~(2) Loan terms must include an 80 percent or higher loan-to-value ratio;~~

~~(3) (2)~~ No less than a 15-year, fully amortized, fixed-rate mortgage shall be used; and

~~(4) (3)~~ No adjustable rate mortgages or balloon payment types of mortgages will be allowed.

~~d. Recipients are encouraged but not required to have the beneficiaries of their home ownership assistance activity utilize a principal mortgage loan product offered by one of the following: Iowa finance authority, USDA Rural Development, Federal Home Loan Bank, HUD (including FHA and VA), Habitat for Humanity, Fannie Mae, or Freddie Mac.~~

39.6(9) An application for a ~~home ownership~~ homebuyer assistance activity must stipulate that ~~home ownership~~ homebuyer assistance is for first-time ~~home buyers~~ homebuyers only and that the assisted unit will remain as the assisted ~~home buyer's~~ homebuyer's principal residence throughout the required period of affordability, which must be verified annually by the subrecipient. If the assisted ~~home buyer~~ homebuyer fails to maintain the home as the principal residence during the period of affordability period, then all HOME funds associated with that address must be repaid to IFA.

39.6(10) An application for a ~~home ownership~~ homebuyer assistance activity must stipulate that all assisted units will be insured for at least the full value of the assisted unit, which must be verified annually by the subrecipient.

ITEM 9. Amend rule 265—39.7(16) as follows:

265—39.7(16) Application review criteria.

39.7(1) No change.

39.7(2) ~~A request for proposals shall be published by IFA when funds are available to award. The request for proposals shall specify the general criteria, need, impact and feasibility criteria, and the administrative criteria based on the activity proposed. Notice of the availability of funding and the funding round requirements will be placed on IFA's Web site at www.iowafinanceauthority.gov.~~

39.7(3) No change.

ITEM 10. Amend rule 265—39.8(16) as follows:

265—39.8(16) Allocation of funds.

39.8(1) IFA may retain ~~a portion of the amount~~ up to 10 percent of the state's annual HOME allocation from HUD for administrative costs associated with program implementation and operation.

39.8(2) No change.

39.8(3) IFA reserves the right to set aside a portion of the state's annual HOME allocation for rental housing activities ~~jointly funded with HOME and low-income housing tax credits and for the Rural Development Section 515 Preservation Demonstration Program as long as the program exists.~~

39.8(4) No change.

39.8(5) IFA reserves the right to limit or exceed the amount of funds ~~that shall be awarded~~ set aside for any single activity type.

39.8(6) ~~Awards~~ An award shall be limited to no more than \$600,000 for ~~all~~ single-family housing activities assisting ~~home buyers~~ homebuyers. ~~Awards~~ An award shall be limited to no more than \$1,000,000 for ~~all~~ multifamily housing rental activities.

39.8(7) Single-family per-unit subsidies.

a. The maximum per-unit subsidy for all single-family housing activities involving rehabilitation is \$37,500. The \$37,500 per-unit limit includes all applicable costs including, but not limited to, the hard costs of rehabilitation or the acquisition subsidy or both; ~~home ownership~~ homebuyer assistance

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activities; technical services costs, including lead hazard reduction carrying costs; lead hazard reduction costs; and temporary relocation. All rehabilitation hard costs funded with HOME funds are limited to \$24,999. All applicable technical services costs, including any lead hazard reduction carrying costs, are limited to \$4,500 per unit.

b. Assistance for single-family housing activities providing acquisition assistance for newly constructed housing (mortgage buy-down, downpayment or closing costs assistance or both, or combinations thereof) is limited to \$35,000 per unit, inclusive of all costs, including technical services costs.

e.—Assistance for single-family activities providing development subsidies for newly constructed housing is limited to \$30,000 per unit. Development subsidies shall only be provided in addition to direct subsidies within home buyer assistance activities. When a development subsidy is used in combination with home buyer assistance activities, assistance is limited to \$35,000 per unit, inclusive of all costs.

~~39.8(8)~~ Multifamily per unit subsidies. The maximum per unit HOME funds subsidy for all multifamily activities is \$70,000 per unit including both newly constructed units and the rehabilitation of existing multifamily units, including conversion activities. The \$70,000 per unit multifamily limit includes all applicable costs including, but not limited to, hard costs of construction or rehabilitation; architectural design or technical services costs; lead hazard reduction or abatement costs; lead hazard reduction or abatement carrying costs; and temporary relocation.

~~39.8(9)~~ ~~39.8(8)~~ Subrecipients shall identify general administrative costs in the HOME funds application. IFA reserves the right to negotiate the amount of funds provided for general administration, but in no case shall the amount for general administration exceed 10 percent of a total HOME funds award. Only local government and nonprofit recipients are eligible for general administrative funds. Subrecipients must certify that all general administrative costs reimbursed by HOME funds are separate from and not reimbursed by HOME funds as technical services costs.

~~39.8(10)~~ ~~39.8(9)~~ IFA reserves the right to negotiate the amount and terms of a HOME funds award.

~~39.8(11)~~ ~~39.8(10)~~ IFA reserves the right to make award decisions such that the state maintains the required level of local match to HOME funds.

ITEM 11. Amend rule 265—39.9(16) as follows:

265—39.9(16) Administration of awards. Applicants selected to receive HOME funds awards shall be notified by letter from the IFA executive director or ~~IFA affordable rental production division director designee.~~

~~39.9(1)~~ and ~~39.9(2)~~ No change.

~~39.9(3)~~ *Local administrative and technical services contracts.*

a. Subrecipients awarded funds to perform the general administrative functions for ~~home ownership~~ homebuyer assistance and tenant-based rental assistance activities shall enter into a contract ~~for services~~ with IFA.

b. No change.

~~39.9(4)~~ *Requests for funds.* Recipients shall submit requests for funds in the manner and on forms prescribed by IFA. Individual requests for funds shall be made in whole dollar amounts equal to or greater than \$500 per request, except for the final draw of funds. Adequate and itemized documentation supporting the amount of funds requested ~~must shall~~ be provided to and approved by IFA prior to release of funds. For rental projects, IFA shall may retain up to 10 percent of the total HOME funds ~~for development subsidies from payment to the recipient until award for up to 30 days after the recipient satisfactorily completes the work, all and full occupancy of the HOME-assisted units is attained have been initially occupied, and a final draw and completion form has been submitted to and approved by IFA. At IFA's discretion,~~ For homebuyer projects, IFA may retain up to 5 percent of the total HOME funds ~~for home buyer and tenant-based rental assistance activities may be retained from payment to the subrecipient for program or administrative costs until the final closeout documents are submitted to and approved by IFA award until the subrecipient satisfactorily completes the work and the final draw and completion form for the last activity in the project has been submitted to and approved by IFA.~~

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39.9(5) Record keeping and retention.

a. HOME-funded projects. For HOME-funded projects, 24 CFR 92.508 provides the record retention requirements. ~~All records pertaining to each fiscal year of HOME funds must be retained for the most recent five-year period, except as provided in~~ Recipients and subrecipients shall retain the following:

(1) For rental housing projects, records ~~may~~ shall be retained for five years after the project completion date, except that records of individual tenant income verifications, project rents and project inspections ~~must~~ shall be retained for the most recent five-year period, until five years after the period of affordability ~~period~~ terminates;

(2) For ~~home ownership~~ homebuyer housing projects, records ~~may~~ shall be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the period of affordability ~~period~~ terminates;

(3) For tenant-based rental assistance projects, records ~~must~~ shall be retained for five years after the period of rental assistance ~~terminates~~ project completion date;

~~(4) Written agreements must be retained for five years after the agreement terminates;~~

~~(5) (4)~~ For records covering displacements and acquisitions, see 24 CFR 92.508;

~~(6) (5)~~ For records relating to litigation, see 24 CFR 92.508.

b. No change.

39.9(6) No change.

39.9(7) Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alterations of the funded activities affecting the scope, location, objectives or scale of the approved activity. Amendments shall be requested in writing by the ~~CEO of the~~ recipient and are not considered valid until approved in writing by IFA following the procedure specified in the contract between the recipient and IFA.

~~**39.9(8) Work completion closeout.** Upon the contract expiration date or work completion date, as applicable, and IFA's receipt of final draw and completion documentation, IFA shall initiate closeout procedures in IDIS. Recipients shall comply with applicable audit requirements, performance reports and Section 3 requirements and provide other required documents described in the HOME funds application, the contract, the IFA HOME Program Guide, and any other IFA HOME partnership program policies and procedures.~~

~~**39.9(9)**~~ **39.9(8) Compliance with federal, state and local laws and regulations.** Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program and with applicable federal, state and local regulations.

~~**39.9(10)**~~ **39.9(9) Remedies for noncompliance.** At any time, IFA may, for cause, find that a recipient is not in compliance with the requirements of this program. At IFA's discretion, remedies for noncompliance may include, but not be limited to, penalties up to and including the return of program funds to IFA. Reasons for a finding of noncompliance include the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded activities in a timely manner, 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 activities in a timely manner.

~~**39.9(11)**~~ **39.9(10) Appeals process for findings of noncompliance.** Appeals will be entertained in instances where it is alleged that IFA staff participated in a decision which was unreasonable, arbitrary, or capricious or otherwise beyond the authority delegated to IFA. Appeals should be addressed to the executive director of the affordable rental production division IFA. Appeals shall be in writing and submitted to IFA within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. IFA's executive director will make the final decision on all appeals.

LABOR SERVICES DIVISION

Advance Notice of Proposed Rule Making

Pursuant to the authority of Iowa Code subsection 89A.3(3), the Elevator Safety Board is considering adoption of the American Society of Mechanical Engineers A17.3 “Safety Code for Existing Elevators and Escalators.” Currently, older elevators and escalators do not meet the same safety standards as new equipment. The A17.3 code would improve safety for older equipment, but generally would not require the same level of safety needed for new equipment. The cost of complying with the A17.3 code would vary widely depending on the installation. However, it is clear that for some owners the required changes would be expensive.

In advance of filing a Notice of Intended Action, the Elevator Safety Board is seeking public comment on the A17.3 code. Please visit www.iowaworkforce.org/elevator for information about the A17.3 code and for instructions on commenting about the A17.3 code.

ARC 0288C

PROFESSIONAL LICENSURE DIVISION[645]

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 147.76, the Board of Massage Therapy hereby gives Notice of Intended Action to amend Chapter 131, “Licensure of Massage Therapists,” and Chapter 132, “Massage Therapy Education Curriculum,” Iowa Administrative Code.

The proposed amendments reflect changes to the Iowa Code that modified the number of hours required in a massage therapy program from 500 hours to 600 hours. The proposed amendments also revise the maximum number of hours in the clinical practicum.

Any interested person may make written comments on the proposed amendments no later than September 12, 2012, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail pwilson@idph.state.ia.us.

A public hearing will be held on September 12, 2012, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, 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 proposed amendments.

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

These amendments are intended to implement 2011 Iowa Code Supplement section 152C.3(1)“a.”

The following amendments are proposed.

ITEM 1. Amend subrule 131.3(1) as follows:

131.3(1) The applicant shall have graduated from a board-approved school that has a minimum of ~~500~~ 600 hours of massage therapy education.

ITEM 2. Amend subrule 132.2(6) as follows:

132.2(6) Schools that apply for curriculum approval shall, at a minimum, provide a curriculum that meets the requirements of this chapter, offer a course of study of at least ~~500~~ 600 clock hours or the equivalent in academic credit hours, and require for entrance into the massage therapy school graduation from high school or its equivalent.

ITEM 3. Amend subrule 132.4(4) as follows:

132.4(4) The clinical practicum shall not exceed ~~400~~ 120 hours ~~of in~~ a ~~500~~ 600-hour program.

ARC 0283C**PROFESSIONAL LICENSURE DIVISION[645]****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 147.76, the Board of Physician Assistants hereby gives Notice of Intended Action to amend Chapter 326, “Licensure of Physician Assistants,” Iowa Administrative Code.

These proposed amendments change from two to five the number of physician assistants who can be supervised by a physician and make the language consistent within the chapter. The purpose for the change from two to five is to make the administrative rule requirements consistent with changes related to Iowa Code section 148C.3(2) as amended by 2012 Iowa Acts, Senate File 2185.

Any interested person may make written comments on the proposed amendments no later than September 12, 2012, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail pwilson@idph.state.ia.us.

A public hearing will be held on September 12, 2012, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, 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 proposed amendments.

After analysis and review of this rule making, there should be a positive impact on jobs. These amendments would allow additional physician assistants to be hired and supervised by one supervising physician. More physician assistants could work for one physician, allowing more patients to be seen by that physician’s office.

These amendments are intended to implement Iowa Code section 148C.3(2) as amended by 2012 Iowa Acts, Senate File 2185.

The following amendments are proposed.

ITEM 1. Amend subrule 326.8(3) as follows:

326.8(3) A physician assistant who provides medical services shall be supervised by one or more physicians; but a physician shall not supervise more than ~~two~~ five physician assistants at the same time.

ITEM 2. Amend subrule 326.8(4), introductory paragraph, as follows:

326.8(4) It shall be the responsibility of the physician assistant and a supervising physician to ensure that the physician assistant is adequately supervised. Upon agreeing to supervise a physician assistant, a supervising physician will be advised that the physician’s name will be listed with the board as a supervising physician. In regard to scheduling, the physician assistant may not practice if supervision is unavailable, except as otherwise provided in Iowa Code chapter 148C or these rules, and must be in compliance with the requirement that no more than ~~two~~ five physician assistants shall be supervised by a physician at ~~one~~ the same time, pursuant to 645—subrule 326.8(3). The physician assistant and the supervising physician are each responsible for knowing and complying with the supervision provisions of these rules.

ARC 0292C**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 8, “Forms and Communications,” Chapter 40, “Determination of Net Income,” Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Chapter 53, “Determination of Net Income,” Chapter 58, “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 2012 Iowa Acts, House Files 2337 and 2465, and 2012 Iowa Acts, Senate File 2322.

Item 1 amends subrule 8.2(2) to update the mailing addresses used when corresponding with the Department.

Item 2 amends subrule 8.3(2) to update the contact information for the Department regarding the approval of substitute tax forms.

Item 3 amends rule 701—40.38(422) by adding new subrule 40.38(10) regarding the partial capital gain deduction allowed for individual income tax for the sale of employer securities to an Iowa employee stock option plan.

Item 4 amends the implementation sentence for rule 701—40.38(422).

Item 5 amends rule 701—40.70(422) by adding new subrule 40.70(3) regarding the repeal of the exclusion from individual income tax for income from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television or video projects.

Item 6 amends the implementation sentence for rule 701—40.70(422).

Items 7 and 8 amend subrule 42.19(5) and the implementation sentence for rule 701—42.19(40A,422) to provide for changes for individual income tax related to the allocation of the historic preservation and cultural and entertainment district tax credit earned by a partnership, limited liability company or S corporation.

Item 9 amends rule 701—42.24(15E,422) for individual income tax to provide the amount of endow Iowa tax credit available for the 2012 calendar year.

Item 10 amends rule 701—42.37(15,422) by adding new subrule 42.37(4) for individual income tax to reflect the repeal of the film qualified expenditure tax credit.

Item 11 amends the implementation sentence for rule 701—42.37(15,422).

Item 12 amends rule 701—42.38(15,422) by adding new subrule 42.38(3) for individual income tax to reflect the repeal of the film investment tax credit.

Item 13 amends the implementation sentence for rule 701—42.38(15,422).

Item 14 amends rule 701—42.44(422) to update the sequence of tax credits for individual income tax.

Item 15 amends 701—Chapter 42 by adding new rule 701—42.49(422) relating to the volunteer fire fighter and volunteer emergency medical services personnel tax credit for individual income tax.

Item 16 amends rule 701—52.12(422) to update the sequence of tax credits for corporation income tax.

Item 17 amends subrule 52.18(5) to provide for changes for corporation income tax related to the allocation of the historic preservation and cultural and entertainment district tax credit earned by a partnership, limited liability company or S corporation. This change is similar to the change in Item 7.

Item 18 amends rule 701—52.23(15E,422) for corporation income tax to provide the amount of endow Iowa tax credit available for the 2012 calendar year. This change is similar to the change in Item 9.

REVENUE DEPARTMENT[701](cont'd)

Item 19 amends paragraph 52.28(2)“a” by adding an example regarding the amortization of the investment tax credit for businesses approved under the High Quality Jobs Program and the Enterprise Zone program.

Item 20 amends rule 701—52.34(15,422) by adding new subrule 52.34(4) for corporation income tax to reflect the repeal of the film qualified expenditure tax credit. This change is similar to the change in Item 10.

Item 21 amends the implementation sentence for rule 701—52.34(15,422).

Item 22 amends rule 701—52.35(15,422) by adding new subrule 52.35(3) for corporation income tax to reflect the repeal of the film investment tax credit. This change is similar to the change in Item 12.

Item 23 amends the implementation sentence for rule 701—52.35(15,422).

Item 24 amends rule 701—53.25(422) by adding new subrule 53.25(3) regarding the repeal of the exclusion from corporation income tax for income from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television or video projects. This change is similar to the change in Item 5.

Item 25 amends the implementation sentence for rule 701—53.25(422).

Item 26 amends rule 701—58.13(15E,422) for franchise tax to provide the amount of endow Iowa tax credit available for the 2012 calendar year. This change is similar to the change in Items 9 and 18.

Item 27 amends rule 701—58.19(15,422) for franchise tax to reflect the repeal of the film qualified expenditure tax credit.

Item 28 amends rule 701—58.20(15,422) for franchise tax to reflect the repeal of the film investment tax credit.

Items 29 through 33 amend subrules 89.3(3) and 89.8(4) and paragraphs 89.8(7)“t,” 89.8(8)“c” and 89.8(8)“n” to reflect changes for fiduciary income tax regarding the calculation of income for nonresident decedents and for estates and trusts with a situs outside Iowa. These changes reflect that nonresident decedents and estates and trusts with a situs outside Iowa are taxed similarly to nonresidents of Iowa for individual income tax.

Item 34 amends subrule 89.8(11) to update the list of tax credits that can be applied against fiduciary income tax.

Item 35 amends the implementation sentence for rule 701—89.8(422).

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 24, 2012, 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 11, 2012. 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 11, 2012.

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 in the state of Iowa.

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These amendments are intended to implement Iowa Code sections 422.7 and 422.11D as amended by 2012 Iowa Acts, House File 2465, section 31; Iowa Code sections 422.7, 422.33, 422.35 and 422.60 as amended by 2012 Iowa Acts, House File 2337, sections 33 to 36; Iowa Code section 422.12 as amended by 2012 Iowa Acts, Senate File 2322; and 2012 Iowa Acts, House File 2337, sections 38 to 40.

The following amendments are proposed.

ITEM 1. Amend subrule 8.2(2) as follows:

8.2(2) Mailing addresses. The following post office box numbers should be used when corresponding with the department. All addresses are completed: Des Moines, Iowa 50306.

Box Number	Addressee
1792	Individual Income Tax Returns
9187	Motor Vehicle Fuel Tax Returns
10306	Deposit Unit
<u>10330</u>	<u>Central Collections Unit</u>
10411	Withholding Tax Returns
10412	Sales and Use Tax Returns
10413	Franchise Tax Returns and Estimated Payments
10455	Insurance Premiums Tax Household Hazardous Materials Environmental Protection Charge
10456	Compliance Division Examination Section
10457	Policy and Communications Division
10458	Field Services
10459	Property Tax Rent Reimbursement Claims
10460	Internal Services Division Technology and Information Management Division
10465	Revenue Operations Division Customer Accounts Registration Services
10466	Individual Estimated Payments
10467	Fiduciary and Inheritance Tax
10468	Corporation Income Tax Returns and Estimated Payments

REVENUE DEPARTMENT[701](cont'd)

Box Number	Addressee
10469	Property Tax
10470	Withholding—Verified Summary of Payments Report
10471	Accounts Receivable
10472	Hearings Section
<u>10486</u>	<u>Property Assessment Appeal Board</u>

ITEM 2. Amend subrule 8.3(2) as follows:

8.3(2) Approval of substitute forms. Prior approval of substitute forms may be obtained by writing ~~Technology and Information Management Division, P.O. Box 10460~~ Iowa Department of Revenue, Substitute Forms, 1305 East Walnut Street, Des Moines, Iowa 50306; ~~by faxing (515)242-6040; 50319,~~ or by a PDF submission via e-mail to IDRSubForms@iowa.gov. ~~Fax communication or PDF submissions via e-mail to the department of approval requests are acceptable in limited circumstances.~~ Normally, approval will be granted for use of substitute forms for one year only. Those forms listed on the substitute forms checklist should be submitted for approval. If doubt exists about the need for approval of a particular substitute form, the form should be submitted for consideration.

ITEM 3. Adopt the following **new** subrule 40.38(10):

40.38(10) Sale of employer securities to an Iowa employee stock ownership plan. For tax years beginning on or after January 1, 2012, 50 percent of the net capital gain from the sale or exchange of employer securities of an Iowa corporation to a qualified Iowa employee stock ownership plan (ESOP) may be eligible for the Iowa capital gain deduction. To be eligible for the capital gain deduction, the qualified Iowa ESOP must own at least 30 percent of all outstanding employer securities issued by the Iowa corporation after completion of the transaction.

a. Definitions. The following definitions apply to this subrule:

“Employer securities” means the same as defined in Section 409(l) of the Internal Revenue Code. “Employer securities” includes common stock issued by the employer and preferred stock if the provisions of Section 409(l)(3) of the Internal Revenue Code are met.

“Iowa corporation” means a corporation whose commercial domicile, as defined in Iowa Code section 422.32, is in Iowa. A limited liability company is not considered an Iowa corporation.

“Qualified Iowa ESOP” means an employee stock ownership plan, as defined in Section 4975(e)(7) of the Internal Revenue Code, and trust that are established by an Iowa corporation for the benefit of the employees of the corporation.

b. The material participation requirements set forth in subrule 40.38(1) do not apply for the sale of employer securities to an Iowa ESOP. In addition, the holding period requirements set forth in paragraph 40.38(2)“a” do not apply for the sale of employer securities to an Iowa ESOP.

ITEM 4. Amend rule **701—40.38(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.7 as amended by 2012 Iowa Acts, House File 2465, division XII.

ITEM 5. Adopt the following **new** subrule 40.70(3):

40.70(3) Repeal of exclusion. The exclusion of income from the sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects is repealed for tax years beginning on or after January 1, 2012. However, the exclusion is still available if the contract or agreement related to a film project was entered into on or before May 25, 2012. Assuming the same facts as those in the example in subrule 40.70(2), the taxpayer can continue to exclude \$2,500 of income on the Iowa individual income tax return for the 2012 and 2013 tax years since the contract or agreement was entered into on or before May 25, 2012.

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ITEM 6. Amend rule **701—40.70(422)**, implementation sentence, as follows:

This rule is intended to implement ~~Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480, section 5,~~ 2012 Iowa Acts, House File 2337, sections 38 to 40, and Iowa Code section 422.7 as amended by 2012 Iowa Acts, House File 2337, section 33.

ITEM 7. Amend subrule 42.19(5) as follows:

42.19(5) *Allocation of historic preservation and cultural and entertainment district tax credits to the individual owners of the entity.*

a. Projects beginning prior to July 1, 2005. When the taxpayer that has earned a historic preservation and cultural and entertainment district tax credit is a partnership, limited liability company, S corporation, estate or trust where the individual owners of the business entity are taxed on the income of the entity, the historic preservation and cultural and entertainment district tax credit shall be allocated to the individual owners. The business entity shall allocate the historic preservation and cultural and entertainment district tax credit to each individual owner on the same pro-rata basis as the earnings of the business are allocated to the owners for projects beginning prior to July 1, 2005. For example, if a partner of a partnership received 25 percent of the earnings or income of the partnership for the tax year in which the partnership had earned a historic preservation and cultural and entertainment district tax credit, 25 percent of the credit would be allocated to this partner.

b. Projects beginning on or after July 1, 2005, for tax credits reserved for fiscal years beginning prior to July 1, 2012. For projects beginning on or after July 1, 2005, for tax credits reserved for fiscal years beginning prior to July 1, 2012, which used low-income housing credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the rehabilitation project, the credit does not have to be allocated based on the pro-rata share of earnings of the partnership, limited liability company or S corporation. For these projects, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder.

c. Tax credits reserved for fiscal years beginning on or after July 1, 2012. For tax credits reserved for fiscal years beginning on or after July 1, 2012, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro-rata share of earnings of the partnership, limited liability company or S corporation.

ITEM 8. Amend rule **701—42.19(404A,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 404A as amended by 2011 Iowa Acts, Senate Files 517 and 521, and Iowa Code section 422.11D as amended by 2012 Iowa Acts, House File 2465, section 31.

ITEM 9. Amend rule **701—42.24(15E,422)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 is \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 and subsequent calendar years is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. ~~For example, For the 2012 calendar year, the total amount of endow Iowa tax credits authorized for the 2011 calendar year is \$4,551,813, so \$4,642,945;~~ the maximum amount of tax credit authorized to a single taxpayer is ~~\$227,590.65 (\$4,551,813 times 5 percent)~~ \$232,147.25 (\$4,642,945 multiplied by 5 percent). The endow Iowa tax credit cannot be transferred to any other taxpayer.

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ITEM 10. Adopt the following **new** subrule 42.37(4):

42.37(4) *Repeal of film qualified expenditure tax credit.* The film qualified expenditure tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

ITEM 11. Amend rule **701—42.37(15,422)**, implementation sentence, as follows:

This rule is intended to implement ~~Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480, and Iowa Code section 422.11F~~ 2012 Iowa Acts, House File 2337, sections 38 to 40.

ITEM 12. Adopt the following **new** subrule 42.38(3):

42.38(3) *Repeal of film investment tax credit.* The film investment tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

ITEM 13. Amend rule **701—42.38(15,422)**, implementation sentence, as follows:

This rule is intended to implement ~~Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480, section 4, and Iowa Code section 422.11U~~ 2012 Iowa Acts, House File 2337, sections 38 to 40.

ITEM 14. Amend rule 701—42.44(422) as follows:

701—42.44(422) Deduction of credits. The credits against computed tax set forth in Iowa Code sections 422.5, 422.8, 422.10 through 422.12C, and 422.110 shall be deducted in the following sequence:

1. Personal exemption credit.
2. Tuition and textbook credit.
3. ~~Nonresident and part-year resident credit~~ Volunteer fire fighter and volunteer emergency medical services personnel tax credit.
4. ~~Franchise tax credit~~ Nonresident and part-year resident credit.
5. ~~S corporation apportionment credit~~ Franchise tax credit.
6. ~~Disaster recovery housing project tax credit~~ S corporation apportionment credit.
7. ~~School tuition organization tax credit~~ Disaster recovery housing project tax credit.
8. ~~Venture capital tax credits (excluding redeemed Iowa fund of funds tax credit)~~ School tuition organization tax credit.
9. ~~Endow Iowa tax credit~~ Venture capital tax credits (excluding redeemed Iowa fund of funds tax credit).
10. ~~Agricultural assets transfer tax credit~~ Endow Iowa tax credit.
11. ~~Film qualified expenditure tax credit~~ Agricultural assets transfer tax credit.
12. ~~Film investment tax credit~~ Film qualified expenditure tax credit.
13. ~~Redevelopment tax credit~~ Film investment tax credit.
14. ~~Investment tax credit~~ Redevelopment tax credit.
15. ~~Wind energy production tax credit~~ Investment tax credit.
16. ~~Renewable energy tax credit~~ Wind energy production tax credit.
17. ~~Redeemed Iowa fund of funds tax credit~~ Renewable energy tax credit.
18. ~~New jobs tax credit~~ Redeemed Iowa fund of funds tax credit.
19. ~~Economic development region revolving fund tax credit~~ New jobs tax credit.
20. ~~Charitable conservation contribution tax credit~~ Economic development region revolving fund tax credit.
21. ~~Alternative minimum tax credit~~ Geothermal heat pump tax credit.
22. ~~Historic preservation and cultural and entertainment district tax credit~~ Solar energy system tax credit.
23. ~~Ethanol blended gasoline tax credit or ethanol promotion tax credit~~ Charitable conservation contribution tax credit.
24. ~~Research activities tax credit~~ Alternative minimum tax credit.
25. ~~Out-of-state tax credit~~ Historic preservation and cultural and entertainment district tax credit.

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26. ~~Child and dependent care credit or early childhood development tax credit~~ Ethanol blended gasoline tax credit or ethanol promotion tax credit.
27. ~~Motor fuel credit~~ Research activities credit.
28. ~~Claim of right credit (if elected in accordance with rule 701—38.18(422))~~ Out-of-state tax credit.
29. ~~Wage benefits tax credit~~ Child and dependent care credit or early childhood development tax credit.
30. ~~Soy-based cutting tool oil tax credit~~ Motor fuel credit.
31. ~~Refundable portion of investment tax credit, as provided in subrule 42.14(2)~~ Claim of right credit (if elected in accordance with rule 701—38.18(422)).
32. ~~E-85 gasoline promotion tax credit~~ Wage-benefits tax credit.
33. ~~Biodiesel blended fuel tax credit~~ Refundable portion of investment tax credit, as provided in subrule 42.14(2).
34. ~~Soy-based transformer fluid tax credit~~ E-85 gasoline promotion tax credit.
35. ~~E-15 plus gasoline promotion tax credit~~ Biodiesel blended fuel tax credit.
36. ~~Earned income tax credit~~ E-15 plus gasoline promotion tax credit.
37. ~~Estimated payments, payment with vouchers and withholding tax~~ Earned income tax credit.
38. Estimated payments, payment with vouchers, and withholding tax.

This rule is intended to implement Iowa Code sections 422.5, 422.8, 422.10, 422.11, 422.11A, 422.11B, 422.11D, 422.11F, 422.11H, 422.11I, 422.11J, 422.11L, 422.11M, 422.11N, 422.11O, 422.11P, 422.11Q, 422.11S, 422.11T, 422.11U, 422.11W, 422.11X, 422.12, 422.12B, and 422.12C and ~~2011 Iowa Acts, Senate File 531, section 35~~ 422.110 and 2012 Iowa Acts, House File 2337, sections 38 to 40.

ITEM 15. Adopt the following **new** rule 701—42.49(422):

701—42.49(422) Volunteer fire fighter and volunteer emergency medical services personnel tax credit. Effective for tax years beginning on or after January 1, 2013, a tax credit is available for individual income tax for volunteer fire fighters and volunteer emergency medical services (EMS) personnel.

42.49(1) Definitions. The following definitions are applicable to this rule:

“*Emergency medical services personnel*” or “*EMS personnel*” means an emergency medical care provider, as defined in Iowa Code section 147A.1, who is certified as a first responder in accordance with Iowa Code chapter 147A.

“*Volunteer fire fighter*” means a volunteer fire fighter, as defined in Iowa Code section 85.61, who has met the minimum training standards established by the fire service training bureau pursuant to Iowa Code chapter 100B.

42.49(2) Calculation of the credit.

a. The credit is equal to \$50 if the volunteer fire fighter or volunteer EMS personnel was a volunteer for the entire year.

b. If the individual was not a volunteer fire fighter or volunteer EMS personnel for the entire year, the \$50 credit is prorated based on the number of months the individual was a volunteer. If the individual was a volunteer during any part of a month, the individual will be considered a volunteer for the entire month. The amount of credit will be rounded to the nearest dollar.

EXAMPLE: An individual became a volunteer fire fighter on April 15, 2013, and remained a volunteer for the rest of calendar year 2013. The individual is considered a volunteer for nine months of 2013. The tax credit for 2013 is equal to \$38 (\$50 multiplied by 9/12 equals \$37.50; rounding to the nearest dollar results in a \$38 credit).

c. If an individual is both a volunteer fire fighter and a volunteer EMS personnel during the same month, a credit can be claimed for only one volunteer position for that month. Therefore, if an individual was both a volunteer fire fighter and volunteer EMS personnel for all of 2013, the tax credit will equal \$50.

42.49(3) Verification of eligibility for the tax credit. An individual is required to have a written statement from the fire chief or other appropriate supervisor verifying that the individual was a volunteer fire fighter or volunteer EMS personnel for the months for which the tax credit is being claimed. The

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written statement does not have to be attached to a tax return claiming the credit. However, the individual may be requested to provide the written statement upon request by the department.

This rule is intended to implement Iowa Code section 422.12 as amended by 2012 Iowa Acts, Senate File 2322.

ITEM 16. Amend rule 701—52.12(422) as follows:

701—52.12(422) Deduction of credits. The credits against computed tax set forth in Iowa Code sections 422.33 and 422.110 shall be deducted in the following sequence.

1. Franchise tax credit.
2. Disaster recovery housing project tax credit.
3. School tuition organization tax credit.
4. Venture capital tax credits (excluding redeemed Iowa fund of funds tax credit).
5. Endow Iowa tax credit.
6. Agricultural assets transfer tax credit.
7. Film qualified expenditure tax credit.
8. Film investment tax credit.
9. Redevelopment tax credit.
10. Investment tax credit.
11. Wind energy production tax credit.
12. Renewable energy tax credit.
13. Redeemed Iowa fund of funds tax credit.
14. New jobs tax credit.
15. Economic development region revolving fund tax credit.
16. ~~Charitable conservation contribution tax credit~~ Solar energy system tax credit.
17. ~~Alternative minimum tax credit~~ Charitable conservation contribution tax credit.
18. ~~Historic preservation and cultural and entertainment district tax credit~~ Alternative minimum tax credit.
19. ~~Corporate tax credit for certain sales tax paid by developer~~ Historic preservation and cultural and entertainment district tax credit.
20. ~~Ethanol blended gasoline tax credit or ethanol promotion tax credit~~ Corporate tax credit for certain sales tax paid by developer.
21. ~~Research activities tax credit~~ Ethanol blended gasoline tax credit or ethanol promotion tax credit.
22. ~~Assistive device tax credit~~ Research activities tax credit.
23. ~~Motor fuel credit~~ Assistive device tax credit.
24. ~~Wage benefits tax credit~~ Motor fuel credit.
25. ~~Soy-based cutting tool oil tax credit~~ Wage-benefits tax credit.
26. Refundable portion of investment tax credit, as provided in subrule 52.10(4).
27. E-85 gasoline promotion tax credit.
28. Biodiesel blended fuel tax credit.
29. ~~Soy-based transformer fluid tax credit~~ E-15 plus gasoline promotion tax credit.
30. ~~E-15 plus gasoline promotion tax credit~~ Estimated tax and payment with vouchers.
31. ~~Estimated tax and payment with vouchers.~~

This rule is intended to implement Iowa Code sections 45.333, 45.335, 422.33, 422.91 and 422.110.

ITEM 17. Amend subrule 52.18(5) as follows:

52.18(5) *Allocation of historic preservation and cultural and entertainment district tax credits to individual owners of the entity.*

a. Projects beginning prior to July 1, 2005. When the business entity that has earned a historic preservation and cultural and entertainment district tax credit is an S corporation, partnership, limited liability company, estate or trust where the individual owners of the business entity are taxed on the income of the entity, the historic preservation and cultural and entertainment district tax credit is to be

REVENUE DEPARTMENT[701](cont'd)

allocated to the individual owners. The business entity is to allocate the historic preservation and cultural and entertainment district tax credit to each individual owner in the same pro-rata basis that the earnings or profits of the business entity are allocated to the owners for projects beginning prior to July 1, 2005. For example, if a shareholder of an S corporation received 25 percent of the earnings of the corporation and the corporation had earned a historic preservation and cultural and entertainment district tax credit, 25 percent of the credit would be allocated to the shareholder.

b. Projects beginning on or after July 1, 2005, for tax credits reserved for fiscal years beginning prior to July 1, 2012. For projects beginning on or after July 1, 2005, for tax credits reserved for fiscal years beginning prior to July 1, 2012, which used low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the rehabilitation project, the credit does not have to be allocated based on the pro-rata share of earnings of the partnership, limited liability company or S corporation. For these projects, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder.

c. Tax credits reserved for fiscal years beginning on or after July 1, 2012. For tax credits reserved for fiscal years beginning on or after July 1, 2012, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. The credit does not have to be allocated based on the pro-rata share of earnings of the partnership, limited liability company or S corporation.

ITEM 18. Amend rule **701—52.23(15E,422)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 is \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 and subsequent calendar years is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. ~~For example, For calendar year 2012, the total amount of endow Iowa tax credits authorized for the 2011 calendar year is \$4,551,813, so \$4,642,945; the maximum amount of tax credit authorized to a single taxpayer is \$227,590.65 (\$4,551,813 times 5 percent) \$232,147.25 (\$4,642,945 multiplied by 5 percent).~~ The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 19. Amend paragraph **52.28(2)“a”** by adding the following **new** example at the end thereof:

EXAMPLE: An eligible business which files tax returns on a calendar-year basis was awarded \$500,000 in investment tax credits in December 2008. The credits were amortized over a five-year period, with \$100,000 of investment tax credits being available for the fiscal years ending June 30, 2009, through June 30, 2013. This equates to the investment tax credit being available for the 2008-2012 calendar year returns since the due date of these returns range from April 30, 2009, through April 30, 2013, which falls within the fiscal years ending June 30, 2009, through June 30, 2013. The eligible business placed the qualifying assets in service during the 2010 calendar year. The eligible business can claim \$300,000 of investment tax credit for 2010, \$100,000 of investment tax credit for 2011 and \$100,000 of investment tax credit for 2012. Of the \$300,000 claimed for the 2010 tax year, \$100,000 can be carried forward until the 2015 tax year, \$100,000 can be carried forward to the 2016 tax year, and \$100,000 can be carried forward to the 2017 tax year. The seven-year carryforward period is determined by the amortization schedule, not the initial year in which the investment tax credit can be claimed on an Iowa tax return.

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ITEM 20. Adopt the following **new** subrule 52.34(4):

52.34(4) *Repeal of film qualified expenditure tax credit.* The film qualified expenditure tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

ITEM 21. Amend rule **701—52.34(15,422)**, implementation sentence, as follows:

This rule is intended to implement ~~Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480,~~ 2012 Iowa Acts, House File 2337, sections 38 to 40, and Iowa Code section 422.33 as amended by 2012 Iowa Acts, House File 2337, section 34.

ITEM 22. Adopt the following **new** subrule 52.35(3):

52.35(3) *Repeal of film investment tax credit.* The film investment tax credit is repealed for tax years beginning on or after January 1, 2012. However, the credit is still available for tax years beginning prior to January 1, 2012, if the contract or agreement related to a film project was entered into on or before May 25, 2012.

ITEM 23. Amend rule **701—52.35(15,422)**, implementation sentence, as follows:

This rule is intended to implement ~~Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480, section 4,~~ 2012 Iowa Acts, House File 2337, sections 38 to 40, and Iowa Code section 422.33 as amended by 2012 Iowa Acts, House File 2337, section 34.

ITEM 24. Adopt the following **new** subrule 53.25(3):

53.25(3) *Repeal of exclusion.* The exclusion of income from the sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects is repealed for tax years beginning on or after January 1, 2012. However, the exclusion is still available if the contract or agreement related to a film project was entered into on or before May 25, 2012. Assuming the same facts as those in the example in subrule 53.25(2), the taxpayer may continue to exclude \$2,500 of income on the Iowa corporation income tax return for the 2012 and 2013 tax years since the contract or agreement was entered into on or before May 25, 2012.

ITEM 25. Amend rule **701—53.25(422)**, implementation sentence, as follows:

This rule is intended to implement ~~Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480, section 5,~~ 2012 Iowa Acts, House File 2337, sections 38 to 40, and Iowa Code section 422.35 as amended by 2012 Iowa Acts, House File 2337, section 35.

ITEM 26. Amend rule **701—58.13(15E,422)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 is \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 and subsequent calendar years is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. ~~For example, For calendar year 2012, the total amount of endow Iowa tax credits authorized for the 2011 calendar year is \$4,551,813, so \$4,642,945; the maximum amount of tax credit authorized to a single taxpayer is \$227,590.65 (\$4,551,813 times 5 percent) \$232,147.25 (\$4,642,945 multiplied by 5 percent).~~ The endow Iowa tax credit cannot be transferred to any other taxpayer.

REVENUE DEPARTMENT[701](cont'd)

ITEM 27. Amend rule 701—58.19(15,422) as follows:

701—58.19(15,422) Film qualified expenditure tax credit. Effective for tax years beginning on or after January 1, 2007, but beginning before January 1, 2012, a film qualified expenditure tax credit is available for franchise tax. The tax credit is equal to 25 percent of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Iowa ~~department of economic development authority~~ authority (~~IDED the authority~~). For information on the qualified expenditures eligible for the credit, how the film qualified expenditure tax credit is claimed, how the film qualified expenditure tax credit can be transferred and other details about the credit, see rule 701—52.34(15,422). See also the authority's administrative rules for the film qualified expenditure tax credit for IDEED at 261—Chapter 36.

This rule is intended to implement ~~2007 Iowa Acts, House File 892, section 3, and Iowa Code section 422.60 as amended by 2007 2012 Iowa Acts, House File 892, section 9 2337, section 36.~~

ITEM 28. Amend rule 701—58.20(15,422) as follows:

701—58.20(15,422) Film investment tax credit. Effective for tax years beginning on or after January 1, 2007, but beginning before January 1, 2012, a film investment tax credit is available for franchise tax. The tax credit is equal to 25 percent of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Iowa ~~department of economic development authority~~ authority (~~IDED the authority~~). For information on how the film investment tax credit is claimed, how the film investment tax credit can be transferred and other details about the credit, see rule 701—52.35(15,422). See also the authority's administrative rules for the film investment tax credit for IDEED at 261—Chapter 36.

This rule is intended to implement ~~2007 Iowa Acts, House File 892, section 3, and Iowa Code section 422.60 as amended by 2007 2012 Iowa Acts, House File 892, section 9 2337, section 36.~~

ITEM 29. Amend subrule 89.3(3) as follows:

89.3(3) Part-year trust. A trust that has its situs part of the year within Iowa and part of the same year outside of Iowa is to report its income on Iowa Form IA-1041. Essentially, to report the income, the trust will be treated similarly to a nonresident or part-year resident for Iowa income tax purposes. To complete the return, the trust should complete page one of Form IA-1041, the income and deductions portions of the form. The income and deductions reported in these two portions of the form should include all the trust's income only for the period reported during the tax year at issue when the trust had its situs in Iowa, and all Iowa source income for the tax year at issue, regardless of the situs of the trust. After the previous computation has been completed, then all of the trust's income for the tax year at issue, regardless of the source of the income, is to be reported by completing Schedule C. After Schedule C is completed, then lines 33 through 36 on the first page of the form must be completed to determine the Iowa fiduciary tax due Schedule C of Form IA-1041 is completed to determine a nonresident/part-year resident credit similar to the calculation set forth in rule 701—42.5(422) for individual income tax.

ITEM 30. Amend subrule 89.8(4) as follows:

89.8(4) Reportable income in general—foreign situs estates and trusts. Estates and trusts with a situs outside Iowa must report only that portion of income which is derived from Iowa sources. report all income received from sources within and without Iowa, regardless of whether the income is from real, personal, tangible or intangible property. Foreign situs estates and trusts must also report that portion of the income which is from Iowa sources. Examples of Iowa source income include, but are not limited to: income from real and tangible personal property with a situs in Iowa, such as a farm and from a business located in Iowa; the capital gain portion of an installment sale contract of Iowa situs property; and wages, salaries and other compensation for services performed in Iowa, but received after the death of the decedent. Iowa source income would not include income from intangible personal property, such as annuities, interest on bank deposits, and dividends, unless the income was derived from a business, trade, profession or occupation carried on in Iowa. See paragraph 89.8(11) "d" for the credit allowed a foreign situs estate and trust for income earned outside Iowa.

REVENUE DEPARTMENT[701](cont'd)

~~Foreign situs estates and trusts must report income from intangible personal property, such as annuities, interest on bank deposits and dividends, but only to the extent the income is derived from a business, trade, profession or occupation carried on in Iowa.~~

ITEM 31. Amend paragraph **89.8(7)“t”** as follows:

~~t. *Adjustments to federal taxable income.* Iowa Code section 422.4(16) provides that the Iowa taxable income of estates and trusts is federal taxable income, without the deduction for the personal exemption, subject to the specific adjustments set forth in Iowa Code section 422.7 and the modifications relating to federal and state income tax specified in Iowa Code section 422.9. The modifications have these results:~~

~~1. (1) Federal income tax on the income of Iowa situs estates and trusts is deductible for Iowa income tax purposes in the year paid or accrued depending on the method of accounting.~~

~~2. (2) Federal income tax owed by Iowa resident decedents at the time of death is a deduction against estate income in the year paid.~~

~~3. (3) The federal income tax deduction allowable for estates and trusts with a situs outside Iowa must be prorated on the basis the Iowa gross income subject to tax bears to the total gross income subject to federal income tax is the same as the deduction allowed for an estate or trust with a situs in Iowa.~~

~~4. (4) Federal income tax owed by a nonresident decedent at the time of death must be prorated on the basis the Iowa income included in the federal adjusted gross income bears to the total federal adjusted gross income may be deducted the same as a deduction allowed for an Iowa resident decedent. See 701—subrule 41.3(4) 701—paragraph 41.3(4)“b” for prorating the federal income tax deduction for nonresident individuals.~~

~~5. (5) Iowa income tax paid by the estate is not a deduction in computing Iowa taxable income.~~

~~6. (6) The federal exemption allowed to estates and trusts under 26 U.S.C. Section 642(b), that is, \$600 for an estate, \$300 for simple trust and \$100 for a complex trust, is not deductible for Iowa income tax purposes.~~

~~7. (7) Interest and dividends from federal securities, but not capital gain or loss, is exempt from Iowa income tax and, therefore, is not part of the Iowa taxable income of estates and trusts.~~

~~8. (8) Interest and dividends from securities of a state and its political subdivisions and from foreign securities are included in Iowa taxable income in the year received, regardless of whether such interest and dividends are exempt from federal income tax. However, see 701—40.3(422) and 89.8(7)“e” for the exemption for certain bonds issued by the state of Iowa and its political subdivisions which are not included in Iowa taxable income.~~

~~9. (9) See 89.8(7)“m” for the includability of the gain for sales or exchanges before August 6, 1997, excluded by 26 U.S.C. Section 641(c), in the Iowa taxable income of a trust.~~

~~10. (10) See 701—paragraph 86.5(12)“b” for the inheritance tax exemption for the portion of an employee’s pension or retirement plan subject to Iowa income tax.~~

ITEM 32. Amend paragraph **89.8(8)“c”** as follows:

~~c. *Taxes.* The taxes deductible against the gross income of an estate or trust are limited to the taxes deductible for individual income tax purposes under 26 U.S.C. Section 164, subject to the adjustments specified in Iowa Code section 422.9 relating to federal and state income taxes. Real estate and personal property taxes, including the taxes due, but unpaid at death, are only deductible by the estate on the decedent’s property which is subject to the personal representative’s right of possession. Federal income tax on the income of an estate or trust and federal income tax owing by an Iowa decedent at the time of death, including the federal income tax owing on the decedent’s final return for the year of death, are deductible by the estate or trust in the year paid. The federal income tax liability of a nonresident decedent must be prorated for tax years on or before December 31, 1981. For tax years on or after January 1, 1982, the federal income tax deduction attributable to Iowa by nonresidents of Iowa shall be the same deduction as is available for resident taxpayers. See 701—subrule 41.3(4) and Iowa Code section 422.5(1)“j.” Examples of taxes not deductible include, but are not limited to: federal estate tax (except federal estate tax paid on income in respect of a decedent); Iowa income and inheritance tax; federal gift taxes; and special assessments increasing the value of property. See 26 U.S.C. Section 275.~~

REVENUE DEPARTMENT[701](cont'd)

~~See 89.8(7) "t" for the proration of federal income tax for foreign situs estates and trusts. In addition, foreign situs estates and trusts are not allowed a deduction from Iowa gross income for real and personal property taxes paid on property located outside Iowa.~~

ITEM 33. Amend paragraph **89.8(8)"n,"** unnumbered paragraph, as follows:

The deduction allowable in any taxable year is limited to a percentage of the total federal estate tax deduction which is determined by the ratio of income in respect of a decedent received for the year to the total amount of the net income in respect of a decedent on which federal estate tax was paid. See 26 U.S.C. Section 691(c) and federal regulation Section 1.691(c)-1 for the computation of the deduction. ~~Estates and trusts with a situs outside Iowa are allowed a deduction only for federal estate tax paid on income in respect of a decedent from Iowa sources.~~

ITEM 34. Adopt the following **new** paragraphs **89.8(11)"d"** and **"e"**:

d. Nonresident/part-year resident credit. The nonresident/part-year resident credit is available for part-year trusts described in subrule 89.3(3) and trusts whose situs is outside Iowa. See rule 701—42.5(422) for the computation of the nonresident/part-year resident credit allowed for individuals who are either part-year residents of Iowa or nonresidents of Iowa.

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.

ITEM 35. Amend rule **701—89.8(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 422.3 to ~~422.9~~, 422.12, 422.14, 422.23, and 633.471 and chapter 452A.

ARC 0285C**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 amend Chapter 68, "Motor Fuel and Undyed Special Fuel," Iowa Administrative Code.

The subject matter of rule 701—68.2(452A) is the tax rates applicable to motor fuel and undyed special fuel. The proposed amendments are necessary to change the expiration date of the current excise tax rates on motor fuel in subrule 68.2(2) in order to reflect the passage of 2012 Iowa Acts, House File 2472, and to amend the implementation clause of the rule.

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 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 24, 2012, 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.

REVENUE DEPARTMENT[701](cont'd)

Any interested person may make written suggestions or comments on the proposed amendments on or before September 11, 2012. 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)281-8036 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 11, 2012.

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

These amendments are intended to implement Iowa Code section 452A.3 as amended by 2012 Iowa Acts, House File 2472.

The following amendments are proposed.

ITEM 1. Amend subrule 68.2(2) as follows:

68.2(2) Except as otherwise provided in this subrule, until June 30, ~~2012~~ 2013, this subrule shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state. The rate of the excise tax shall be based on the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel distributed in this state. Aviation gasoline shall not be used, beginning calendar year January 1, 2009, in determining the percentage basis for the tax rates effective July 1, 2010, and after. The number of gallons of ethanol blended gasoline and motor fuel distributed in this state shall be based on the total taxable gallons of ethanol blended gasoline and motor fuel as shown on the fuel tax monthly reports issued by the department for January through December for each determination period. The department shall determine the percentage for each determination period beginning January 1 and ending December 31. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period. The rate for the excise tax shall be as follows:

Ethanol %	Ethanol Tax	Gasoline Tax
00+/50	19.0	20.0
50+/55	19.0	20.1
55+/60	19.0	20.3
60+/65	19.0	20.5
65+/70	19.0	20.7
70+/75	19.0	21.0
75+/80	19.3	20.8
80+/85	19.5	20.7
85+/90	19.7	20.4
90+/95	19.9	20.1
95+/100	20.0	20.0

Except as otherwise provided in this subrule, after June 30, ~~2012~~ 2013, an excise tax of 20 cents is imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

ITEM 2. Amend rule ~~701—68.2(452A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 452A.3 as amended by ~~2009~~ 2012 Iowa Acts, ~~Senate File 419, section 44~~ House File 2472, and sections 452A.8 and 452A.85.

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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 71, “Assessment Practices and Equalization,” Iowa Administrative Code.

Rule 701—71.1(405,427A,428,441,499B) provides for limitations on housing developments’ tax status and assessment of platted lots. Under the proposed amendments, the time frames associated with assessment of subdivided property are modified. The length of the modified time frames depends on numerous factors.

These amendments are proposed as a result of changes to Iowa Code sections 405.1 and 441.72 as amended by 2011 Iowa Acts, Senate File 533, sections 154 and 155.

Item 1 rescinds subrule 71.1(8) and adopts new subrule 71.1(8) to conform with 2011 Iowa Code Supplement section 405.1.

Item 2 adopts new subrule 71.1(9) to conform with 2011 Iowa Code Supplement section 441.72.

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 24, 2012, to the Policy Section, Taxpayer Services and Policy 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 11, 2012. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy 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, Taxpayer Services and Policy 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 11, 2012.

After analysis and review of this rule making, the Department has determined the proposed amendments will not have an impact on jobs.

These amendments are intended to implement 2011 Iowa Code Supplement sections 405.1 and 441.72.

The following amendments are proposed.

ITEM 1. Rescind subrule 71.1(8) and adopt the following **new** subrule in lieu thereof:

71.1(8) Housing development property.

a. Ordinances adopted or amended on or after January 1, 2011.

REVENUE DEPARTMENT[701](cont'd)

(1) Adoption of ordinance by board of supervisors. A county board of supervisors may adopt an ordinance providing that property acquired and subdivided for development of housing on or after January 1, 2011, shall continue to be assessed for taxation in the manner it was assessed prior to the acquisition. Each lot shall continue to be taxed in the manner it was taxed prior to acquisition for housing until the lot is sold for construction or occupancy of housing or 5 years from the date of subdivision, whichever occurs first.

(2) Amendments to ordinance by board of supervisors. On or after July 27, 2011, the board of supervisors of a county may amend an ordinance adopted or otherwise made effective under 2011 Iowa Code Supplement section 405.1(1) "a" to extend the 5-year time period for a period of time not to exceed 5 years beyond the end of the original 5-year period established under 2011 Iowa Code Supplement section 405.1(1). Thus, the maximum special assessment time for ordinances adopted on or subsequent to January 1, 2011, is 10 years. An extension of an ordinance under 2011 Iowa Code Supplement section 405.1(1) "a" may apply to all or a portion of the property that was subject to the original ordinance.

(3) Amendments to ordinance by city council. A city council may adopt an ordinance, affecting all or a portion of the property located within the incorporated area of the city subject to the county ordinance adopted under 2011 Iowa Code Supplement section 405.1(1) "a," extending the county ordinance not previously extended by the board of supervisors up to 5 years. An ordinance by a city council providing for an extension under 2011 Iowa Code Supplement section 405.1(3) shall be subject to the 5-year limitation under 2011 Iowa Code Supplement section 405.1(2). Thus, the maximum time to appeal an ordinance adopted on or subsequent to January 1, 2011, is 10 years if the city council amends an ordinance originally adopted by the county board of supervisors.

(4) Sale of lot; expiration of 5-year or extended period. Upon the sale of the lot for construction or occupancy for housing or upon the expiration of the 5-year or extended period, the property shall be assessed for taxation as residential or commercial multifamily property, whichever is applicable.

(5) Definition of "subdivide." As used in both paragraphs 71.1(8) "a" and "b," "subdivide" means to divide a tract of land into three or more lots.

b. Ordinances adopted on or after January 1, 2004, but prior to January 1, 2011.

(1) Ordinances adopted under 2011 Iowa Code Supplement sections 405.1(1) and 405.1(2), to the extent such ordinances affect the assessment of property subdivided for development of housing on or after January 1, 2004, but before January 1, 2011, shall remain in effect or otherwise be made effective, and such ordinances:

1. Adopted under 2011 Iowa Code Supplement section 405.1(1), applicable to counties with a population of less than 20,000, shall be extended, from a period of 5 years, to apply to a period of 10 years from the date of subdivision.

2. Adopted under 2011 Iowa Code Supplement section 405.1(2), applicable to counties with a population of 20,000 or more, shall be extended, from a period of 3 years, to apply to a period of 8 years from the date of subdivision.

Each lot shall continue to be taxed in the manner it was taxed prior to acquisition for housing until the lot is sold for construction or occupancy of housing, or 10 years pursuant to paragraph "1" above or 8 years pursuant to paragraph "2" above (or the extended period, if applicable) from the date of subdivision, whichever occurs first.

(2) Amendments to ordinance by board of supervisors. On or after July 27, 2011, the board of supervisors of a county may amend an ordinance adopted under 2011 Iowa Code Supplement section 405.1(1) or 405.1(2) to extend the 10- and 8-year periods, respectively, for a period of time not to exceed 5 years beyond the end of the 10- and 8-year periods established under 2011 Iowa Code Supplement section 405.1(1) "b." Thus, the maximum special assessment time for ordinances adopted on or after January 1, 2004, but prior to January 1, 2011, for counties with a population of less than 20,000 shall be 15 years. For counties with a population of 20,000 or more, the maximum shall be 13 years.

(3) Amendments to ordinance by city council. A city council may adopt an ordinance, affecting all or a portion of the property located within the incorporated area of the city subject to the county ordinance adopted under 2011 Iowa Code Supplement sections 405.1(1) and 405.1(2), extending the county ordinances not previously extended by the board of supervisors up to 5 years. An ordinance by

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a city council providing for an extension under 2011 Iowa Code Supplement section 405.1(3) shall be subject to the 5-year limitation under 2011 Iowa Code Supplement section 405.1(2). Thus, the maximum time to appeal an ordinance adopted on or after January 1, 2004, but prior to January 1, 2011, for counties with a population of less than 20,000 shall be 15 years if the city council amends an ordinance originally adopted by the board of supervisors. For counties with a population of 20,000 or more, the maximum special assessment time shall be 13 years.

(4) Sale of lot. Upon the sale of the lot for construction or occupancy for housing or upon the expiration of the 10- or 8-year or extended period, the property shall be assessed for taxation as residential or commercial multifamily property, whichever is applicable.

ITEM 2. Adopt the following **new** subrule 71.1(9):

71.1(9) Assessment of platted lots.

a. When a subdivision plat is recorded pursuant to Iowa Code chapter 354 on or after January 1, 2011, the individual lots within the subdivision plat shall not be assessed, in the aggregate, in excess of the total assessment of the land as acreage or unimproved property for 5 years after the recording of the plat or until the lot is actually improved with permanent construction, whichever occurs first. When an individual lot has been improved with permanent construction, the lot shall be assessed for taxation purposes as provided in Iowa Code chapters 428 and 441.

b. For subdivision plats recorded pursuant to Iowa Code chapter 354 (relating to division and subdivision of land) on or after January 1, 2004, but before January 1, 2011, the individual lots within the subdivision plat shall not be assessed, in the aggregate, in excess of the total assessment of the land as acreage or unimproved property for 8 years after the recording of the plat or until the lot is actually improved with permanent construction, whichever occurs first. When an individual lot has been improved with permanent construction, the lot shall be assessed for taxation purposes as provided in Iowa Code chapters 428 and 441.

c. 2011 Iowa Code Supplement section 441.72 does not apply to special assessment levies.

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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 225, “Resale and Processing Exemptions Primarily of Benefit to Retailers,” Iowa Administrative Code.

Pursuant to 2012 Iowa Acts, Senate File 2342, section 13, proposed rule 701—225.7(423) provides for the taxability of certain inputs used in taxable vehicle wash and wax services. Under this new rule, for bills received on or after May 25, 2012, sales of water, electricity, chemicals, solvents, sorbents, or reagents to a retailer to be used in providing a service that includes a vehicle wash and wax that is subject to Iowa Code section 423.2(6) are exempt from tax.

The proposed amendment 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 this amendment 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

REVENUE DEPARTMENT[701](cont'd)

delivery or by mailing postmarked no later than September 24, 2012, 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 this proposed amendment on or before September 11, 2012. 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)281-8036 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 11, 2012.

After analysis and review of this rule making, the Department has determined the legislation that gives rise to this proposed rule will have a positive impact on some small businesses, specifically those businesses that provide taxable vehicle wash and wax service, by allowing the businesses to purchase certain enumerated inputs used in providing vehicle wash and wax services exempt from sales tax.

This amendment is intended to implement 2011 Iowa Code Supplement section 423.3 as amended by 2012 Iowa Acts, Senate File 2342, section 13.

The following amendment is proposed.

Adopt the following new rule 701—225.7(423):

701—225.7(423) Certain inputs used in taxable vehicle wash and wax services. On or after May 25, 2012, sales of water, electricity, chemicals, solvents, sorbents, or reagents to a retailer to be used in providing a service that includes a vehicle wash and wax that is subject to Iowa Code section 423.2(6) are exempt from tax. This rule applies to bills received or sales occurring, as the case may be, on or after May 25, 2012.

225.7(1) Definitions. For the purposes of this rule, the following definitions apply:

“Chemical” means a substance which is primarily used for producing a chemical effect. A chemical effect results from a chemical process wherein the number and kind of atoms in a molecule are changed in form (e.g., where oxygen and hydrogen are combined to make water). A chemical process is distinct from a physical process wherein only the state of matter changes (e.g., where water is frozen into ice or heated into steam).

“Reagent” means a substance used for various purposes (i.e., in detecting, examining, or measuring other substances; in preparing materials; in developing photographs) because it takes part in one or more chemical reactions or biological processes. A reagent is also a substance used to convert one substance into another by means of the reaction that it causes. To be a reagent for purpose of the exemption, a substance must be primarily used as a reagent.

“Retailer” or *“supplier”* means and includes every person engaged in the business of selling tangible personal property or taxable services at retail or the furnishing of gas, electricity, water, pay television, or communication service, and tickets or admissions to places of amusement and athletic events or operating amusement devices or other forms of commercial amusement from which revenues are derived. However, when in the opinion of the director it is necessary for the efficient administration of this rule to regard any salespersons, representatives, truckers, peddlers, or canvassers as agents of the dealers, distributors, supervisors, employers, or persons under whom the salespersons, representatives, truckers, peddlers, or canvassers operate or from whom they obtain tangible personal property sold by them irrespective of whether or not they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the director may so regard them, and may regard such dealers, distributors, supervisors, employers, or persons as retailers for the purposes of this rule. *“Retailer”* includes a seller obligated to collect sales or use tax.

“Secondary vehicle wash and wax facility” means a vehicle wash and wax facility whose primary purpose is to sell tangible personal property or services other than vehicle wash and wax services, but

REVENUE DEPARTMENT[701](cont'd)

which also provides vehicle wash and wax services that are taxable under Iowa Code section 423.2(6). Examples of “secondary vehicle wash and wax facilities” include, but are not limited to, vehicle dealerships, convenience stores, service stations, and wholesale and retail fuel marketing locations that provide taxable vehicle wash and wax services in addition to their primary business purpose. A facility that provides vehicle wash and wax services that also sells tangible personal property or other services is presumed to be a “secondary vehicle wash and wax facility” unless it can prove otherwise.

“*Solvent*” means a substance in which another substance can be dissolved and which is primarily used for that purpose.

“*Sorbent*” means a solid material, often in a powder or granular form, which acts to retain another substance, usually on the sorbent’s surface, thereby removing the other substance from the gas or liquid phase. The sorbent and the second material bond together at the molecular or atomic scale via physiochemical interactions. A substance is not a sorbent based on an ability to absorb heat or thermal energy.

“*Stand-alone vehicle wash and wax facility*” means a vehicle wash and wax facility whose primary purpose is to provide vehicle wash and wax services that are taxable under Iowa Code section 423.2(6). A vehicle wash and wax facility is considered a “stand-alone vehicle wash and wax facility” although it sells a de minimis amount of products and services related to vehicle wash and wax services. Nonexclusive examples of products and services related to vehicle wash and wax services include coin-operated vacuum stations and air fresheners and vehicle wipes which are sold out of vending machines.

“*Vehicle*” means any self-propelled motor vehicle designed primarily for carrying passengers (nine or fewer) excluding motorcycles and motorized bicycles; any pickup truck designed to carry both passengers and cargo; or any vehicle which is commonly on a highway and propelled by any power other than muscular power. Nonexclusive examples of a vehicle are motorcycles, motorized bicycles, pickup trucks, tractors, and trailers.

“*Vehicle wash and wax facility*” means any retailer that provides vehicle wash and wax services.

“*Vehicle wash and wax services*” or “*vehicle wash and wax*” means washing and waxing services performed inside or outside of the vehicle or both whether the services are performed by hand, machine, or coin-operated devices.

“*Water*” means water directly consumed or used in providing the taxable vehicle wash and wax service. “Water” does not include, for example, charges or fees for storm water, sanitary sewer, or solid waste services as these are not fees for water directly used or consumed in providing the taxable vehicle wash and wax service.

225.7(2) *Purchases made by a stand-alone vehicle wash and wax facility.* Purchases of water, electricity, chemicals, solvents, sorbents, or reagents by a stand-alone vehicle wash and wax facility are presumed to be 100 percent exempt from sales tax. The stand-alone vehicle wash and wax facility is not required to provide the suppliers of such items with an exemption certificate. See 701—paragraph 15.3(2) “g.”

225.7(3) *Purchases made by a secondary vehicle wash and wax facility.*

a. *Sales price of electricity and water.* The exemption for the sales price of electricity and water purchased by secondary vehicle wash and wax facilities applies only to the sales price from the sale of electricity and water directly consumed or used in providing vehicle wash and wax services, as distinguished from electricity and water used and consumed for other purposes not related to vehicle wash and wax services (e.g., electricity to operate office equipment or lighting; water used for cleaning the inside of a gas station or for irrigation).

(1) Separately metered electricity and water. Ideally, a secondary vehicle wash and wax facility will have separate meters to measure its nonexempt electricity and water usage and its exempt electricity and water used for providing taxable vehicle wash and wax services. A secondary vehicle wash and wax facility that separately meters its exempt and nonexempt electricity and water usage and does not use the exempt electricity and water for any other purpose than providing a taxable vehicle wash and wax service does not have to file an exemption certificate with the suppliers. See 701—paragraph 15.3(2) “g.”

REVENUE DEPARTMENT[701](cont'd)

The supplier should not charge tax on the charges associated with the meters that measure electricity and water used solely for providing the taxable vehicle wash and wax services.

However, if water or electricity which is measured by the meter which separately measures the vehicle wash and wax facility is used for both taxable vehicle wash and wax services and nonexempt purposes (e.g., consumed in performance of its business operations), the secondary vehicle wash and wax facility must allocate the use of the electricity or water according to exempt and nonexempt use if an exemption for nontaxable use is to be claimed. To obtain the exemption for electricity or water under this rule, a secondary vehicle wash and wax facility that has both exempt and nonexempt electricity or water usage measured by the same meter must request the exemption by providing an exemption certificate to the electricity or water supplier.

The exemption certificate shall indicate what percentage of the electricity or water is used for taxable vehicle wash and wax services and is therefore exempt. The exemption certificate shall be in writing and detail how the percentages of exempt and nonexempt usage were developed. The rationale provided for the percentage of exempt water and electricity must be reasonable after the nature of the secondary vehicle wash and wax service facility's primary purpose and all other facts and circumstances are considered. A secondary vehicle wash and wax facility that cannot, or does not want to, determine the percentage of exempt electricity or water usage may forego the exemption. The exemption certificate is valid for three years, but the secondary vehicle wash and wax facility must amend its exemption certificate to reflect any changes that would affect the exemption amount (e.g., summer month water usage compared to winter month water usage).

(2) Exempt and nonexempt usage measured by the same meter. When electricity and water are purchased for vehicle wash and wax services as well as for taxable uses, and the use of the electricity or water is recorded on a single meter, a secondary vehicle wash and wax facility must allocate the use of the electricity or water according to exempt and nonexempt use if an exemption for nontaxable use is to be claimed. To obtain the exemption for electricity or water under this subparagraph, a secondary vehicle wash and wax facility that has both exempt and nonexempt electricity or water usage measured by the same meter must request the exemption by providing an exemption certificate to the electricity or water supplier.

The exemption certificate must indicate what percentage of the electricity or water is used for taxable vehicle wash and wax services and is therefore exempt. The exemption certificate shall be in writing and detail how the percentages of exempt and nonexempt usage were developed. The rationale provided for the percentages of exempt water and electricity must be reasonable after the nature of the secondary vehicle wash and wax service provider's primary purpose and all other facts and circumstances are considered. A secondary vehicle wash and wax facility that cannot, or does not want to, determine the percentages of exempt electricity and water usage may either forego the exemption or install a separate meter. The exemption certificate is valid for three years, but the secondary vehicle wash and wax facility must amend its exemption certificate to reflect any changes that would affect the exemption amount (e.g., summer month water usage compared to winter month water usage).

Exemption statutes are strictly construed against the taxpayer in favor of taxation (See *Dial Corp. v. Iowa Dep't of Revenue*, 634 N.W.2d 643, 646 (Iowa 2001)). The secondary vehicle wash and wax facility has the burden of proof regarding the exempt percentages (See *id.* and Iowa Code section 421.60(6)) and is liable for any mistakes or misrepresentations made regarding the computation or for failure to notify the electricity or water supplier in writing of the percentage of exempt usage, if required.

(3) Credit. A supplier of electricity or water that sells electricity or water to vehicle wash and wax facilities may bill customers for sales tax even if the facility qualifies for the exemption from sales tax under this rule if the supplier cannot adjust its billing process in time to accommodate this exemption. Subsequently, the electricity or water supplier shall provide a credit for tax collected from a vehicle wash and wax facility, and the credit is to appear on the first possible billing date after May 25, 2012.

b. Sales price of chemicals, solvents, sorbents, or reagents. The sales price of chemicals, solvents, sorbents, or reagents sold to a secondary vehicle wash and wax facility to be used in providing a taxable vehicle wash and wax service is presumed to be 100 percent exempt from sales tax if the secondary vehicle wash and wax facility's primary business does not consume or sell the same

REVENUE DEPARTMENT[701](cont'd)

chemicals, solvents, sorbents, or reagents that are used in providing taxable vehicle wash and wax services. If the secondary vehicle wash and wax facility's primary business does not use or sell the same products used in providing the taxable vehicle wash and wax service, the facility does not have to provide the retailer with an exemption certificate. However, if the secondary vehicle wash and wax facility may consume the chemicals, solvents, sorbents, or reagents for any purpose other than providing taxable vehicle wash and wax services, the secondary vehicle wash and wax facility shall either:

(1) Purchase such items without tax liability if the majority of the chemicals, solvents, sorbents, or reagents are used in performing the vehicle wash and wax service and remit the tax to the department at the time such items are consumed in the operation of the primary business. The secondary vehicle wash and wax facility shall provide to the retailer an exemption certificate which indicates that not all items will be used in providing a taxable vehicle wash and wax service and the tax on such items will be remitted at a later date; or

(2) Pay tax to retailers at the time of purchase if the majority of the chemicals, solvents, sorbents, or reagents will be consumed in the operation of the primary business and deduct the original cost of any such items subsequently used in the vehicle wash and wax service when reporting tax on the facility's returns.

EXAMPLE A: An automobile dealership offers a taxable drive-through vehicle wash and wax service in addition to its primary business purpose of selling vehicles. The automobile dealership is a "secondary vehicle wash and wax facility" because the taxable vehicle wash and wax service is offered secondarily to its primary purpose of selling and servicing vehicles. In addition to providing vehicle wash and wax services to the general public (a taxable vehicle wash and wax service), the automobile dealership uses its vehicle wash and wax facility to wash and wax its inventory. Using the vehicle wash and wax facility to wash or wax inventory is not a taxable vehicle wash and wax service because the vehicle wash and wax service is not sold to customers; the service is "consumed" in performance of the automobile dealership's business operations. See 701—paragraph 18.3(1)"c."

The automobile dealership has electricity and water meters that each separately measure the electricity and water used and consumed in using the vehicle wash and wax facility. Although the automobile dealership separately meters electricity and water, the separate meters do not measure only taxable vehicle wash and wax services. Therefore, to claim the exemption, the automobile dealership shall provide the electricity and water suppliers with an exemption certificate that states the percentages of water and electricity used in providing taxable vehicle wash and wax services. The electricity and water suppliers shall separately state and bill for the taxable and exempt amounts.

The automobile dealership also uses some of the chemicals, solvents, sorbents, or reagents while washing and waxing its inventory, so the automobile dealership may either (1) purchase such items without tax liability if the majority of the chemicals, solvents, sorbents, or reagents are used in performing the vehicle wash and wax service and remit the tax at the time such items are consumed in the operation of the primary business, or (2) pay tax to retailers at the time of purchase if the majority of the chemicals, solvents, sorbents, or reagents will be consumed in the operation of the primary business and deduct the original cost of any such items subsequently used in the vehicle wash and wax service when reporting tax on the dealership's returns.

The exemption is available for the quantity of items used in providing the taxable vehicle wash and wax services even though the automobile dealership does not separately itemize on its receipts the amounts of electricity, water, chemicals, solvents, sorbents, or reagents used in providing the taxable vehicle wash and wax services.

EXAMPLE B: A gas station that also sells vehicle wash and wax services does not separately meter the electricity or water used and consumed in providing the taxable vehicle wash and wax services. With the exception of providing vehicle wash and wax services, the gas station does not provide any other additional services. The gas station wants to claim the exemption. To obtain the exemption for electricity or water under this rule, the gas station shall calculate, and has the burden of proving, the amount of exempt electricity or water it uses in providing taxable vehicle wash and wax services. The automobile dealership shall furnish to the electricity or water supplier an exemption certificate that indicates what percentage of the electricity or water is exempt.

REVENUE DEPARTMENT[701](cont'd)

Additionally, because the gas station only sells gasoline and taxable vehicle wash and wax services, it is unlikely that the gas station will consume the chemicals, solvents, sorbents, or reagents for any purpose other than providing taxable vehicle wash and wax services. Therefore, the sales price of the chemicals, solvents, sorbents, or reagents that the gas station purchased for use in providing taxable vehicle wash and wax services is 100 percent exempt from sales tax. The gas station does not have to provide the retailers of the chemicals, solvents, sorbents, or reagents with an exemption certificate.

EXAMPLE C: Same facts as Example B, except the gas station does not believe it is feasible to accurately determine the amount of electricity or water usage that can be attributed to the vehicle wash and wax facility. The gas station also does not believe it is economically beneficial to install separate meters to measure the usage of electricity or water for the sole purpose of claiming the exemption. Therefore, the gas station does not claim the exemption and pays sales tax on the full sales price of water or electricity.

This rule is intended to implement 2011 Iowa Code Supplement section 423.3 as amended by 2012 Iowa Acts, Senate File 2342, section 13.

ARC 0295C**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 235, “Rebate of Iowa Sales Tax Paid,” Iowa Administrative Code.

Pursuant to 2012 Iowa Acts, Senate File 2329, proposed rule 701—235.2(423) provides for a sanctioned baseball and softball tournament facility and movie site. Under this new rule, qualifying rebates of Iowa state sales tax may be made to the owner or operator of a sanctioned baseball and softball tournament facility and movie site, as defined in the rule, for sales occurring on or after January 1, 2014, and ending January 1, 2024. Under this rule, those requesting the rebate must complete and file with the Department of Revenue an affidavit for a sanctioned baseball and softball tournament facility and movie site.

The proposed amendment 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 this amendment 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 legislation that gives rise to this proposed rule will have an impact on small business by creating additional business opportunities and by fostering a more competitive marketplace. 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 24, 2012, 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 this proposed amendment on or before September 11, 2012. Such written comments should be directed to the Policy Section, Policy

REVENUE DEPARTMENT[701](cont'd)

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)281-8036 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 11, 2012.

After analysis and review of this rule making, the Department has determined the legislation that gives rise to this proposed rule will have a positive impact on jobs by creating new retail and service businesses that can be staffed by Iowans.

This amendment is intended to implement 2011 Iowa Code Supplement sections 423.2(11) and 423.4 as amended by 2012 Iowa Acts, Senate File 2329.

The following amendment is proposed.

Adopt the following **new** rule 701—235.2(423):

701—235.2(423) Sanctioned baseball and softball tournament facility and movie site. Effective July 1, 2012, qualifying rebates of Iowa state sales tax may be made to the owner or operator of a sanctioned baseball and softball tournament facility and movie site as defined in this rule for sales occurring on or after January 1, 2014, and ending January 1, 2024. Qualifying rebates are for state sales tax only. Local option taxes are not subject to rebate under this program.

235.2(1) Definitions. For the purpose of this program the following definitions apply:

“*Change of control*” means any of the following:

1. Any change in the ownership of the original or any subsequent legal entity that is the owner or operator of the baseball and softball tournament facility and movie site such that more than 51 percent of the equity interests in the legal entity cease to be owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both.

2. The original owners of the legal entity that is the owner or operator of the baseball and softball tournament facility and movie site shall collectively cease to own more than 50 percent of the voting equity interests of such legal entity or shall otherwise cease to have effective control of such legal entity.

“*Department*” means the department of revenue.

“*Iowa corporation*” means a corporation incorporated under the laws of Iowa where at least 51 percent of the corporation’s equity interests are owned by individuals who are residents of Iowa.

“*Owner or operator*” means a for-profit legal entity where at least 51 percent of its equity interests are owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both and that is the owner or operator of a baseball and softball tournament facility and movie site and is primarily a promoter of baseball and softball tournaments.

“*Population*” means the population based upon the 2010 certified federal census.

“*Sanctioned baseball and softball tournament facility and movie site*” or “*facility*” means a baseball and softball tournament complex and tourist destination, which facility is located on a maximum of 279 acres, located inside or within three miles of the city limits of a city with a population of at least 4,000 but not more than 5,500 residents, which city is located in a county with a population of at least 93,000 but not more than 100,000 residents and where the construction on the baseball and softball tournament facility commenced not later than one year following July 1, 2013, and the cost of the construction upon completion was at least \$38 million.

235.2(2) Affidavit by owner or operator. The owner or operator of a baseball and softball tournament facility and movie site seeking a rebate of sales tax imposed and collected by retailers upon sales of any goods, wares, merchandise, admission tickets, or services furnished to purchasers at the facility must file with the department the following affidavit certifying that qualifications for the rebate have been met:

REVENUE DEPARTMENT[701](cont'd)

Iowa Department of Revenue
Sales Tax Rebate Affidavit

NAME OF AFFIANT	*	
	*	AFFIDAVIT FOR SANCTIONED BASEBALL
ADDRESS OF AFFIANT	*	AND SOFTBALL TOURNAMENT FACILITY
	*	AND MOVIE SITE
	*	

The undersigned duly swears that the named Baseball and Softball Tournament Facility and Movie Site complies with criteria to be entitled to rebate of sales tax as required in Iowa Code section 423.4 as follows:

1. The facility is sanctioned as a baseball and softball tournament facility and movie site;
2. The sanctioned baseball and softball tournament facility and movie site is located on a maximum of 279 acres of Iowa land;
3. The sanctioned baseball and softball tournament facility and movie site is located in a city with a population, as defined by the rules governing this program, of at least 4,000 but not more than 5,500 residents;
4. The city in which the sanctioned baseball and softball tournament facility and movie site is located is in a county with a population, as defined by the rules governing this program, of at least 93,000, but not more than 100,000 residents;
5. Construction of the sanctioned baseball and softball tournament facility and movie site was commenced on or before July 1, 2013;
6. Cost of construction of the sanctioned baseball and softball tournament facility and movie site upon completion is at least \$38 million; and
7. There has not been a “change of control” as defined in the rules governing this program regarding the legal ownership or operation of the baseball and softball tournament facility and movie site.

The undersigned duly swears that he or she is the owner or operator of the sanctioned baseball and softball tournament facility and movie site or that the undersigned is the authorized representative of the sanctioned baseball and softball tournament facility and movie site and has the authority to sign this document. The undersigned swears that he or she has personal knowledge regarding the facts contained in this affidavit and that the statements set forth in this affidavit are true and accurate and that the sanctioned baseball and softball tournament facility and movie site has met all of the requirements as contained herein.

Name of Affiant
Position of Affiant

Date

235.2(3) Notification to the department of revenue. The owner or operator of the sanctioned baseball and softball tournament facility and movie site shall provide the department with the identity of all retailers at the facility that will be collecting sales tax and shall keep the information current. The owner or operator of the facility shall notify the department within ten days of the termination of a retailer from collecting sales tax at the facility. In addition, the owner or operator of the facility shall notify the department within ten days of the start-up of a retailer collecting sales tax at the facility.

235.2(4) Limitations. The sanctioned baseball and softball tournament facility and movie site rebate program applies only to transactions that occur on or after January 1, 2014, but before January 1, 2024, and for which sales tax was collected. Only the state sales tax is subject to rebate. The rebate is limited to the Iowa sales tax rate. Local option taxes paid and collected are not subject to rebate. Rebates of sales taxes to a facility are not authorized for transactions that occur on or after the date of the change of control of the facility. The amount of sales tax revenues transferred from the general fund to the baseball

REVENUE DEPARTMENT[701](cont'd)

and softball tournament facility and movie site fund is that portion of sales tax receipts remaining in the general fund after the department transfers, in the order prescribed:

- a. Local option sales taxes to those taxing jurisdictions imposing local option taxes;
- b. If the sales tax rate is increased to greater than 6 percent, an amount of sales tax equal to the amount generated by the increase in the tax rate—limited to 3/8 of 1 percent of the sales tax rate that exceeds 6 percent—to the natural resources and outdoor recreation trust fund; and
- c. One-sixth of the remaining sales tax revenues to the secure an advanced vision for education fund.

235.2(5) Termination of rebate program. The rebate program for the sanctioned baseball and softball tournament facility and movie site terminates on the earliest of the following dates:

- a. January 1, 2024; or
- b. Thirty days following the date on which \$16.5 million in total rebates have been provided; or
- c. Thirty days following the date of the change of control of the facility.

235.2(6) Sourcing of sales. Advance ticket and admissions sales shall be considered occurring at the sanctioned baseball and softball tournament facility and movie site regardless of where the transactions actually occur. Consequently, the state sales tax and any applicable local option tax in effect for the jurisdiction in which the facility is located must be imposed on the purchase price of advance ticket and admissions sales.

Other types of sales eligible for rebate under this program include, but are not limited to, sales by vendors and sales at concessions, gift shops, and museums.

235.2(7) Requirements to obtain a rebate of state sales tax by the sanctioned baseball and softball tournament facility and movie site.

- a. The rebate request must be submitted to the department on the authorized department form;
- b. The rebate request form must be filed quarterly with the department and in a timely manner; and
- c. All the information requested on the rebate request form must be completed.

This rule is intended to implement 2011 Iowa Code Supplement sections 423.2(11) and 423.4 as amended by 2012 Iowa Acts, Senate File 2329.

ARC 0303C

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.4(1), the Division of Soil Conservation of the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 10, “Iowa Financial Incentive Program for Soil Erosion Control,” Iowa Administrative Code.

The existing summer construction incentive provisions for soil erosion control provide an increased cost-share rate for constructing conservation practices from June 1 to September 15. Drought has had an adverse impact on the construction of certain practices. These proposed amendments would allow that, for the current year, the completion requirement would be considered to have been met if the practice is completely finished by December 31, 2012. Haying and grazing can occur during calendar year 2012 without loss of the summer construction incentive. Additionally, a one-time payment of \$25 per acre would be authorized for establishing a cover crop.

Any interested persons may make written suggestions or comments on the proposed amendments on or before 4:30 p.m. on September 11, 2012. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502

SOIL CONSERVATION DIVISION[27](cont'd)

East Ninth Street, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)281-6236 or by e-mail to Margaret.Thomson@IowaAgriculture.gov.

These proposed amendments are subject to the Division's general waiver provisions.

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

These amendments are intended to implement Iowa Code section 161A.2.

The following amendments are proposed.

ITEM 1. Amend paragraph **10.60(1)“c”** as follows:

c. For currently funded fiscal years, the division will make one-time payments of up to \$10 per acre for no-tillage, ridge-till and strip-till; \$6 per acre for contour farming; \$25 per acre for establishing a cover crop; and 50 percent of the cost up to \$25 per acre for strip-cropping, field borders and filter strips. Not more than 30 percent of the district's original allocation and supplemental allocation may be used for the establishment of management practices to control soil erosion on land that is now row-cropped.

ITEM 2. Amend paragraph **10.60(2)“c”** as follows:

c. The construction of the permanent conservation practice shall take place between June 15 and October 15. Work must be started and completed between these dates and verified by the technician prior to payment of the incentive. For calendar year 2012, work which has been started by June 15 and is completely finished by December 31 will be considered to be constructively completed by October 15.

ITEM 3. Adopt the following **new** paragraph **10.60(2)“f”**:

f. Haying and grazing may occur during calendar year 2012 without loss of the summer construction incentive.

ITEM 4. Adopt the following **new** paragraph **10.82(1)“d”**:

d. Cover crops.

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA

Public Notice

NOTICE OF OFFICIAL CONTRACT LIMITATION AMOUNT ADJUSTMENT FOR THE PERIOD COMMENCING SEPTEMBER 1, 2012, AND ENDING AUGUST 31, 2013

In accordance with Iowa Code subsection 8D.11(1)(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, 2012, and ending on August 31, 2013, of \$2,205,606.60.

The adjusted contract limitation amount becomes effective on September 1, 2012. 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 1.7 percent from June 2011 to June 2012.

Pursuant to Iowa Code section 8D.11(1)(c), this notice is exempt from the rule-making process in Iowa Code chapter 17A.

Questions with respect to this notice may 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

TRANSPORTATION DEPARTMENT

Advisory Notice

Adjusted Competitive Bid and Quotation Thresholds for Vertical Infrastructure Public Improvements

Pursuant to the authority of Iowa Code section 314.1B, the Director of Transportation gives an advisory notice of adjusted competitive bid and quotation thresholds for vertical infrastructure public improvements. The adjusted competitive bid and quotation threshold values will become effective January 1, 2013.

The vertical infrastructure bid threshold subcommittee, composed of three contractors, three representatives of public entities and the Director’s designee, held a meeting on July 26, 2012, to review competitive bid and quotation thresholds. The vertical infrastructure bid threshold subcommittee made the following adjustments to the competitive bid and quotation thresholds listed in Iowa Code sections 26.3 and 26.14:

1. The competitive bid threshold will be adjusted to \$130,000 effective January 1, 2013.
2. The competitive quotation threshold for counties, including county hospitals, will be adjusted to \$94,000 effective January 1, 2013.
3. The competitive quotation threshold for cities having a population of 50,000 or more will be adjusted to \$72,000 effective January 1, 2013.
4. The competitive quotation threshold for school districts having a population of 50,000 or more will be adjusted to \$72,000 effective January 1, 2013.
5. The competitive quotation threshold for aviation authorities created within cities having a population of 50,000 or more will be adjusted to \$72,000 effective January 1, 2013.
6. The competitive quotation threshold for cities having a population of less than 50,000, for school districts having a population of less than 50,000, and for other governmental entities will be adjusted to \$50,000 effective January 1, 2013.

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 David A. Vautt have established today the following rates of interest for public obligations and special assessments. The usury rate for August is 3.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations 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

TREASURER OF STATE(cont'd)

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, 2012, 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 .25%

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 0291C

VOLUNTEER SERVICE, IOWA COMMISSION ON[817]

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 17A.3 and chapter 15H, the Iowa Commission on Volunteer Service gives Notice of Intended Action to adopt amendments to Chapter 8, “Iowa Youth Mentoring Program Certification,” Iowa Administrative Code.

The current rules establish procedures for the certification of youth mentoring programs to ensure that certifications are handled in a fair and orderly manner. The proposed amendments provide clarification on the certification process and add additional requirements to the areas of background checks and screening.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on September 13, 2012. Interested persons may submit written or oral comments by contacting Sarah Hinzman, Iowa Commission on Volunteer Service, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3091; or e-mail Sarah.Hinzman@iowa.gov.

The Iowa Commission on Volunteer Service will hold a public hearing on September 13, 2012, from 1 to 2 p.m. to receive comments on these amendments. The public hearing will be held in the Iowa Tourism Conference Room, Iowa Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa.

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

These amendments are intended to implement Iowa Code chapter 15H.

The following amendments are proposed.

ITEM 1. Amend **817—Chapter 8**, introductory paragraph, as follows:

The purpose of the Iowa mentoring partnership is to certify mentoring programs that meet standards outlined in the Elements of Effective Practice for Mentoring™, published by the National Mentoring Partnership, that have been established for youth mentoring programs. The Iowa mentoring partnership

VOLUNTEER SERVICE, IOWA COMMISSION ON[817](cont'd)

also provides training, resources and support services to local mentoring programs. In partnership with certified programs, the Iowa mentoring partnership strives to increase the capacity of mentoring programs, raise statewide awareness of the positive benefits of mentoring children and youth, promote effective screening and safety procedures, and enhance the quality of mentoring relationships in Iowa.

ITEM 2. Amend subrule 8.3(1) as follows:

8.3(1) Specific questions are included on the application regarding mentoring program operations, screening and safety procedures, training, number of mentors and mentees, structure of the program, and other information to determine whether the program meets the certification standards established in rules 817—8.4(15H) and 817—8.5(15H).

ITEM 3. Amend rule 817—8.4(15H) as follows:

817—8.4(15H) Basis for certification standards. The commission has established standards to certify youth mentoring programs. These standards are based on the Elements of Effective Practice for Mentoring™, published by the National Mentoring Partnership. These elements are based on the work of a panel of experts convened by the National Mentoring Partnership to produce a set of rigorous mentoring guidelines, providing the gold standard for quality mentoring for more than a decade.

8.4(1) Statement of purpose. The mentoring program should have a statement of purpose and a long-range plan that ~~include~~ includes:

a. to *e.* No change.

f. Risk management plan.

8.4(2) No change.

8.4(3) Orientation. The mentoring program shall have an orientation for mentors and mentees that includes:

a. to *g.* No change.

h. Definition of appropriate and inappropriate contact, and a statement that informs mentees and parents/guardians on how to report inappropriate contact.

8.4(4) No change.

8.4(5) Training curriculum. The mentoring program shall have a readiness and training curriculum for all mentors and participants that includes:

a. to *k.* No change.

l. Information on what is considered inappropriate contact, and what to do if such contact occurs.

m. Information regarding safe meeting spaces and meeting place guidelines and restrictions.

8.4(6) to 8.4(10) No change.

8.4(11) Additional certification standards. The commission also utilizes the Elements of Effective Practice for Mentoring™, published by the National Mentoring Partnership, to determine the primary areas of review for mentoring program certification. These areas are intended to indicate whether programs are operating under the quality policies and procedures established by a national panel of mentoring program experts, researchers and others.

a. and *b.* No change.

c. *Minimum monthly contact.* Mentoring programs shall meet minimum requirements for monthly contact based on program type.

(1) Matches in community-based programs shall meet for a minimum of four hours per month with a consistent schedule.

(2) School-based programs shall meet for a minimum of two hours per month with a consistent schedule.

(3) E-mentoring programs shall have contact via secure, supervised e-mail a minimum of once per week.

d. and *e.* No change.

ARC 0290C

CAPITAL INVESTMENT BOARD, IOWA[123]

Adopted and Filed

Pursuant to the authority of Iowa Code section 15E.63, the Iowa Capital Investment Board hereby adopts amendments to Chapter 4, "Investment Tax Credits Relating to Investments in a Fund of Funds Organized by the Iowa Capital Investment Corporation," Iowa Administrative Code.

Item 1 amends rule 123—4.2(15E) to provide additional clarification regarding the definitions of "actual return," "scheduled return," and "verified tax credits."

Item 2 amends rule 123—4.5(15E) to provide for the information needed by the Iowa Capital Investment Board to verify the amount of tax credits to be issued related to investments in a Fund of Funds organized by the Iowa Capital Investment Corporation. The amendments also extend the time from 10 days to 30 days for the Board to verify the tax credit, and provide additional clarification on the maturity date to be used when verifying the credits.

Notice of Intended Action was published in IAB Vol. XXXIV; No. 20, p. 1313, on April 4, 2012, as **ARC 0077C**. These amendments were also Adopted and Filed Emergency and were published in IAB Vol. XXXIV; No. 20, p. 1328, on April 4, 2012, as **ARC 0076C**. In response to comments and a request for public hearing, the Board published an Amended Notice of Intended Action in the Iowa Administrative Bulletin on June 13, 2012, as **ARC 0169C**. A public hearing to receive comments was held July 19, 2012.

Comments were received at the Administrative Rules Review Committee meeting on May 7, 2012, and at the public hearing held on July 19, 2012. In addition, the Board received written objections to the rules from the Iowa Capital Investment Corporation and from Regions Bank. Based on these comments and objections, the following change to the Notice has been made:

In Item 2, new subrule 4.5(8) is adopted to reflect that if a contingent or verified tax credit certificate reflects provisions that are inconsistent with the provisions of rule 123—4.5(15E), the provisions in the contingent or verified tax credit certificate will govern over the provisions in the rule. Subrule 4.5(8) reads as follows:

"4.5(8) Notwithstanding anything contained in these rules to the contrary at any time, any contingent tax certificate issued by the board may contain, at the direction of the board, any provisions not inconsistent with Iowa Code chapter 15E, division VII, respecting verification and the process relating thereto that are applicable only to such contingent tax credit certificate, or to the tax credits that may be issued thereunder, and that the board deems appropriate, with such determination to be conclusively established upon, and by, issuance of such certificate. Once so issued, any contingent tax certificate or any verified tax certificate shall be binding on the board and the department of revenue and shall not be modified, terminated, or rescinded. In the event the provisions of a verified tax certificate or a contingent tax certificate are inconsistent with any provision in these rules as in effect at any time, the provisions in the issued verified tax certificate or issued contingent tax certificate shall govern over the inconsistent provisions of these rules."

These amendments are being adopted by the Department of Revenue on behalf of the Iowa Capital Investment Board pursuant to an Administrative Services Agreement between the Department and the Board.

The Iowa Capital Investment Board adopted these amendments on August 1, 2012.

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

These amendments are intended to implement Iowa Code sections 15E.63 and 15E.66.

These amendments will become effective September 26, 2012, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

CAPITAL INVESTMENT BOARD, IOWA[123](cont'd)

ITEM 1. Amend rule ~~123—4.2(15E)~~, definitions of “Actual return,” “Scheduled return” and “Verified tax credits,” as follows:

“Actual return” means the actual aggregate amount of moneys or the fair market value of property received from a fund of funds by a designated investor, with respect to an investment amount for which a certificate is issued, including amounts received as returns of invested capital or returns on invested capital and amounts received in excess of invested capital, in whatever form received for the period from the date of the closing to the ~~date on which the certificate is redeemed~~ applicable maturity date.

“Scheduled return” means the scheduled return, whether in money or property, (including returns of and returns on investment) with respect to an investment amount associated with a certificate issued to a designated investor in a fund of funds determined in accordance with the limited partnership agreement or the operating agreement of such fund of funds for the period from the date of the closing to the ~~date on which the certificate is redeemed~~ applicable maturity date. If relevant for determining the amount of the scheduled return, the board shall presume that a verified tax credit will be transferred at 100 percent of the amount stated on the verified tax credit. It shall be the burden of a designated investor to show that the verified tax credit cannot be transferred without discounting the amount stated on such credit.

“Verified tax credits” means tax credits that have been verified by the board to the department and to the holder of the certificate that represents such tax credits. In the event that the verified tax credits are different from the amount certified by the Iowa capital investment corporation, the amount verified by the board shall control.

ITEM 2. Amend rule 123—4.5(15E) as follows:

123—4.5(15E) Procedures for verification of tax credits.

4.5(1) At any time after the applicable maturity date for a certificate, the holder may present such certificate to the Iowa capital investment corporation for certification. Within ten days after receipt of such certificate, the Iowa capital investment corporation shall certify to the board the percentage of return for the designated investor for such certificate. If the percentage of return is less than 100 percent, the Iowa capital investment corporation shall certify the resulting total amount of tax credits to be verified for use by the holder of such certificate in accordance with the terms of the limited partnership agreement or the operating agreement of the fund of funds. The Iowa capital investment corporation shall give notice of such percentage of return and such amount of tax credits to the holder of such certificate at the holder’s address as it appears on the certificate register.

4.5(2) The Iowa capital investment corporation, and any entity with which the corporation has entered into agreements pursuant to the investments and financial transactions described in Iowa Code chapter 15E, division VII, shall provide all documents that the board finds are, or may become, necessary for the board to verify the amount of tax credits to be issued pursuant to this chapter. Such documents include but are not limited to the following:

a. Financial transactions related to the Iowa capital investment corporation, the Iowa fund of funds, designated investors, lenders, or portfolio entities.

b. Financial documents, loan agreements, and security instruments to which any of the Iowa capital investment corporation, the Iowa fund of funds, designated investors, lenders, or a portfolio entity is a party.

c. Investment agreements to which any of the Iowa capital investment corporation, the Iowa fund of funds, designated investors, lenders, or a portfolio entity is a party.

d. All legal documents and correspondence related to the documents described in paragraphs 4.5(2) “a” through 4.5(2) “c” to which any of the Iowa capital investment corporation, the Iowa fund of funds, designated investors, lenders, or a portfolio entity is a party.

e. All documents and financial information necessary to calculate the actual return, the scheduled return, and the percentage of return.

f. Any other documents the board deems necessary to assess compliance with Iowa Code chapter 15E, division VII, or this chapter or to correctly verify the amount of tax credits related to a certificate issued pursuant to this chapter.

CAPITAL INVESTMENT BOARD, IOWA[123](cont'd)

~~4.5(2)~~ 4.5(3) ~~Within ten days after the certification of the Iowa capital investment corporation to the board of the percentage of return for a certificate,~~ Within 30 days of the receipt of all documents and information pursuant to subrule 4.5(2), the board shall establish and verify the amount of tax credits related to that certificate, if any, that may be initially used in each redemption year so that no more than \$20 million in tax credits, in the aggregate, may become useable to reduce tax liabilities in any fiscal year (provided that such \$20 million limitation shall not limit the carryforward of tax credits otherwise authorized by the Act or these rules). Except to the extent specifically required by the \$20 million annual limitation, all tax credits relating to a verified certificate shall be useable to satisfy tax liabilities for a tax year beginning on or after the maturity date and ending at the expiration of the carryforward period specified in rule 123—4.10(15E).

~~4.5(3)~~ 4.5(4) The board shall issue to the holder of such certificate a verification setting forth (a) the amount of verified tax credits represented by such certificate (if any) and (b) the amount of verified tax credits represented by such certificate that may first become useable to reduce tax liabilities in any redemption year (if any).

~~4.5(4)~~ 4.5(5) If the verified certificate has more than one maturity date, the board shall issue to the holder a certificate for the verified tax credits. The verified certificate will contain no contingencies. The board shall issue one or more balance certificates for any maturity dates for which tax credits are not then being verified.

~~4.5(5)~~ 4.5(6) Certificates being verified for a maturity date shall be verified pro rata with all other certificates being verified for the same maturity date.

4.5(7) If a contingent certificate has more than one maturity date, the most recent maturity date prior to the date on which the certificate was presented to the board for verification shall be the maturity date used for purposes of verification under this rule.

4.5(8) Notwithstanding anything contained in these rules to the contrary at any time, any contingent tax certificate issued by the board may contain, at the direction of the board, any provisions not inconsistent with Iowa Code chapter 15E, division VII, respecting verification and the process relating thereto that are applicable only to such contingent tax credit certificate, or to the tax credits that may be issued thereunder, and that the board deems appropriate, with such determination to be conclusively established upon, and by, issuance of such certificate. Once so issued, any contingent tax certificate or any verified tax certificate shall be binding on the board and the department of revenue and shall not be modified, terminated, or rescinded. In the event the provisions of a verified tax certificate or a contingent tax certificate are inconsistent with any provision in these rules as in effect at any time, the provisions in the issued verified tax certificate or issued contingent tax certificate shall govern over the inconsistent provisions of these rules.

[Filed 8/2/12, effective 9/26/12]

[Published 8/22/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/22/12.

ARC 0282C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 88.5, the Labor Commissioner hereby amends Chapter 10, "General Industry Safety and Health Rules," and Chapter 26, "Construction Safety and Health Rules," Iowa Administrative Code.

The amendments adopt by reference changes to federal occupational safety and health standards. The federal standard changes make corrections and technical amendments to the general industry and construction standards. The federal Occupational Safety and Health Administration determined that these changes were not subject to the procedures for public notice and comment found in federal law because no stakeholder is likely to object and the changes do not impact existing rights or duties.

LABOR SERVICES DIVISION[875](cont'd)

The changes correct references in the process safety management standard; hazardous waste operations and emergency response standard; permit required confined space standard; sawmill standard; pulp, paper, and paperboard mill standard; bloodborne pathogens standard; and the medical services and first-aid standard. The federal rule-making document removes a records transfer provision concerning professional diving operations and removes incorrect references in the 13 carcinogens standard. The federal rule-making document adds to the standard pertaining to grain handling facilities a reference to a 1985 compliance directive. Other changes concern the poster requirements for the servicing of tires and wheels; how to file reports of employees injured by mechanical power presses; and the correction of typographical errors in the air contaminants standard.

The principal reasons for adoption of these amendments are to implement legislative intent, protect the safety and health of Iowa workers, and make Iowa's regulations current and consistent with federal regulations. Pursuant to Iowa Code subsection 88.5(1) and 29 CFR 1953.5, Iowa must adopt changes to the federal occupational safety and health standards.

Notice of Intended Action was published in the June 27, 2012, Iowa Administrative Bulletin as **ARC 0175C**. No public comment was received on the proposed amendments. These amendments are identical to those that were published under Notice of Intended Action.

No variance procedures are included in this rule making. Variance procedures are set forth in 875—Chapter 5.

After analysis and review of this rule making, jobs could be impacted. However, these amendments are implementing federally mandated regulations, and the State of Iowa is only implementing the federal regulations. The requirements imposed on Iowa businesses by these regulations do not exceed those imposed by federal law.

These amendments are intended to implement Iowa Code section 88.5 and 29 CFR 1953.5.

These amendments shall become effective on September 26, 2012.

The following amendments are adopted.

ITEM 1. Amend rule **875—10.20(88)** by inserting the following at the end thereof:
76 Fed. Reg. 80738 (December 27, 2011)

ITEM 2. Amend rule **875—26.1(88)** by inserting the following at the end thereof:
76 Fed. Reg. 80738 (December 27, 2011)

[Filed 8/1/12, effective 9/26/12]

[Published 8/22/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/22/12.

ARC 0281C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts an amendment to Chapter 231, "Exemptions Primarily of Benefit to Consumers," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXIV, No. 23, p. 1491, on May 16, 2012, as **ARC 0119C**.

The subject matter of rule 701—231.4(423) is the definition and taxability of "candy." An amendment to the rule is adopted to implement the amendment made by the Streamlined Sales Tax Governing Board to the Streamlined Sales and Use Tax Agreement (SSUTA), as required by the SSUTA, adopted under 2011 Iowa Code chapter 423. The Department must make this amendment in order to maintain compliance with the Agreement. Compliance enables the Department to collect upwards of \$13 million a year from remote sellers.

REVENUE DEPARTMENT[701](cont'd)

The amendment to rule 701—231.4(423) adds definitions of “preparation,” “bars,” “drops,” “pieces,” “flour,” “other ingredients or flavorings,” “natural or artificial sweeteners,” and “requires refrigeration” as used in rule 701—231.4(423) and provides examples. The amendment clarifies what “candy, candy-coated items and candy products” are under subrule 231.4(2). It also adds a new subrule 231.4(3) that provides guidance on the taxability of a “bundled transaction,” which is a combination of items that are defined as “candy” and items that are defined as “food and food ingredients” and sold for one non-itemized price. The amendment also updates the implementation clause.

This amendment is identical to that published under Notice of Intended Action.

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

This amendment is intended to implement 2011 Iowa Code section 423.3(57).

This amendment will become effective September 26, 2012, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [231.4] is being omitted. This amendment is identical to that published under Notice as **ARC 0119C**, IAB 5/16/12.

[Filed 8/1/12, effective 9/26/12]

[Published 8/22/12]

[For replacement pages for IAC, see IAC Supplement 8/22/12.]

Fair Board

Objection to 371—4.8(173), Liens, imposed by the Administrative Rules Review Committee at its meeting held August 1, 1981, and retained by the Committee at its meeting held May 9, 1995, was lifted by the Committee at its meeting held August 14, 2012.

AGENCY	RULE	DELAY
Transportation Department[761]	chs 123, 124 [IAB 7/11/12, ARC 0187C]	Effective date of August 15, 2012, delayed 70 days by the Administrative Rules Review Committee at its meeting held August 14, 2012. [Pursuant to §17A.4(7)]