



IOWA ADMINISTRATIVE BULLETIN

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Pages 453 to 602

CONTENTS IN THIS ISSUE

Pages 466 to 576 include **ARC 8045B** to **ARC 8087B**

ADMINISTRATIVE SERVICES

DEPARTMENT[11]

Filed Without Notice, Rescinding
appointments, 57.9 **ARC 8063B** 564

AGENDA

Administrative rules review committee 457

ALL AGENCIES

Agency identification numbers 464
Citation of administrative rules 455
Schedule for rule making 456

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]"umbrella"

Notice, Regulated loans—size of bond,
15.6 **ARC 8067B** 466
Notice, Industrial loans—size of bond,
16.13 **ARC 8068B** 467
Notice, Mortgage bankers and brokers,
amendments to ch 18 **ARC 8066B** 468
Notice, Mortgage loan originators, ch 19
ARC 8065B 472

CULTURAL AFFAIRS DEPARTMENT[221]

Filed, Iowa cultural trust, ch 13 **ARC 8087B** 564

EDUCATION DEPARTMENT[281]

Notice, Special education, amendments
to ch 41 **ARC 8050B** 481
Notice, Gifted and talented programs,
59.1 to 59.8 **ARC 8052B** 488
Notice, Programs and funding for students
with limited English proficiency, 60.2,
60.3, 60.5, 60.6 **ARC 8051B** 492

Notice, Statewide local option sales and
services tax for school infrastructure,
96.1 to 96.8 **ARC 8048B** 495

Notice, Vision Iowa school infrastructure
program, rescind ch 100 **ARC 8049B** 499

Filed, Practitioner and administrator
preparation programs, 79.1 to 79.17,
79.19 to 79.21 **ARC 8053B** 565

Filed, Financial management of
categorical funding, ch 98 **ARC 8054B** 565

EXECUTIVE ORDERS

Executive orders 6 to 15 577

HUMAN SERVICES DEPARTMENT[441]

Notice, Presumptive eligibility for
children, 7.5(2)"a," 75.1(44) **ARC 8083B** 499

Notice, Nursing facility quality assurance
assessment and payments, ch 36 div II,
81.6(11)"p," 81.6(21) **ARC 8086B** 501

Notice, Elimination of FIP diversion
program, amendments to ch 47 **ARC 8064B** 504

Notice, Medicare savings programs—LIS
benefits, 75.1, 76.1(1), 76.7(4) **ARC 8056B** 505

Notice, Billing for time-related services,
79.3(2)"c"(3)"3" **ARC 8084B** 507

Notice, Medical assistance advisory
council, 79.7 **ARC 8059B** 508

INSPECTIONS AND APPEALS

DEPARTMENT[481]

Notice, Boarding homes, ch 66 **ARC 8047B** 510

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

- Filed, Conduit derivative transactions—exemptions from reporting requirements, 93.6(3) **ARC 8062B** 567
- Filed, Accounting practices for certain derivative assets and indexed products, ch 97 **ARC 8061B** 567

IOWA FINANCE AUTHORITY[265]

- Notice, Qualified allocation plan, 12.1, 12.2 **ARC 8071B** 515
- Notice Terminated, State housing trust fund, 19.1 **ARC 8072B** 516
- Filed Emergency, Multifamily housing, 3.5(1)“k” **ARC 8078B** 532
- Filed, Updated allocation plans—local housing trust fund and project-based housing programs, 19.1 **ARC 8073B** 568
- Filed Emergency, Planning and design loans, 26.6(2), 26.6(5) **ARC 8079B** 532
- Filed, Jump-start housing assistance program, 29.3(1), 29.5(1), 29.8 **ARC 8074B** 569
- Filed, Jump-start housing assistance program, 29.5(2), 29.6 **ARC 8075B** 569
- Filed, Water quality financial assistance program, ch 33 **ARC 8080B** 570
- Filed, Affordable housing assistance grant fund, ch 35 **ARC 8076B** 572
- Filed, Public service shelter grant fund, ch 36 **ARC 8077B** 573

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

- Notice, Boilers and pressure vessels, amendments to chs 80, 90 to 94, 96 **ARC 8082B** 517
- Filed, Certificate fee—addition of four-year certificate, 90.7(2) **ARC 8081B** 574

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

- Notice, Board of barbering—national examinations, continuing education, fees, 5.2, 21.1 to 21.3, 21.5, 21.7, 21.8, 24.2(1), 24.3(2) **ARC 8085B** 523

PUBLIC HEARINGS

- Summarized list 460

REAL ESTATE COMMISSION[193E]

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

- Notice, Transfer of license and required transfer form, 6.2(1)“b” **ARC 8058B** 527
- Notice Terminated, Buyer(s) acknowledgment of receipt of radon fact sheet, 14.1(6) **ARC 8055B** 527
- Notice, Delivery and receipt of radon information, 14.1(6) **ARC 8057B** 528

REGENTS BOARD[681]

- Filed, Admission to college of veterinary medicine at Iowa State University, 2.26 **ARC 8069B** 575
- Filed, Iowa State University—organization and general rules, amendments to ch 13 **ARC 8070B** 575

SECRETARY OF STATE[721]

- Notice, Election forms and instructions, amendments to ch 21 **ARC 8046B** 529
- Filed Emergency, Election forms and instructions, amendments to ch 21 **ARC 8045B** 533

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA

- Public Notice 530

TRANSPORTATION DEPARTMENT

- Advisory Notice 530

TREASURER OF STATE

- Notice—Public funds interest rates 531

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”

- Filed, Wind energy tax credits, 15.18(1)“c”(2), 15.19(4), 15.20(1), 15.21(1) **ARC 8060B** 576

PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

NOTE: In accordance with Iowa Code section 7.17, 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 2009

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. 24 '08	Jan. 14 '09	Feb. 3 '09	Feb. 18 '09	Feb. 20 '09	Mar. 11 '09	Apr. 15 '09	July 13 '09
Jan. 9	Jan. 28	Feb. 17	Mar. 4	Mar. 6	Mar. 25	Apr. 29	July 27
Jan. 23	Feb. 11	Mar. 3	Mar. 18	Mar. 20	Apr. 8	May 13	Aug. 10
Feb. 6	Feb. 25	Mar. 17	Apr. 1	Apr. 3	Apr. 22	May 27	Aug. 24
Feb. 20	Mar. 11	Mar. 31	Apr. 15	Apr. 17	May 6	June 10	Sep. 7
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 1	May 20	June 24	Sep. 21
Mar. 20	Apr. 8	Apr. 28	May 13	***May 13***	June 3	July 8	Oct. 5
Apr. 3	Apr. 22	May 12	May 27	May 29	June 17	July 22	Oct. 19
Apr. 17	May 6	May 26	June 10	June 12	July 1	Aug. 5	Nov. 2
May 1	May 20	June 9	June 24	***June 24***	July 15	Aug. 19	Nov. 16
May 13	June 3	June 23	July 8	July 10	July 29	Sep. 2	Nov. 30
May 29	June 17	July 7	July 22	July 24	Aug. 12	Sep. 16	Dec. 14
June 12	July 1	July 21	Aug. 5	Aug. 7	Aug. 26	Sep. 30	Dec. 28
June 24	July 15	Aug. 4	Aug. 19	***Aug. 19***	Sep. 9	Oct. 14	Jan. 11 '10
July 10	July 29	Aug. 18	Sep. 2	Sep. 4	Sep. 23	Oct. 28	Jan. 25 '10
July 24	Aug. 12	Sep. 1	Sep. 16	Sep. 18	Oct. 7	Nov. 11	Feb. 8 '10
Aug. 7	Aug. 26	Sep. 15	Sep. 30	Oct. 2	Oct. 21	Nov. 25	Feb. 22 '10
Aug. 19	Sep. 9	Sep. 29	Oct. 14	Oct. 16	Nov. 4	Dec. 9	Mar. 8 '10
Sep. 4	Sep. 23	Oct. 13	Oct. 28	***Oct. 28***	Nov. 18	Dec. 23	Mar. 22 '10
Sep. 18	Oct. 7	Oct. 27	Nov. 11	***Nov. 12***	Dec. 2	Jan. 6 '10	Apr. 5 '10
Oct. 2	Oct. 21	Nov. 10	Nov. 25	***Nov. 25***	Dec. 16	Jan. 20 '10	Apr. 19 '10
Oct. 16	Nov. 4	Nov. 24	Dec. 9	***Dec. 9***	Dec. 30	Feb. 3 '10	May 3 '10
Oct. 28	Nov. 18	Dec. 8	Dec. 23	***Dec. 23***	Jan. 13 '10	Feb. 17 '10	May 17 '10
Nov. 12	Dec. 2	Dec. 22	Jan. 6 '10	Jan. 8 '10	Jan. 27 '10	Mar. 3 '10	May 31 '10
Nov. 25	Dec. 16	Jan. 5 '10	Jan. 20 '10	Jan. 22 '10	Feb. 10 '10	Mar. 17 '10	June 14 '10
Dec. 9	Dec. 30	Jan. 19 '10	Feb. 3 '10	Feb. 5 '10	Feb. 24 '10	Mar. 31 '10	June 28 '10
Dec. 23	Jan. 13 '10	Feb. 2 '10	Feb. 17 '10	Feb. 19 '10	Mar. 10 '10	Apr. 14 '10	July 12 '10

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
7	Friday, September 4, 2009	September 23, 2009
8	Friday, September 18, 2009	October 7, 2009
9	Friday, October 2, 2009	October 21, 2009

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 8, 2009, at 9 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Rescinding appointments, 57.9 Filed Without Notice **ARC 8063B** 8/26/09

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Labeling of biodiesel fuel and ethanol blended gasoline, 85.48 Notice **ARC 8041B** 8/12/09

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]"umbrella"

Regulated loans—size of bond, 15.6 Notice **ARC 8067B** 8/26/09

Industrial loans—size of bond, 16.13 Notice **ARC 8068B** 8/26/09

Mortgage bankers and brokers, amendments to ch 18 Notice **ARC 8066B** 8/26/09

Mortgage loan originators, ch 19 Notice **ARC 8065B** 8/26/09

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

All Iowa opportunity scholarship program—eligibility, 8.3 Notice **ARC 8036B** 8/12/09

CULTURAL AFFAIRS DEPARTMENT[221]

Iowa cultural trust, ch 13 Filed **ARC 8087B** 8/26/09

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

General, 1.1, 16.3, 20.2, 20.6, 22.1, 25.3(7)“b,” 25.8, 25.9, 27.11(5), 29.6, 29.13, 30.4,
51.19(9) Notice **ARC 8044B** 8/12/09

Nonpayment of state debt, ch 36 Notice **ARC 8042B** 8/12/09

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Information technology training program, amendments to ch 103 Notice **ARC 8032B** 8/12/09

Lean manufacturing institute; supply chain development program, rescind ch 110; amend ch
111 Notice **ARC 8031B** 8/12/09

Management talent recruitment program, amendments to ch 112 Notice **ARC 8030B** 8/12/09

Community attraction and tourism development (CATD) programs, 211.2, 211.8, 211.9,
211.103 Notice **ARC 8033B**, also Filed Emergency **ARC 8034B** 8/12/09

EDUCATION DEPARTMENT[281]

Special education, amendments to ch 41 Notice **ARC 8050B** 8/26/09

Gifted and talented programs, 59.1 to 59.8 Notice **ARC 8052B** 8/26/09

Programs and funding for students with limited English proficiency, 60.2, 60.3, 60.5, 60.6
Notice **ARC 8051B** 8/26/09

Practitioner and administrator preparation programs, 79.1 to 79.17, 79.19 to 79.21 Filed **ARC 8053B** 8/26/09

Statewide local option sales and services tax for school infrastructure, 96.1 to 96.8 Notice **ARC 8048B** 8/26/09

Financial management of categorical funding, ch 98 Filed **ARC 8054B** 8/26/09

Vision Iowa school infrastructure program, rescind ch 100 Notice **ARC 8049B** 8/26/09

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Iowa antidegradation implementation procedure—“Appendix B – Outstanding Iowa
Waters,” 61.2(2) Amended Notice **ARC 8038B** 8/12/09

Water quality standards—revisions to surface water classifications, 61.3(5) Filed **ARC 8039B** 8/12/09

Solid waste comprehensive planning requirements, amendments to ch 101 Filed **ARC 8037B** 8/12/09

HUMAN SERVICES DEPARTMENT[441]

Presumptive eligibility for children, 7.5(2)“a,” 75.1(44) Notice **ARC 8083B** 8/26/09

Nursing facility quality assurance assessment and payments, ch 36 div II, 81.6(11)“p,”
81.6(21) Notice **ARC 8086B** 8/26/09

Elimination of FIP diversion program, amendments to ch 47 Notice **ARC 8064B** 8/26/09

Medicare savings programs—LIS benefits, 75.1, 76.1(1), 76.7(4) Notice **ARC 8056B** 8/26/09

Medicaid for children with disabilities, 75.1(43)“d”(3) Notice **ARC 8040B** 8/12/09

Billing for time-related services, 79.3(2)“c”(3)“3” Notice **ARC 8084B** 8/26/09

Medical assistance advisory council, 79.7 Notice **ARC 8059B** 8/26/09

INSPECTIONS AND APPEALS DEPARTMENT[481]Boarding homes, ch 66 Notice **ARC 8047B** 8/26/09**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

Conduit derivative transactions—exemptions from reporting requirements, 93.6(3) Filed **ARC 8062B** 8/26/09Accounting practices for certain derivative assets and indexed products, ch 97 Filed **ARC 8061B** 8/26/09**IOWA FINANCE AUTHORITY[265]**Multifamily housing, 3.5(1)"k" Filed Emergency **ARC 8078B** 8/26/09Low-income housing tax credits—qualified allocation plan, 12.1, 12.2 Notice **ARC 8071B** 8/26/09State housing trust fund, 19.1 Notice of Termination **ARC 8072B** 8/26/09Updated allocation plans—local housing trust fund and project-based housing programs,
19.1 Filed **ARC 8073B** 8/26/09Planning and design loans, 26.6(2), 26.6(5) Filed Emergency **ARC 8079B** 8/26/09Jump-start housing assistance program, 29.3(1), 29.5(1), 29.8 Filed **ARC 8074B** 8/26/09Jump-start housing assistance program, 29.5(2), 29.6 Filed **ARC 8075B** 8/26/09Water quality financial assistance program, ch 33 Filed **ARC 8080B** 8/26/09Affordable housing assistance grant fund, ch 35 Filed **ARC 8076B** 8/26/09Public service shelter grant fund, ch 36 Filed **ARC 8077B** 8/26/09**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Boilers and pressure vessels, amendments to chs 80, 90 to 94, 96 Notice **ARC 8082B** 8/26/09Certificate fee—addition of four-year certificate, 90.7(2) Filed **ARC 8081B** 8/26/09Construction contractor registration—fees, 150.6 Filed **ARC 8035B** 8/12/09**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Board of barbering—national examinations, continuing education, fees, 5.2, 21.1 to 21.3,
21.5, 21.7, 21.8, 24.2(1), 24.3(2) Notice **ARC 8085B** 8/26/09Licensure of podiatrists, 220.2 to 220.4, 220.6, 220.7 Filed **ARC 8028B** 8/12/09**RACING AND GAMING COMMISSION[491]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Organization; contested cases; licensure; gambling games; accounting and cash control,
amend chs 1, 4 to 6, 11; adopt ch 12 Filed **ARC 8029B** 8/12/09**REAL ESTATE COMMISSION[193E]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Transfer of license and required transfer form, 6.2(1)"b" Notice **ARC 8058B** 8/26/09Buyer(s) acknowledgment of receipt of radon fact sheet, 14.1(6) Notice of Termination **ARC 8055B** 8/26/09Delivery and receipt of radon information, 14.1(6) Notice **ARC 8057B** 8/26/09**REGENTS BOARD[681]**Admission to college of veterinary medicine at Iowa State University, 2.26 Filed **ARC 8069B** 8/26/09Iowa State University—organization and general rules, amendments to ch 13 Filed **ARC 8070B** 8/26/09**REVENUE DEPARTMENT[701]**Penalty and enforcement; form of invoice; motor fuel and undyed special fuel tax rates and
bills of lading, 10.71, 67.12, 68.2, 68.18 Notice **ARC 8043B** 8/12/09**SECRETARY OF STATE[721]**Election forms and instructions, amendments to ch 21
Notice **ARC 8046B**, also Filed Emergency **ARC 8045B** 8/26/09**TRANSPORTATION DEPARTMENT[761]**Bridge safety fund, ch 162 Notice **ARC 8027B**, also Filed Emergency **ARC 8026B** 8/12/09Issuance of temporary restricted license to repeat OWI offenders, 620.3(6)
Notice **ARC 8025B**, also Filed Emergency **ARC 8024B** 8/12/09**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Wind energy tax credits, 15.18(1)"c"(2), 15.19(4), 15.20(1), 15.21(1) Filed **ARC 8060B** 8/26/09

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.

EDITOR'S NOTE: Terms ending April 30, 2011.

Senator Merlin Bartz
2081 410th Street
Grafton, Iowa 50440

Senator Thomas Courtney
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Burlington, Iowa 52601

Senator Wally Horn
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Cedar Rapids, Iowa 52404

Senator John P. Kibbie
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Emmetsburg, Iowa 50536

Senator James Seymour
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Emmetsburg, Iowa 50536

Representative David Heaton
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Representative Tyler Olson
P.O. Box 2389
Cedar Rapids, Iowa 52406

Representative Nathan Reichert
1155 Iowa Avenue
Muscatine, Iowa 52761

Representative Linda Upmeyer
2175 Pine Avenue
Garner, Iowa 50438

James Larew
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319
Telephone (515)281-0208

AGENCY	HEARING LOCATION	DATE AND TIME
DENTAL BOARD[650]		
General, amendments to chs 1, 16, 20, 22, 25, 27, 29, 30, 51 IAB 8/12/09 ARC 8044B	Board Conference Room 400 SW 8th St., Suite D Des Moines, Iowa	September 1, 2009 10 a.m.
Nonpayment of state debt, ch 36 IAB 8/12/09 ARC 8042B	Board Conference Room 400 SW 8th St., Suite D Des Moines, Iowa	September 1, 2009 10 a.m.
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Information technology training program, amendments to ch 103 IAB 8/12/09 ARC 8032B	ICN/Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 2, 2009 3:30 to 4 p.m.
Lean manufacturing institute; supply chain development program, rescind ch 110; amend ch 111 IAB 8/12/09 ARC 8031B	Second Floor Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 11, 2009 10 a.m.
Management talent recruitment program, amendments to ch 112 IAB 8/12/09 ARC 8030B	Second Floor Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 11, 2009 10 a.m.
Community attraction and tourism development (CATD) programs, 211.2, 211.8, 211.9, 211.103 IAB 8/12/09 ARC 8033B	Iowa Room 200 E. Grand Ave. Des Moines, Iowa	September 3, 2009 1:30 to 3:30 p.m.
EDUCATION DEPARTMENT[281]		
Special education, amendments to ch 41 IAB 8/26/09 ARC 8050B (ICN Network)	ICN Room, Second Floor Grimes State Office Bldg. 400 E. 14th St. Des Moines, Iowa	October 13, 2009 2 to 4 p.m.
	Mississippi Bend Area Education Agency Louisa Room 729 21st St. Bettendorf, Iowa	October 13, 2009 2 to 4 p.m.
	Great Prairie Area Education Agency 3601 West Ave. Burlington, Iowa	October 13, 2009 2 to 4 p.m.
	Area Education Agency 267 3712 Cedar Heights Dr. Cedar Falls, Iowa	October 13, 2009 2 to 4 p.m.
	Kirkwood Community College Room 202, Linn Hall 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	October 13, 2009 2 to 4 p.m.
	Loess Hills Area Education Agency 24997 Hwy. 92 Council Bluffs, Iowa	October 13, 2009 2 to 4 p.m.
	Keystone Area Education Agency Room 2 2310 Chaney Rd. Dubuque, Iowa	October 13, 2009 2 to 4 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME
EDUCATION DEPARTMENT[281] (Cont'd)		
(ICN Network)	Keystone Area Education Agency 1400 2nd Street NW Elkader, Iowa	October 13, 2009 2 to 4 p.m.
	Great Prairie Area Education Agency 2814 N. Court St. Ottumwa, Iowa	October 13, 2009 2 to 4 p.m.
	Area Education Agency 267 State Room 9184B 265th St. Clear Lake, Iowa	October 13, 2009 2 to 4 p.m.
	Graphic Arts Technology Ctr. of Iowa Room 16 1951 Manufacturing Dr. Clinton, Iowa	October 13, 2009 2 to 4 p.m.
	Green Valley Area Education Agency Turner Room 1405 N. Lincoln Creston, Iowa	October 13, 2009 2 to 4 p.m.
	Prairie Lakes Area Education Agency 500 NE 6th St. Pocahontas, Iowa	October 13, 2009 2 to 4 p.m.
	Northwest Area Education Agency Room 103 1382 4th Ave. NE Sioux Center, Iowa	October 13, 2009 2 to 4 p.m.
	Department of Human Services Fourth Floor, Trospar-Hoyt Bldg. 822 Douglas St. Sioux City, Iowa	October 13, 2009 2 to 4 p.m.
	Iowa Lakes Community College Room 118 1900 N. Grand Ave. Spencer, Iowa	October 13, 2009 2 to 4 p.m.
	Talented and gifted programs, 59.1 to 59.8 IAB 8/26/09 ARC 8052B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa
Programs and funding for students with limited English proficiency, 60.2, 60.3, 60.5, 60.6 IAB 8/26/09 ARC 8051B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 15, 2009 2 to 3 p.m.
Statewide local option sales and services tax for school infrastructure, 96.1 to 96.8 IAB 8/26/09 ARC 8048B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 15, 2009 11 a.m. to 12 noon
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Iowa antidegradation implementation procedure— “Appendix B – Outstanding Iowa Waters,” 61.2(2) IAB 7/15/09 ARC 7945B (See also ARC 7368B , IAB 11/19/08)	Elkader Opera House 207 N. Main St. Elkader, Iowa	September 1, 2009 11 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)		
	Northeast Iowa Comm. College – Waukon Room 115 1220 3rd Ave., Suite 102 Waukon, Iowa	September 1, 2009 6 p.m.
	Mahan Bldg., Iowa Lakeside Laboratory 1838 Highway 86 Milford, Iowa	September 3, 2009 6 p.m.
HUMAN SERVICES DEPARTMENT[441]		
Nursing facility quality assurance assessment and payments, ch 36 div II, 81.6 IAB 8/26/09 ARC 8086B	Room 129, Medicaid Enterprise Bldg. 100 Army Post Rd. Des Moines, Iowa	September 15, 2009 2 to 4 p.m.
INSPECTIONS AND APPEALS DEPARTMENT[481]		
Boarding homes, ch 66 IAB 8/26/09 ARC 8047B (ICN Network)	ICN Room, Sixth Floor Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	September 18, 2009 3 p.m.
	Room 106, Activity Center North Iowa Area Community College 500 College Dr. Mason City, Iowa	September 18, 2009 3 p.m.
	Room 118 Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	September 18, 2009 3 p.m.
	Room 110, Tama Hall Hawkeye Community College 1501 E. Orange Rd. Waterloo, Iowa	September 18, 2009 3 p.m.
	Room 024, Looft Hall Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	September 18, 2009 3 p.m.
	Room 528, Trustee Hall Southeastern Community College 1500 West Agency West Burlington, Iowa	September 18, 2009 3 p.m.
	Room 2, Keystone Area Education Agency 2310 Chaney Rd. Dubuque, Iowa	September 18, 2009 3 p.m.
	Meeting Room D, Public Library 123 South Linn St. Iowa City, Iowa	September 18, 2009 3 p.m.
	Public Library 529 Pierce St. Sioux City, Iowa	September 18, 2009 3 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME
IOWA FINANCE AUTHORITY[265]		
Qualified allocation plan, 12.1, 12.2 IAB 8/26/09 ARC 8071B	Iowa Finance Authority Offices 2015 Grand Ave. Des Moines, Iowa	September 15, 2009 9 to 11 a.m.
LABOR SERVICES DIVISION[875]		
Boilers and pressure vessels, amendments to chs 80, 90 to 94, 96 IAB 8/26/09 ARC 8082B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	September 16, 2009 1:30 p.m. (If requested)
NATURAL RESOURCE COMMISSION[571]		
Snagging paddlefish, 81.1, 81.2(4) IAB 7/29/09 ARC 8019B	Room D, Clinton County Admin. Bldg. 1900 N. 3rd St. Clinton, Iowa	August 26, 2009 7 p.m.
PROFESSIONAL LICENSURE DIVISION[645]		
Board of barbering—national examinations, continuing education, fees, 5.2, 21.1 to 21.3, 21.5, 21.7, 21.8, 24.2(1), 24.3(1) IAB 8/26/09 ARC 8085B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	September 15, 2009 9 to 9:30 a.m.
PUBLIC SAFETY DEPARTMENT[661]		
Iowa sex offender registry, 83.2, 83.3 IAB 7/29/09 ARC 7975B	First Floor Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 8, 2009 8:30 a.m.
REAL ESTATE COMMISSION[193E]		
Transfer of license and required transfer form, 6.2(1) IAB 8/26/09 ARC 8058B	Second Floor Professional Licensing Conference Room 1920 SE Hulsizer Rd. Ankeny, Iowa	September 15, 2009 1 p.m.
Delivery and receipt of radon information, 14.1(6) IAB 8/26/09 ARC 8057B	Second Floor Professional Licensing Conference Room 1920 SE Hulsizer Rd. Ankeny, Iowa	September 15, 2009 9 a.m.
TRANSPORTATION DEPARTMENT[761]		
Bridge safety fund, ch 162 IAB 8/12/09 ARC 8027B	Third Floor Conference Rm., Admin. Bldg. 800 Lincoln Way Ames, Iowa	September 3, 2009 10 a.m. (If requested)
Issuance of temporary restricted license to repeat offenders, 620.3(6) IAB 8/12/09 ARC 8025B	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	September 4, 2009 10 a.m. (If requested)

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“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 which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 IOWA FINANCE AUTHORITY[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ENERGY INDEPENDENCE, OFFICE OF[350]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]

Community Action Agencies Division[427]
Criminal and Juvenile Justice Planning Division[428]
Deaf Services Division[429]
Persons With Disabilities Division[431]
Latino Affairs Division[433]
Status of African-Americans, Division on the[434]
Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Foster Care Review Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Homeland Security and Emergency Management Division[605]
Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 8067B

BANKING DIVISION[187]**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, 536.3 and 536.21, the Banking Division of the Department of Commerce hereby gives Notice of Intended Action to amend Chapter 15, "Regulated Loans," Iowa Administrative Code.

The proposed amendment requires regulated loan companies that engage in residential mortgage lending to maintain a bond that meets the requirements of the new federal S.A.F.E. Mortgage Licensing Act of 2008. This amendment implements 2009 Iowa Acts, Senate File 355, which was passed in response to the Act.

Interested persons may make written comments on the proposed amendment on or before September 15, 2009. Such written material should be directed to the Superintendent of Banking, Banking Division, Department of Commerce, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Superintendent of Banking, Department of Commerce, at (515)281-4014 or at 200 East Grand Avenue, Suite 300.

The proposed amendment is not subject to waiver.

This amendment is intended to implement Iowa Code chapter 536 as amended by 2009 Iowa Acts, Senate File 355, section 40.

The following amendment is proposed.

Adopt the following **new** rule 187—15.6(17A,536):

187—15.6(17A,536) Size of bond. An applicant for a regulated loan company license must file with the superintendent a bond complying with the provisions of Iowa Code section 536.3 as amended by 2009 Iowa Acts, Senate File 355, section 40. For applicants or licensees who do not make, arrange, broker, process, or underwrite any residential mortgage loans, as defined by 2009 Iowa Acts, Senate File 355, section 3, subsection 13, the bond shall be in the amount of \$25,000. For applicants or licensees who make, process, or underwrite residential mortgage loans, as defined by 2009 Iowa Acts, Senate File 355, section 3, subsection 13, the bond amount required to be filed and maintained shall be set and adjusted annually by March 31 using the following scale, based on the volume of residential mortgage loans made, originated, arranged, brokered, processed, and underwritten, as the case may be, by the applicant or licensee during the preceding calendar year:

Loans	Bond Amount
\$0 – \$5,000,000	\$25,000
\$5,000,001 – \$20,000,000	\$50,000
\$20,000,001 – \$50,000,000	\$75,000
\$50,000,001 – \$100,000,000	\$100,000
Over \$100,000,000	\$150,000

This rule is intended to implement Iowa Code section 536.3 as amended by 2009 Iowa Acts, Senate File 355, section 40.

ARC 8068B**BANKING DIVISION[187]****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, 536A.7A and 536A.28, the Banking Division of the Department of Commerce hereby gives Notice of Intended Action to amend Chapter 16, "Industrial Loans," Iowa Administrative Code.

The proposed amendment requires industrial loan companies that engage in residential mortgage lending to maintain a bond that meets the requirements of the new federal S.A.F.E. Mortgage Licensing Act of 2008. This amendment implements 2009 Iowa Acts, Senate File 355, which was passed in response to the Act.

Interested persons may make written comments on the proposed amendment on or before September 15, 2009. Such written material should be directed to the Superintendent of Banking, Banking Division, Department of Commerce, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Superintendent of Banking, Department of Commerce, at (515)281-4014 or at 200 East Grand Avenue, Suite 300.

The proposed amendment is not subject to waiver.

This amendment is intended to implement Iowa Code chapter 536A as amended by 2009 Iowa Acts, Senate File 355, section 44.

The following amendment is proposed.

Adopt the following **new** rule 187—16.13(17A,536A):

187—16.13(17A,536A) Size of bond. An applicant for an industrial loan company license must file with the superintendent a bond complying with the provisions of Iowa Code section 536A.7A as amended by 2009 Iowa Acts, Senate File 355, section 44. For applicants or licensees who do not make, process, or underwrite any residential mortgage loans, as defined by 2009 Iowa Acts, Senate File 355, section 3, subsection 13, the bond shall be in the amount of \$25,000. For applicants or licensees who make, arrange, broker, process, or underwrite residential mortgage loans, as defined by 2009 Iowa Acts, Senate File 355, section 3, subsection 13, the bond amount required to be filed and maintained shall be set and adjusted annually by March 31 using the following scale, based on the volume of residential mortgage loans made, originated, arranged, brokered, processed, and underwritten, as the case may be, by the applicant or licensee during the preceding calendar year:

Loans	Bond Amount
\$0 – \$5,000,000	\$25,000
\$5,000,001 – \$20,000,000	\$50,000
\$20,000,001 – \$50,000,000	\$75,000
\$50,000,001 – \$100,000,000	\$100,000
Over \$100,000,000	\$150,000

This rule is intended to implement Iowa Code section 536A.7A as amended by 2009 Iowa Acts, Senate File 355, section 44.

ARC 8066B**BANKING DIVISION[187]****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 535B.14, the Banking Division of the Department of Commerce hereby gives Notice of Intended Action to amend Chapter 18, "Mortgage Bankers and Mortgage Brokers," Iowa Administrative Code.

The proposed amendments update the rules in Chapter 18 and strike all administrative rule requirements relating to individual registration of mortgage loan originators. Individual registrants will be licensed under a new statute and chapter of administrative rules. These amendments implement 2009 Iowa Acts, Senate File 355, which was mandated by the federal S.A.F.E. Mortgage Licensing Act of 2008.

Interested persons may make written comments on the proposed amendments on or before September 15, 2009. Such written material should be directed to the Superintendent of Banking, Banking Division, Department of Commerce, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Superintendent of Banking, Department of Commerce, at (515)281-4014 or at 200 East Grand Avenue, Suite 300.

These amendments are intended to implement Iowa Code chapter 535B as amended by 2009 Iowa Acts, Senate File 355.

The following amendments are proposed.

ITEM 1. Rescind the definitions of "Individual registrant" and "Individual registration" in rule **187—18.1(17A,535B)**.

ITEM 2. Amend rule **187—18.1(17A,535B)**, definition of "Mortgage application," as follows:

~~"Mortgage application" means: an oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested. A completed application has all the information that the creditor regularly obtains and considers in evaluating an application for the amount and type of credit requested.~~

1. Any communication, regardless of form, from a licensee to a borrower requesting information typically required in an application for the purpose of deciding whether or not to extend the requested offer of a loan to a borrower; or

2. Any communication, regardless of form, from a borrower to a licensee for an offer or responding to a solicitation for an offer of residential mortgage loan terms or providing information typically required in an application for the purpose of deciding whether or not to extend the requested offer of a loan to a borrower.

ITEM 3. Adopt the following **new** definition of "Mortgage loan originator" in rule **187—18.1(17A,535B)**:

"Mortgage loan originator" means a natural person who is licensed under 2009 Iowa Acts, Senate File 355, and 187—Chapter 19.

ITEM 4. Amend rule 187—18.2(17A,535B) as follows:

187—18.2(17A,535B) Application for license.

18.2(1) Application for a license to operate as a mortgage banker or mortgage broker shall be ~~on forms provided by the administrator~~ submitted to the administrator through the NMLS&R, and all requested information shall be provided on or with the application form. The administrator may

BANKING DIVISION[187](cont'd)

consider an application or registration withdrawn if it does not contain all of the information required and the information is not submitted to the administrator within 30 days after the administrator requests the information.

18.2(2) The license application shall be accompanied by a fee of \$500 plus \$40 per additional branch location. The \$500 fee is not subject to refund. The applicant shall also pay any additional fees required by the NMLS&R including but not limited to the following: system processing fees, background check fees, and credit background check fees.

18.2(3) No change.

18.2(4) The administrator shall approve or deny a license application in accordance with the provisions of Iowa Code section 535B.5. A person shall not be eligible for licensing unless all ~~individual registrants~~ mortgage loan originators who are employed by, under contract with, or exclusive agents of the person have successfully completed the ~~registration and background checks required by Iowa Code section 535B.4A~~ licensing requirements of 2009 Iowa Acts, Senate File 355.

18.2(5) An applicant must file with the administrator a bond complying with the provisions of Iowa Code section 535B.9. The bond amount required to be filed and maintained by the applicant shall be set and adjusted as necessary annually in accordance with the following scale, based on the volume of residential mortgage loans made, originated, arranged, brokered, processed, and underwritten, as the case may be, by the applicant or licensee during the preceding calendar year:

<u>Loans</u>	<u>Bond Amount</u>
<u>\$0 – \$100,000,000</u>	<u>\$100,000</u>
<u>Over \$100,000,000</u>	<u>\$150,000</u>

~~18.2(5)~~ **18.2(6)** Licenses expire on the next December 31 after issuance. However, licenses granted on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a license granted on November 17, 2008, would not expire until December 31, 2009.

ITEM 5. Rescind and reserve rules **187—18.4(17A,535B)** to **187—18.6(17A,535B)**.

ITEM 6. Amend rule 187—18.7(17A,535B) as follows:

187—18.7(17A,535B) Notice of significant events. A licensee or ~~individual registrant~~ shall notify the administrator immediately and in writing within ~~three~~ five business days of the occurrence of any of the following events.

18.7(1) The licensee or any of the licensee's officers, directors, principal stockholders, or affiliates file for bankruptcy protection.

18.7(2) A prosecuting authority files criminal charges against the licensee, ~~the individual registrant~~ or any of a licensee's officers, directors, principal stockholders, or affiliates.

18.7(3) Another state or jurisdiction institutes license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action against the licensee, ~~individual registrant~~, or any of the licensee's officers, directors, principal stockholders, or affiliates.

18.7(4) The attorney general of Iowa, the Federal Trade Commission, or the enforcer of the consumer protection laws of any other jurisdiction initiates an action to enforce consumer protection laws against the licensee, ~~individual registrant~~, or any of the licensee's officers, directors, principal stockholders, mortgage loan originators, employees, or affiliates.

18.7(5) The Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, or Government National Mortgage Association suspends or terminates the licensee's or ~~individual registrant's~~ status as an approved seller or seller/servicer.

BANKING DIVISION[187](cont'd)

ITEM 7. Amend rule 187—18.8(17A,535B) as follows:

187—18.8(17A,535B) Changes in the licensee's business; fees.

18.8(1) No licensee ~~or individual registrant~~ shall conduct the residential mortgage lending activities authorized in Iowa Code chapter 535B under any name other than that stated on the license ~~or individual registration certificate~~.

18.8(2) A licensee shall notify the administrator of a change of name of the business in writing within ten days of the change. A filing fee of \$25 shall accompany a notice of change of name, in addition to all other information required by the administrator.

18.8(3) An individual registrant shall notify the administrator in writing within ten days of a change in the individual registrant's name.

18.8(4) **18.8(2)** A licensee shall notify the administrator in writing of a change in the location, the addition, or the closing of any office prior to the change, addition, or closure.

18.8(5) **18.8(3)** A licensee shall maintain on file with the administrator, through the NMLS&R, a list of all ~~individual registrants~~ mortgage loan originators who are employed by, under contract with, or exclusive agents of the licensee. The licensee shall pay ~~a change in sponsorship fee of \$30~~ any fees assessed by the NMLS&R to add ~~an individual registrant~~ a mortgage loan originator to the licensee's list in the NMLS&R.

18.8(6) **18.8(4)** When ~~an individual registrant~~ a mortgage loan originator ceases to be employed by, under contract with, or an exclusive agent of a licensee, the licensee shall notify the administrator, through the NMLS&R, within five business days. The notification shall include the reasons for the termination of the ~~individual registrant's~~ mortgage loan originator's employment, contract, or agency.

18.8(7) **18.8(5)** A licensee shall notify the administrator in writing of the addition of any ~~individual registrant~~ mortgage loan originator, owner, officer, partner, or director within five business days of addition.

18.8(8) **18.8(6)** Failure to notify the administrator within the prescribed time as required by this rule may subject the licensee ~~or individual registrant~~ to disciplinary action.

18.8(7) NMLS&R system processing fees. In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the NMLS&R attributed to the licensee's record in the NMLS&R system including but not limited to the initial set-up fee, an annual processing fee, and a loan sponsorship transfer fee.

ITEM 8. Rescind and reserve rules **187—18.10(17A,535B)** to **187—18.15(17A,535B)**.

ITEM 9. Adopt the following **new** paragraph **18.16(1)“d”**:

d. The obligation to maintain records continues even after the licensee ceases business operations in Iowa and turns in or surrenders its license. The owners and directors of the licensee are responsible for ensuring this requirement is met.

ITEM 10. Adopt the following **new** subrule 18.16(10):

18.16(10) *Disposal of records.* If the licensee or former licensee disposes of records at the end of the retention period, the licensee or former licensee shall dispose of the records in a reasonable manner that safeguards any identification information, as defined in Iowa Code section 715A.8(1)“a.” The owners and directors of licensees and former licensees are responsible for ensuring this requirement is met.

ITEM 11. Amend rule 187—18.17(17A,535B) as follows:

187—18.17(17A,535B) Annual report. On or before ~~April 15~~ March 31 each year, a licensee shall file with the administrator an annual report for the preceding calendar year on forms prescribed by the administrator. For every day after ~~April 15~~ March 31 that the report is not received, the administrator may assess late fees of \$10 per day.

BANKING DIVISION[187](cont'd)

ITEM 12. Amend rule 187—18.18(17A,535B) as follows:

187—18.18(17A,535B) Advertising and representations to potential borrowers.

18.18(1) Any advertisement of mortgage loans which are offered by or through a licensee ~~or individual registrant~~ shall conform to the following requirements:

a. to *c.* No change.

18.18(2) A licensee ~~or individual registrant~~ receiving a verbal or written inquiry about the licensee's ~~or individual registrant's~~ services shall respond accurately to any questions about the scope and nature of such services and any costs.

ITEM 13. Amend rule 187—18.19(17A,535B) as follows:

187—18.19(17A,535B) Complaints and investigations.

18.19(1) The administrator may, at any time and as often as the administrator deems necessary, investigate a business and examine the books, accounts, records, and files used by a licensee ~~or individual registrant~~.

18.19(2) The administrator may investigate complaints or alleged violations about any licensee ~~or individual registrant~~.

18.19(3) The following shall constitute a complaint or alleged violation:

a. A written complaint received from a consumer, member of the public, employee business affiliate, or other governmental agency.

b. Notice to the administrator from any source that the licensee ~~or individual registrant~~ has been the subject of disciplinary proceedings in another jurisdiction.

c. Notice to the administrator from any source that the licensee ~~or individual registrant~~ has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other similar offense, in a court of competent jurisdiction in this state or in any other state, territory or district of the United States, or in any foreign jurisdiction.

ITEM 14. Amend rule 187—18.20(17A,535B) as follows:

187—18.20(17A,535B) Disciplinary action.

18.20(1) No change.

18.20(2) Grounds for discipline. The administrator may impose any of the disciplinary sanctions set out in Iowa Code section 535B.7 when the administrator finds any of the following:

a. The licensee ~~or individual registrant~~ has violated a provision of Iowa Code chapter 535B or a rule adopted under Iowa Code chapter 535B or any other state or federal law applicable to the conduct of mortgage banking or mortgage brokering, including but not limited to Iowa Code chapters 535 and 535A.

b. A fact or condition exists which, ~~if it had it~~ existed at the time of the original application for the license ~~or individual registration~~, would have warranted the administrator to refuse ~~originally~~ to issue the original license ~~or individual registration~~.

c. The licensee is found upon investigation to be insolvent, in which case the license shall be revoked immediately.

d. The licensee ~~or individual registrant~~ has violated an order of the administrator.

e. The licensee ~~or individual registrant~~ fails to fully cooperate with an examination or investigation, including failure to respond to an administrator inquiry within 30 calendar days of the date of mailing a written communication directed to the licensee's ~~or individual registrant's~~ last-known address on file with the administrator.

f. The licensee ~~or individual registrant~~ has engaged in any conduct that subverts or attempts to subvert an examination or investigation by the administrator.

g. The licensee ~~or individual registrant~~ continues to operate as a mortgage banker or mortgage broker without an active and current license ~~or individual registration~~.

BANKING DIVISION[187](cont'd)

~~h. The individual registrant continues to act as a mortgage banker or mortgage broker without first satisfying the required continuing education, absent an express waiver granted by the administrator~~
Reserved.

~~i. The individual registrant has submitted a false report of continuing education~~
Reserved.

~~j. The licensee or individual registrant fails to notify the administrator within three five days of the occurrence of one of the significant events set forth in rule 187—18.7(17A,535B).~~

~~k. Another state or jurisdiction has denied, suspended, revoked, or refused to renew the licensee's or the individual registrant's license, registration, or authorization to act as a mortgage banker or mortgage broker under the other state's or jurisdiction's law.~~

~~l. The licensee or individual registrant fails to create and maintain complete and accurate records as required by state or federal law, regulation, or rule.~~

18.20(3) A licensee ~~or individual registrant~~ may surrender a license ~~or individual registration~~ by delivering to the administrator a written notice of surrender.

18.20(4) No change.

ITEM 15. Rescind and reserve rules **187—18.21(252J)** to **187—18.23(82GA,SF2428)**.

ARC 8065B

BANKING DIVISION[187]

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 2009 Iowa Acts, Senate File 355, sections 12 and 22, the Banking Division of the Department of Commerce hereby gives Notice of Intended Action to adopt Chapter 19, "Mortgage Loan Originators," Iowa Administrative Code.

The proposed rules are designed to implement 2009 Iowa Acts, Senate File 355 (the Iowa Secure and Fair Enforcement (SAFE) for Mortgage Licensing Act), adopted in 2009 and effective July 1, 2009, which requires natural persons acting as mortgage loan originators to be licensed by the Banking Division beginning January 1, 2010. Senate File 355 requires applicants for licensure to meet stringent licensing requirements, including meeting test and preeducation requirements, and completion of continuing education requirements each year. The rules address the processes and requirements for applying for and renewing a mortgage loan originator license. The rules also address continuing education requirements and establish administrative fees associated with licenses administered pursuant to 2009 Iowa Acts, Senate File 355. Finally, the rules describe the complaint and disciplinary process that applies to mortgage loan originator licensees.

Interested persons may make written comments on the proposed amendments on or before September 15, 2009. Such written material should be directed to the Superintendent of Banking, Banking Division, Department of Commerce, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Superintendent of Banking, Department of Commerce, at (515)281-4014 or at 200 East Grand Avenue, Suite 300.

Because these proposed rules simply replace the current system of registration of mortgage loan originators with a similar licensing system, the Banking Division does not anticipate the rules will have any fiscal impact.

These proposed rules are not subject to waiver.

These rules are intended to implement 2009 Iowa Acts, Senate File 355.

The following amendment is proposed.

BANKING DIVISION[187](cont'd)

Adopt the following **new** 187—Chapter 19:

CHAPTER 19
MORTGAGE LOAN ORIGINATORS

187—19.1(17A,83GA,SF355) Definitions. For the purposes of this chapter, the definitions in 2009 Iowa Acts, Senate File 355, shall apply. In addition, unless the context otherwise requires, the following definitions shall apply to this chapter and to 2009 Iowa Acts, Senate File 355:

“*Licensee*” means a person who has a license to operate as a mortgage loan originator in accordance with the provisions of 2009 Iowa Acts, Senate File 355, section 4.

“*Nationwide mortgage licensing system and registry*” or “*NMLS&R*” means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage providers, mortgage lenders, mortgage brokers, and mortgage servicers.

“*SAFE mortgage loan originator test*” means the licensing test approved by the NMLS&R in accordance with the provisions of 2009 Iowa Acts, Senate File 355, section 9.

“*Servicer*” means a person that collects or receives payments, including principal, interest and trust items such as hazard insurance, property taxes and other amounts due, on behalf of a note holder or investor in accordance with the terms of a residential mortgage loan.

“*Superintendent*” means the superintendent of banking appointed pursuant to Iowa Code section 524.201.

“*Takes a residential mortgage loan application,*” with respect to 2009 Iowa Acts, Senate File 355, section 3, subsection 8, means:

1. Any communication, regardless of form, from a mortgage loan originator to a borrower soliciting a loan application or requesting information typically required in an application for the purpose of deciding whether or not to extend the requested offer of a loan to a borrower; or
2. Any communication, regardless of form, from a borrower to a mortgage loan originator for an offer or responding to a solicitation for an offer of residential mortgage loan terms or providing information typically required in an application for the purpose of deciding whether or not to extend the requested offer of a loan to a borrower.

187—19.2(17A,83GA,SF355) Mortgage loan originator requirements.

19.2(1) A natural person who applies for a license pursuant to 2009 Iowa Acts, Senate File 355, section 4, to act as a mortgage loan originator in this state shall apply with the superintendent through the NMLS&R. The superintendent may consider an application withdrawn if it does not contain all of the information required and the information is not submitted to the superintendent within 30 days after the superintendent requests the information.

19.2(2) Prior to applying for a mortgage loan originator license, the applicant must complete the preclicensing education requirements pursuant to 2009 Iowa Acts, Senate File 355, section 8.

19.2(3) Prior to applying for a mortgage loan originator license, the applicant must pass the SAFE mortgage loan originator test, which is comprised of two components: a national component and a state component. Applicants must pass each component with a score of 75 percent or higher. Mortgage loan originators who passed the Iowa loan originator test as part of the registration process under 2009 Iowa Acts, Senate File 355, section 5, are not required to take the Iowa state component of the SAFE mortgage loan originator test. The superintendent will develop a process by which to certify to NMLS&R that the applicant has completed the state component. Such applicants are still required to pass the national component of the SAFE mortgage loan originator test.

19.2(4) The fee for an initial mortgage loan originator application is \$50. This fee is nonrefundable. This fee is in addition to any fees established and charged by the NMLS&R, any approved education course provider, any approved education testing provider, any law enforcement agency for fingerprints and background checks, or by any credit reporting agency used by the NMLS&R.

BANKING DIVISION[187](cont'd)

19.2(5) An applicant must authorize a fingerprint background check through NMLS&R for the purpose of conducting a national criminal history background check through the Federal Bureau of Investigation. This requirement applies to all individuals, regardless of whether the applicant was previously registered under Iowa Code chapter 535B or if the applicant has previously submitted fingerprint cards for licensure. Until the NMLS&R completes the implementation of the electronic fingerprint capture program, the applicant must submit to a criminal background check by providing a fingerprint card and waiver in a manner as required by the superintendent.

19.2(6) Each applicant must provide authorization to obtain a credit report through NMLS&R.

19.2(7) To engage in activities requiring a license, a mortgage loan originator must be covered under a surety bond that reflects the dollar amount of loans originated, processed, or underwritten, as the case may be, on an annual basis. The bond must be on a form provided by the superintendent. Satisfaction of this requirement shall be met by one of the following:

a. A mortgage loan originator who is an employee or exclusive agent of a company subject to Iowa Code chapter 535B, 536, or 536A may be covered by the company's bond.

b. A mortgage loan originator who is not covered by a company bond pursuant to paragraph 19.2(7) "a" must provide an individual surety bond meeting the requirements of paragraph 19.2(7) "c."

c. The surety bond amount required to be filed and maintained by or on behalf of a mortgage loan originator who is not an employee or exclusive agent of a company subject to Iowa Code chapter 535B, 536, or 536A shall be set and adjusted annually as necessary in accordance with the following scale, based on the volume of residential mortgage loans originated, processed, and underwritten, as the case may be, by the licensee during the preceding calendar year:

Loans	Bond Amount
\$0 – \$5,000,000	\$25,000
\$5,000,001 – \$20,000,000	\$50,000
\$20,000,001 – \$50,000,000	\$75,000
\$50,000,001 – \$100,000,000	\$100,000
Over \$100,000,000	\$150,000

19.2(8) To engage in activities requiring a license, a mortgage loan originator must be employed by, under contract with, or an exclusive agent of a licensed company or a company that is exempt from licensing requirements. However, the superintendent may consider an application for mortgage loan originator from a person not currently employed by, under contract with, or an exclusive agent of a licensee. If the superintendent determines that the applicant is otherwise eligible for a mortgage loan originator license, the superintendent shall approve the license in "active-inactive" status or similar status type indicating that the applicant has met the individual requirements for licensure but is not authorized to conduct business.

19.2(9) A mortgage loan originator license expires on the next December 31 after issuance; however, mortgage loan originator licenses issued on or after November 1 but before January 1 will not expire until December 31 of the following year. For example, a mortgage loan originator license issued on November 17, 2009, would not expire until December 31, 2010.

187—19.3(17A,83GA,SF355) Grounds for denial of license.

19.3(1) The superintendent shall deny an application for a mortgage loan originator license if the applicant does not meet the qualifications outlined in 2009 Iowa Acts, Senate File 355, section 7. For the purpose of applying 2009 Iowa Acts, Senate File 355, section 7, subsection 2, "dishonesty or breach of trust" includes, but is not limited to, forgery, embezzlement, obtaining money under false pretenses, theft, extortion, fraud, conspiracy to defraud, tax evasion, or another similar offense.

19.3(2) The superintendent may deny an application for a mortgage loan originator license for any of the following reasons:

a. This state or another state or jurisdiction has denied, suspended, or refused to renew the applicant's license to act as a mortgage loan originator or has denied, suspended, or refused to renew a

BANKING DIVISION[187](cont'd)

similar license or registration under this state's or the other state's or jurisdiction's law. An agreement made between a person and this state or another state or jurisdiction not to operate as a mortgage loan originator shall be considered a denial of that person's license to act as a mortgage loan originator in that state.

b. The applicant has been barred, removed, or prohibited from serving in any capacity in a financial institution by any state or federal regulatory agency, including but not limited to the Office of Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System, or the U.S. Department of Housing and Urban Development.

c. The applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, tax evasion, or another similar offense, in a court of competent jurisdiction in this state or in any other state, territory or district of the United States, or in any foreign jurisdiction. For the purposes of this paragraph, "convicted of" includes a guilty plea, deferred judgment, deferred sentence, or other similar finding of guilt by a court of competent jurisdiction.

d. The applicant has had a professional license of any kind revoked in any state or jurisdiction. An agreement to surrender a license and not to operate in an occupation in which a professional license is required shall be considered a revocation for the purposes of this rule.

e. The applicant is under 18 years of age.

f. The applicant has made a false statement of material fact on an application for a license or has been otherwise implicated in the submission of a false application.

g. The applicant has demonstrated a lack of moral character in a manner that the superintendent reasonably believes will impair the applicant's ability to act as a mortgage loan originator in full compliance with the public interest and state policies described in Iowa Code chapter 535B.

h. The applicant has failed to pay child support and is identified in a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures in Iowa Code chapter 252J.

i. The applicant has failed to pay student loans and is identified in a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261.

j. The applicant has failed to pay state debt and is identified in a certificate of noncompliance from the department of revenue according to the procedures set forth in Iowa Code chapter 272D.

187—19.4(17A,83GA,SF355) Renewal of mortgage loan originator license.

19.4(1) A mortgage loan originator license must be renewed before expiration. An individual who fails to renew a mortgage loan originator license before expiration is not authorized to act as a mortgage loan originator in Iowa after the expiration date.

19.4(2) Before December 1 of the year of expiration, a mortgage loan originator license shall be renewed through the NMLS&R, with all requested information provided as directed by the NMLS&R, and must be accompanied by a fee of \$50. This fee is nonrefundable. This fee is in addition to any fees established and charged by the NMLS&R, any approved education course provider, any approved education testing provider, any law enforcement agency for fingerprints and background checks, or by any credit reporting agency used by the NMLS&R. The superintendent may assess a late fee of \$5 per day not to exceed \$100 for a mortgage loan originator license renewal accepted for processing after December 1.

19.4(3) The superintendent may reject a mortgage loan originator license renewal if the license renewal is not complete or if all required fees, including late fees, are not remitted.

19.4(4) The superintendent shall grant an application to renew a mortgage loan originator license if the licensee meets the standards for renewal in 2009 Iowa Acts, Senate File 355, section 10, and:

a. The superintendent receives the renewal application by December 1, accompanied by the \$50 renewal fee, or the superintendent receives the license renewal after December 1 but before January 1 and it is accompanied by the renewal fee and the appropriate late fee;

b. The renewal application is fully completed with all necessary information, including proper disclosure of completion of required continuing education; and

BANKING DIVISION[187](cont'd)

- c. The renewal application does not reveal grounds to deny the mortgage loan originator license.

187—19.5(17A,83GA,SF355) Reinstatement of license.

19.5(1) The license of a mortgage loan originator that expires for failure to satisfy the minimum standards for renewal may be reinstated if the licensee meets the following requirements:

a. The application for reinstatement is submitted between January 1 and February 28 of the year immediately following the year the license expired.

b. All continuing education courses and any other minimum requirements for license renewal for the year in which the license expired are completed prior to submission of the application for reinstatement.

c. The licensee pays a reinstatement fee of \$50, in addition to the renewal fee, and any late charges.

19.5(2) A mortgage loan originator whose license has expired and who fails to meet the requirements for reinstatement specified in this rule must apply for a new license and meet the requirements in effect at that time.

187—19.6(17A,83GA,SF355) Notice of significant events. A licensee shall notify the superintendent either directly in writing or through the NMLS&R within five business days of the occurrence of any of the following events.

19.6(1) The licensee files for bankruptcy protection.

19.6(2) A prosecuting authority files criminal charges against the licensee.

19.6(3) Another state or jurisdiction institutes license denial, cease and desist, suspension or revocation procedures, or other formal or informal regulatory action against the licensee.

19.6(4) The attorney general of Iowa, the Federal Trade Commission, or the enforcer of the consumer protection laws of any other jurisdiction initiates an action to enforce consumer protection laws against the licensee.

19.6(5) The Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, or Government National Mortgage Association suspends or terminates the licensee's status as an approved loan originator.

19.6(6) The licensee ceases engaging in activities requiring a license and wishes to surrender the licensee's license. Although the licensee has surrendered the licensee's license, the superintendent retains jurisdiction over the licensee's activities during the time the individual was licensed.

19.6(7) A change is made in the licensee's name.

187—19.7(17A,83GA,SF355) Annual report. On or before March 31 of each year, each mortgage loan originator who as of the preceding December 31 was not employed by or an exclusive agent of a company licensed under Iowa Code chapter 535B, 536, or 536A shall file an annual report with the superintendent stating the amount of residential mortgage loans originated, processed, or underwritten, as the case may be, during the preceding calendar year.

187—19.8(17A,83GA,SF355) Administrative fees.

19.8(1) *Investigation or examination fees.* A licensee shall pay an investigation or examination fee as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division as described in 2009 Iowa Acts, Senate File 355, section 12, subsection 2.

19.8(2) *Investigation or examination late fees.* A licensee shall pay the superintendent the total charge for an investigation or examination within 30 days after the superintendent has requested payment. If a licensee fails to pay an investigation or examination fee by the due date, the superintendent may assess an additional penalty of 5 percent of the amount of the fee for each day after the due date.

19.8(3) *Late fees for failing to respond.* In the process of administering this chapter, the superintendent may require a person to provide responses to formal orders, examinations, or complaint inquiries. If a person fails to respond within 30 days of the request, the superintendent may assess a penalty of \$10 per day after the initial 30 days.

BANKING DIVISION[187](cont'd)

19.8(4) *Required annual report.* A licensee who fails to file with the superintendent the annual report required under rule 187—19.7(17A,83GA,SF355) by March 31 of each year shall be subject to a late penalty of \$10 for each day the annual report is delinquent, but in no event shall the aggregate of late penalties exceed \$300. The superintendent may relieve any licensee from the payment of any penalty, in whole or in part, for good cause.

19.8(5) *NMLS&R system processing fees.* In addition to the fees set forth in this chapter, the applicant or licensee shall pay any fee assessed by the NMLS&R attributed to the licensee's record in the NMLS&R system, including but not limited to the initial set-up fee, an annual processing fee, and a loan sponsorship transfer fee.

187—19.9(17A,83GA,SF355) Continuing education.

19.9(1) The continuing education year shall begin on the first day of November each year and shall end on October 31. Each person who is a mortgage loan originator on June 30 shall complete at least eight hours of continuing education from November 1 (preceding June 30) to October 31 (following June 30). For example, a person who is a mortgage loan originator on June 30, 2010, shall complete at least eight hours of continuing education from November 1, 2009, to October 31, 2010.

19.9(2) Each continuing education course shall first be approved by the NMLS&R before the superintendent grants continuing education credit.

19.9(3) Continuing education courses shall focus on issues of the mortgage business or related industry topics.

19.9(4) The entity providing the continuing education course shall submit to the NMLS&R evidence of the licensee's satisfactory completion of approved continuing education.

19.9(5) Continuing education hours shall not be carried forward from one year to the next.

19.9(6) Each mortgage loan originator shall ultimately be responsible for maintaining verification records in the form of completion certificates or other documents providing evidence of satisfactory completion of approved continuing education courses. The mortgage loan originator shall retain documentation for a period of three years after the effective date of the mortgage loan originator license renewal. The superintendent may conduct random audits to verify the continuing education submitted to the NMLS&R.

19.9(7) Failure to provide requested evidence of completion of claimed continuing education within 30 days of the written notice from the superintendent shall result in the mortgage loan originator license being placed in inactive status. Prior to the superintendent's activating a mortgage loan originator license that has been placed on inactive status pursuant to this rule, the mortgage loan originator must submit to the superintendent satisfactory evidence that all required continuing education has been completed.

19.9(8) The requirement for completion of continuing education may be waived or the deadline for completion may be extended by the superintendent under either of the following circumstances:

a. The mortgage loan originator is called to active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in any continuing education year.

b. The mortgage loan originator experiences physical disability, illness, or any extenuating circumstances that prevent successful completion of continuing education.

187—19.10(17A,83GA,SF355) Independent contractor—loan processor or underwriter.

19.10(1) For the purpose of 2009 Iowa Acts, Senate File 355, section 4, "a loan processor or underwriter who is an independent contractor" means any person who processes or underwrites residential mortgage loans and is not a W-2 employee of a company licensed under Iowa Code chapter 535B, 536, or 536A.

19.10(2) An independent contractor must meet all the licensure requirements found in rule 187—19.2(17A,83GA,SF355) with the exception of subrule 19.2(8).

19.10(3) An independent contractor must meet the surety bond requirements found in subrule 19.2(7) prior to the issuance of a license.

BANKING DIVISION[187](cont'd)

187—19.11(17A,83GA,SF355) NMLS&R information challenge process. A mortgage loan originator may challenge information entered into the NMLS&R by the superintendent by filing a dispute with the superintendent outlining the grounds for the dispute. The grounds for the dispute shall be limited to a review of the factual accuracy of the information regarding the mortgage loan originator's own license record submitted to the NMLS&R by the superintendent. A mortgage loan originator may not file a dispute in order to protest a disciplinary action taken by the superintendent or to appeal the underlying reasons for the disciplinary action. The superintendent shall conduct a paper review of the dispute and determine whether the information submitted to the NMLS&R was factually correct. The superintendent shall notify the mortgage loan originator of the determination within 60 days of the receipt of the dispute. If the superintendent determines the information submitted to the NMLS&R is factually incorrect, the superintendent shall take prompt steps to correct the information submitted.

187—19.12(17A,83GA,SF355) Disciplinary action.

19.12(1) The superintendent has authority, pursuant to 2009 Iowa Acts, Senate File 355, and Iowa Code chapter 17A, to impose discipline for violations of 2009 Iowa Acts, Senate File 355, and the rules promulgated thereunder.

19.12(2) Grounds for discipline. The superintendent may impose any of the disciplinary sanctions set out in 2009 Iowa Acts, Senate File 355, section 14, when the superintendent finds any of the following:

a. The licensee has violated a provision of 2009 Iowa Acts, Senate File 355, or a rule adopted under 2009 Iowa Acts, Senate File 355, or any other state or federal law applicable to the conduct of mortgage loan originators, including but not limited to Iowa Code chapters 535 and 535A.

b. A fact or condition exists which, had it existed at the time of the original application for the license, would have warranted the superintendent to refuse to issue the original license.

c. The licensee fails at any time to meet the requirements of 2009 Iowa Acts, Senate File 355, section 7 or 10, or withholds information or makes a material misstatement in an application for a license or the renewal of a license.

d. The licensee has violated an order of the superintendent.

e. The licensee fails to fully cooperate with an examination or investigation, including failure to respond to a superintendent inquiry within 30 calendar days of the date of mailing a written communication directed to the licensee's last-known address on file with the superintendent.

f. The licensee has engaged in any conduct that subverts or attempts to subvert an examination or investigation by the superintendent.

g. The licensee continues to operate as a mortgage loan originator without an active and current license.

h. The licensee continues to act as a mortgage loan originator without first satisfying the required continuing education, absent an express waiver granted by the superintendent.

i. The licensee has submitted a false report of continuing education.

j. The licensee fails to notify the superintendent within five days of the occurrence of one of the significant events set forth in rule 187—19.6(17A,83GA,SF355).

k. Another state or jurisdiction has denied, suspended, revoked, or refused to renew the licensee's license, registration, or authorization to act as a mortgage loan originator under the other state's or jurisdiction's law.

l. The licensee fails to create and maintain complete and accurate records as required by state or federal law, regulation, or rule.

19.12(3) A licensee may surrender a license by delivering to the superintendent a written notice of surrender.

Rules 187—19.1(17A,83GA,SF355) to 187—19.12(17A,83GA,SF355) are intended to implement 2009 Iowa Acts, Senate File 355.

187—19.13(17A,252J) Nonpayment of child support. The superintendent shall deny the issuance or renewal of a mortgage loan originator license upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures in Iowa

BANKING DIVISION[187](cont'd)

Code chapter 252J. In addition to the procedures set forth in Iowa Code chapter 252J, this rule shall apply.

19.13(1) The notice required by Iowa Code section 252J.8 shall be served upon the mortgage loan originator or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the mortgage loan originator or applicant may accept service personally or through authorized counsel.

19.13(2) The effective date of the denial of the issuance or renewal of a mortgage loan originator license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the mortgage loan originator or applicant.

19.13(3) The superintendent is authorized to prepare and serve the notice required by Iowa Code section 252J.8 upon the mortgage loan originator or applicant.

19.13(4) Mortgage loan originators and applicants shall keep the superintendent informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the superintendent copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

19.13(5) All superintendent fees for application or license renewal or reinstatement must be paid by mortgage loan originators or applicants, and all continuing education requirements must be met before a mortgage loan originator license will be issued, renewed or reinstated after the superintendent has denied the issuance or renewal of a mortgage loan originator license pursuant to Iowa Code chapter 252J.

19.13(6) In the event an applicant or a mortgage loan originator timely files a district court action following service of a superintendent notice pursuant to Iowa Code sections 252J.8 and 252J.9, the superintendent shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the superintendent to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a mortgage loan originator license, the superintendent shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

19.13(7) The superintendent shall notify the mortgage loan originator or applicant in writing through regular first-class mail, or such other means as the superintendent deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a mortgage loan originator license, and shall similarly notify the mortgage loan originator or applicant when the license is issued or renewed following the superintendent's receipt of a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code chapters 252J and 17A.

187—19.14(17A,261) Nonpayment of student loan. The superintendent shall deny the issuance or renewal of a mortgage loan originator license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261. In addition to those procedures, this rule shall apply.

19.14(1) The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or mortgage loan originator may accept service personally or through authorized counsel.

19.14(2) The effective date of the denial of the issuance or renewal of a mortgage loan originator license, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the applicant or mortgage loan originator.

19.14(3) The superintendent is authorized to prepare and serve the notice required by Iowa Code section 261.126 upon the applicant or mortgage loan originator.

19.14(4) Applicants and mortgage loan originators shall keep the superintendent informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the superintendent copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders

BANKING DIVISION[187](cont'd)

entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

19.14(5) All superintendent fees required for application or license renewal or reinstatement must be paid by applicants or mortgage loan originators, and all continuing education requirements must be met before a mortgage loan originator license will be issued, renewed, or reinstated after the superintendent has denied the issuance or renewal of a mortgage loan originator license pursuant to Iowa Code chapter 261.

19.14(6) In the event an applicant or mortgage loan originator timely files a district court action following service of a superintendent notice pursuant to Iowa Code sections 261.126 and 261.127, the superintendent shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the superintendent to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a mortgage loan originator license, the superintendent shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

19.14(7) The superintendent shall notify the applicant or mortgage loan originator in writing through regular first-class mail, or such other means as the superintendent deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a mortgage loan originator license, and shall similarly notify the applicant or mortgage loan originator when the license is issued or renewed following the superintendent's receipt of a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code sections 261.126 and 261.127 and chapter 17A.

187—19.15(17A,272D) Nonpayment of state debt. The superintendent shall deny the issuance or renewal of a mortgage loan originator license upon the receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures in Iowa Code chapter 272D. In addition to the procedures set forth in Iowa Code chapter 272D, this rule shall apply.

19.15(1) The notice required by Iowa Code section 272D.8 shall be served on the mortgage loan originator or applicant by restricted certified mail, return receipt requested, or personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the mortgage loan originator or applicant may accept service personally or through authorized counsel.

19.15(2) The effective date of the denial of issuance or renewal of a license, as specified in the notice required by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the mortgage loan originator or applicant.

19.15(3) The superintendent is authorized to prepare and serve the notice required by Iowa Code section 272D.8 upon the mortgage loan originator or applicant.

19.15(4) Mortgage loan originators and applicants shall keep the superintendent informed of all court actions and all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and shall provide the superintendent copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

19.15(5) All fees for applications, license renewals or reinstatements must be paid by mortgage loan originators or applicants, and all continuing education requirements must be met before a mortgage loan originator license will be issued, renewed or reinstated after the superintendent has denied the issuance or renewal of a mortgage loan originator license pursuant to Iowa Code chapter 272D.

This rule is intended to implement Iowa Code chapters 272D and 17A.

ARC 8050B**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 256B.7(5), the State Board of Education hereby proposes to amend Chapter 41, "Special Education," Iowa Administrative Code.

This Notice of Intended Action makes technical corrections to Chapter 41 resulting from revisions to the chapter in 2007, makes technical corrections required by federal regulatory changes in 2007 and 2008, makes clarifying changes regarding the role of general education, and makes clarifying changes concerning child find and eligibility determinations.

No waiver provision is included because the Board of Education has adopted agencywide waiver rules in 281—Chapter 4.

Any interested person may submit electronic, oral or written comments on or before October 13, 2009, by addressing them to Thomas Mayes, Legal Consultant, Bureau of Student and Family Support Services, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)242-5614; fax (515)281-6019; E-mail Thomas.Mayes@Iowa.gov.

A public hearing will be held over the Iowa Communications Network (ICN) on October 13, 2009, from 2 to 4 p.m., with the origination site in the ICN Room, Second Floor, Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa, at which persons may present their views orally or in writing.

The following ICN sites will be available:

Mississippi Bend Area Education Agency
Louisa Room
729 21st Street
Bettendorf

Great Prairie Area Education Agency
3601 West Avenue
Burlington

Area Education Agency 267
3712 Cedar Heights Drive
Cedar Falls

Kirkwood Community College
Linn Hall, Room 202
6301 Kirkwood Blvd. SW
Cedar Rapids

Loess Hills Area Education Agency
24997 Hwy. 92
Council Bluffs

Area Education Agency 267
State Room
9184B 265th Street
Clear Lake

Graphic Arts Technology Ctr. of Iowa
Room 16
1951 Manufacturing Drive
Clinton

Green Valley Area Education Agency
Turner Room
1405 N. Lincoln
Creston

Prairie Lakes AEA
500 NE 6th Street
Pocahontas

Northwest Area Education Agency
Room 103
1382 4th Ave. NE
Sioux Center

EDUCATION DEPARTMENT[281](cont'd)

Keystone Area Education Agency
Room 2
2310 Chaney Road
Dubuque

Keystone Area Education Agency
1400 2nd Street NW
Elkader

Great Prairie Area Education Agency
2814 N. Court Street
Ottumwa

Department of Human Services
Trospar-Hoyt Building, 4th Floor
822 Douglas Street
Sioux City

Iowa Lakes Community College
Room 118
1900 N. Grand Avenue
Spencer

Any person who requires reasonable accommodations to participate in the public hearing because of a disability should contact the Iowa Department of Education at (515)281-3176 no later than October 1, 2009. All ICN sites are accessible to persons with disabilities.

These amendments are intended to implement the Individuals with Disabilities Education Act (20 U.S.C. §§ 1400-ff as implemented by 34 CFR Part 300) and Iowa Code chapter 256B.

The following amendments are proposed.

ITEM 1. Amend rule 281—41.8(256B,34CFR300) as follows:

281—41.8(256B,34CFR300) Child with a disability. “Child with a disability” refers to a person under 21 years of age, including a child under 5 years of age, who has a disability in obtaining an education. The term includes an individual who is over 6 and under 16 years of age who, pursuant to the statutes of this state, is required to receive a public education; an individual under 6 or over 16 years of age who, pursuant to the statutes of this state, is entitled to receive a public education; and an individual between the ages of 21 and 24 who, pursuant to the statutes of this state, is entitled to receive special education and related services. In federal usage, this refers to infants, toddlers, children and young adults. In these rules, this term is synonymous with “child requiring special education” and “eligible individual.” “Disability in obtaining an education” refers to a condition, identified in accordance with this chapter, which, by reason thereof, causes a child to require special education and support and related services.

ITEM 2. Amend rule 281—41.9(256B,34CFR300) as follows:

281—41.9(256B,34CFR300) Consent.

41.9(1) Obtaining consent. “Consent” is obtained when all of the following conditions are satisfied:

a. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or ~~other~~ through another mode of communication;

b. and c. No change.

41.9(2) No change.

41.9(3) Special rule. If a parent of a child revokes consent, in writing, for the child’s receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child’s education records to remove any references to the child’s receipt of special education and related services because of the revocation of consent.

ITEM 3. Amend subrule 41.18(3), introductory paragraph, as follows:

41.18(3) Requirements for special education teachers teaching to alternate academic achievement standards. When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate academic achievement standards established under 34 CFR 200.1(d), “highly qualified” means the teacher, whether new or not new to the profession, may either:

ITEM 4. Amend subrule 41.51(12) as follows:

41.51(12) School district of the child’s residence. “School district of the child’s residence” or “district of residence of the child” is that school district in which the parent of the individual resides, subject to the following:

EDUCATION DEPARTMENT[281](cont'd)

a. and b. No change.

c. If an individual is physically present (“lives”) in an intermediate care facility, residential care facility, or other similar facility, the individual’s district of residence is deemed to be that of the individual’s parents.

~~e. d.~~ “Children living in a foster care facility” are individuals requiring special education who are living in a licensed individual or agency child foster care facility, as defined in Iowa Code section 237.1, or in a facility providing residential treatment as defined in Iowa Code section 125.2 an unlicensed relative foster care placement. District of residence of an individual living in a foster care facility and financial responsibility for special education and related services are determined pursuant to ~~subrule 41.907(5)~~ paragraph 41.907(5) “a.”

e. “Children living in a treatment facility” are individuals requiring special education who are living in a facility providing residential treatment as defined in Iowa Code section 125.2. District of residence of an individual living in a treatment facility and financial responsibility for special education and related services are determined pursuant to paragraph 41.907(5) “b.”

~~f. f.~~ “Children placed by the district court” are pupils requiring special education for whom parental rights have been terminated and who have been placed in a facility or home by a district court. Financial responsibility for special education and related services of individuals placed by the district court is determined pursuant to subrule 41.907(6).

ITEM 5. Amend subrule 41.103(1) as follows:

41.103(1) *All means available to meet Part B requirements.* The state may use whatever state, local, federal, and private sources of support that are available in the state to meet the requirements of Part B of the Act.

ITEM 6. Adopt the following **new** subrules 41.111(2), 41.111(5) and 41.111(6):

41.111(2) *High-quality general education instruction; general education interventions.*

a. As a component of efficient and effective, high-quality general education instruction, it shall be the responsibility of the general education program of each LEA to provide additional support and assistance to all students who may need such additional support and assistance to attain the educational standards of the LEA applicable to all children. Receipt of such additional support and assistance, when considered alone, does not create a suspicion that a child is an eligible individual under this chapter. Activities under this paragraph shall be provided by general education personnel, with occasional or incidental assistance from special education instructional and support personnel.

b. General education interventions involving activities described in rule 281—41.312(256B,34CFR300) are a recognized component of an AEA’s child find policy pursuant to the policies set forth in subrule 41.407(1) and the procedures set forth in subrule 41.407(2).

41.111(5) *Evaluation required when disability is suspected.* At the point when a public agency suspects a child is a child with a disability under this chapter, the public agency must seek parental consent for an initial evaluation of that child, pursuant to subrule 41.300(1).

41.111(6) *Rule of construction—suspicion of a disability.* As a general rule, a public agency suspects a child is a child with a disability when the public agency is aware of facts and circumstances that, when considered as a whole, would cause a reasonably prudent public agency to believe that the child’s performance might be explained because the child is an eligible individual under this chapter.

ITEM 7. Amend rule 281—41.118(256B,34CFR300) as follows:

281—41.118(256B,34CFR300) Children in public or private institutions. Except as provided in rule ~~281—41.149~~(256B,34CFR300) regarding agency responsibility for general supervision ~~for~~ of some individuals in adult prisons, the department must ensure that rule ~~281—41.114~~(256B,34CFR300) is effectively implemented, including, if necessary, making arrangements with public and private institutions such as a memorandum of agreement or special implementation procedures.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 8. Adopt the following new subrule 41.156(6):

41.156(6) Positive efforts to employ and advance qualified individuals with disabilities. Each recipient of assistance under Part B of the Act must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted under Part B of the Act.

ITEM 9. Amend rule 281—41.211(256B,34CFR300) as follows:

281—41.211(256B,34CFR300) Information for department. Each public agency shall provide the department with information necessary to enable the department to carry out its duties under Part B of the Act and this chapter, including, with respect to 34 CFR ~~Sections~~ Section 300.157 and 300.160, information relating to the performance of children with disabilities participating in programs carried out under Part B of the Act. This information, including such quantitative and qualitative data as the department may require, shall be submitted in a manner and at a time determined by the department. Failure to submit timely and accurate information may be considered by the department in making the determinations under rule 281—41.603(256B,34CFR300) or in taking any other action to enforce Part B of the Act or this chapter.

ITEM 10. Amend subrule 41.300(2) as follows:

41.300(2) Parental consent for services.

a. and *b.* No change.

~~*e.* — If the parent of a child fails to respond or refuses to consent to services under 41.300(2) “a,” the public agency may not use the procedural safeguards of this chapter, including the mediation procedures or the due process procedures under this chapter, to obtain agreement or a ruling that the services may be provided to the child.~~

~~*d.* — If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the public agency:~~

~~(1) — Will not be considered to be in violation of the requirement to make available FAPE to the child for the failure to provide the child with the special education and related services for which the public agency requests consent; and~~

~~(2) — Is not required to convene an IEP team meeting or develop an IEP for the child for the special education and related services for which the public agency requests such consent.~~

~~*c.* If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public agency:~~

~~(1) May not use the procedural safeguards in this chapter, including the mediation procedures rule 281—41.506(256B,34CFR300) or the due process procedures under rules 281—41.507(256B,34CFR300) through 281—41.516(256B,34CFR300) in order to obtain agreement or a ruling that the services may be provided to the child;~~

~~(2) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent; and~~

~~(3) Is not required to convene an IEP team meeting or develop an IEP under rules 281—41.320(256B,34CFR300) and 281—41.324(256B,34CFR300) for the child.~~

~~*d.* If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public agency:~~

~~(1) May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with rule 281—41.503(256B,34CFR300) before ceasing the provision of special education and related services;~~

~~(2) May not use the procedural safeguards in this chapter, including the mediation procedures rule 281—41.506(256B,34CFR300) or the due process procedures under rules 281—41.507(256B,34CFR300) through 281—41.516(256B,34CFR300) in order to obtain agreement or a ruling that the services may be provided to the child;~~

EDUCATION DEPARTMENT[281](cont'd)

(3) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and

(4) Is not required to convene an IEP team meeting or develop an IEP under rules 281—41.320(256B,34CFR300) and 281—41.324(256B,34CFR300) for the child for further provision of special education and related services.

ITEM 11. Amend subrule 41.300(4) as follows:

41.300(4) Other consent requirements.

a. No change.

b. *Additional consent requirements.* In addition to the parental consent requirements described in ~~subrule~~ subrules 41.300(1) through 41.300(3), the state may require parental consent for other services and activities under Part B of the Act and of this chapter if it ensures that each public agency in the state establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.

c. *Limitation on public agency's use of failure to give consent.* A public agency may not use a parent's refusal to consent to one service or activity under subrules 41.300(1) through 41.300(3) or paragraph 41.300(4) "b" to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this chapter.

d. and e. No change.

ITEM 12. Amend rule 281—41.312(256B,34CFR300) as follows:

281—41.312(256B,34CFR300) General education interventions. Each LEA, in conjunction with the AEA, shall attempt to resolve the presenting problem or behaviors of concern in the general education environment prior to conducting a full and individual evaluation. In circumstances when ~~the development and implementation of general education interventions are not appropriate to the needs of the individual, the IEP team and, as appropriate, other qualified professionals, may determine that a full and individual initial evaluation shall be conducted~~ there is a suspicion that a child is an eligible individual under this chapter, the AEA or AEA in collaboration with the LEA shall conduct a full and individual initial evaluation. Documentation of the rationale for such action shall be included in the individual's educational record.

41.312(1) No change.

41.312(2) Nature of general education interventions. General education interventions shall include ~~teacher~~ consultation with special education support and instructional personnel ~~working collaboratively to improve an individual's educational performance.~~ The General education intervention activities shall be documented and shall include measurable and goal-directed attempts to resolve the presenting problem or behaviors of concern, communication with parents, collection of data related to the presenting problem or behaviors of concern, intervention design and implementation, and systematic progress monitoring to measure the effects of interventions.

41.312(3) and 41.312(4) No change.

ITEM 13. Adopt the following new rule 281—41.314(256B,34CFR300):

281—41.314(256B,34CFR300) Progress monitoring and data collection.

41.314(1) Evidence of progress in general education instruction. Each public agency shall establish standards, consistent with those the department may establish, by which the adequacy of general education instruction, including the quality and quantity of data gathered, is assessed, and whether such data are sufficient in quantity and quality to make decisions under Part B of the Act and this chapter.

41.314(2) Progress monitoring and determining eligibility. Each public agency shall engage in progress monitoring of each individual's progress as the department may require during the process of evaluating whether a child is an eligible individual and shall record such progress in any manner that the department may permit or require. If the AEA or LEA serving an individual imposes additional requirements for the monitoring of progress of individuals during the process of evaluation, personnel

EDUCATION DEPARTMENT[281](cont'd)

servicing that individual shall comply with those additional requirements. The team determining the child's eligibility may increase the frequency with which the child's progress is monitored.

41.314(3) Progress monitoring and eligible individuals. Each public agency shall engage in progress monitoring of each eligible individual's progress as the department may require, and shall record such progress in any manner that the department may permit or require. If the AEA or LEA serving an eligible individual imposes additional requirements for the monitoring of progress of eligible individuals, personnel serving that individual shall comply with those additional requirements. An IEP team may increase the frequency with which an eligible individual's progress is monitored.

ITEM 14. Amend paragraph **41.320(1)“c”** as follows:

c. For children with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives;

ITEM 15. Amend subparagraph **41.324(1)“b”(5)** as follows:

(5) Consider whether the child needs assistive technology devices and services, including accessible instructional materials.

ITEM 16. Adopt the following new subrule 41.324(6):

41.324(6) Rules of construction—instruction in Braille. For an eligible individual for whom instruction in Braille is determined to be appropriate, as provided in 41.324(1)“b”(3), that eligible individual is entitled to instruction in Braille reading and writing that is sufficient to enable the individual to communicate with the same level of proficiency as an individual of otherwise comparable ability at the same grade level. Braille reading and writing instruction may only be provided by a teacher licensed at the appropriate grade level to teach individuals with visual impairments.

ITEM 17. Rescind subparagraph **41.408(2)“c”(1)**.

ITEM 18. Renumber subparagraphs **41.408(2)“c”(2) to (5)** as **41.408(2)“c”(1) to (4)**.

ITEM 19. Rescind paragraph **41.408(2)“g.”**

ITEM 20. Amend paragraph **41.412(2)“b”** as follows:

b. When individuals enrolled in nonpublic schools are ~~dually~~ enrolled in public schools to receive special education instructional services, transportation provisions between nonpublic and public attendance centers will be the responsibility of the school district of residence.

ITEM 21. Amend paragraph **41.506(2)“g”** as follows:

g. A written, signed mediation agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States. ~~Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any federal court or state court.~~

ITEM 22. Adopt the following new paragraph **41.506(2)“h”**:

h. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any federal court or state court.

ITEM 23. Adopt the following new subrule 41.600(5):

41.600(5) Correction of noncompliance. In exercising its monitoring responsibilities under subrule 41.600(4), the state must ensure that when it identifies noncompliance with the requirements of this chapter by an LEA, the noncompliance is corrected as soon as possible, but in no case later than one year after the state's identification of the LEA's noncompliance.

ITEM 24. Amend paragraph **41.602(2)“a”** as follows:

a. *Public report.* The state must:

(1) Report annually to the public on the performance of each LEA located in the state on the targets in the state's performance plan as soon as practicable but no later than 120 days following the state's submission of its annual performance report under 41.602(2)“b”; and

(2) Make the state's performance plan, the state's annual performance reports, and annual reports on the performance of each LEA located in the state available through public means, including, at a

EDUCATION DEPARTMENT[281](cont'd)

minimum, by posting these documents on the Web site of the department, distribution to the media, and distribution through public agencies.

(3) No change.

ITEM 25. Amend rule 281—41.624(256B,34CFR300) as follows:

281—41.624(256B,34CFR300) Destruction of information.

41.624(1) No change.

41.624(2) *Mandatory and permissive destruction of information.* The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and telephone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation. This permanent record must contain the information required by rule 281—12.3(256).

41.624(3) *Rule of construction—no longer needed to provide educational services to the child.* For purposes of this rule, “no longer needed to provide educational services” means that a record is no longer relevant to the provision of instructional, support, or related services and it is no longer needed for accountability and audit purposes. At a minimum, a record needed for accountability and audit purposes must be retained for five years after completion of the activity for which funds were used.

ITEM 26. Amend rule 281—41.815(256B,34CFR300) as follows:

281—41.815(256B,34CFR300) Subgrants to AEAs. ~~Each state that receives a grant under Section 619 of the Act for any fiscal year must distribute all of the grant funds that the state does not reserve under rule 41.812(256B,34CFR300) to AEAs in the state that have established their eligibility under Section 613 of the Act. The state shall make subgrants to AEAs consistent with 34 CFR Section 300.815.~~

ITEM 27. Amend rule 281—41.817(256B,34CFR300) as follows:

281—41.817(256B,34CFR300) Reallocation of AEA funds. ~~If the state determines that an AEA is adequately providing FAPE to all children with disabilities aged three to five residing in the area served by the AEA with state and local funds, the state may reallocate any portion of the funds under Section 619 of the Act that are not needed by that AEA to provide FAPE to other AEAs in the state that are not adequately providing special education and related services to all children with disabilities aged three through five residing in the areas the other AEAs serve. The state shall reallocate AEA funds under conditions listed and in a manner specified by 34 CFR Section 300.817.~~

ITEM 28. Amend rule 281—41.907(256B,282,34CFR300,303) as follows:

281—41.907(256B,282,34CFR300,303) Program costs.

41.907(1) to 41.907(4) No change.

41.907(5) *Responsibility for special education for children living in a foster care facility or treatment facility.*

a. For eligible Eligible individuals who are living in a licensed individual or agency child foster care facility, as defined in Iowa Code section 237.1 or in a facility as defined in Iowa Code section 125.2, the LEA in which the facility is located must provide special education if the facility does not maintain a school, or in an unlicensed relative foster care placement shall remain enrolled in and attend an accredited school in the school district in which the child resided and is enrolled at the time of placement, unless it is determined by the juvenile court or a public or private agency of this state that has responsibility for the child's placement that remaining in such school is not in the best interests of the child. If such a determination is made, the child may be enrolled in the district in which the child is placed and not in the district in which the child resided prior to receiving foster care. The costs of the special education required by this chapter, however, shall be paid, in either case, by the school district of residence of the eligible individual.

b. For eligible individuals who are living in a facility as defined in Iowa Code section 125.2, the LEA in which the facility is located must provide special education if the facility does not maintain a

EDUCATION DEPARTMENT[281](cont'd)

school. The costs of the special education shall be paid by the school district of residence of the eligible individual.

c. If the school district of residence of the eligible individual cannot be determined and this individual is not included in the weighted enrollment of any LEA in the state, the LEA in which the facility is located may certify the costs to the director of education by August 1 of each year for the preceding fiscal year. Payment shall be made from the general fund of the state.

41.907(6) No change.

41.907(7) *Proper use of special education instructional and support service funds.* Special education instructional funds generated through the weighting plan may be utilized to provide special education instructional services both in state and out of state with the exceptions of itinerant instructional services under subrule 41.410(1) and special education consultant services which shall utilize special education support service funds for both in-state and out-of-state placements.

41.907(8) and **41.907(9)** No change.

41.907(10) *Procedures for billing under subrules 41.907(5) and 41.907(6).* The department may establish procedures by which it determines which district initially pays the costs of special education and related services and seeks reimbursement in situations where a parent of a child cannot be located, parental rights have been terminated, or parents are deceased.

ITEM 29. Amend paragraph **41.1002(1)“a”** as follows:

a. A request for a special education preappeal conference shall be made in the form of a letter which identifies the student, LEA and AEA, sets forth the facts, the issues of concern, or the reasons for the conference. The letter shall be mailed to the department, to the AEA, and to the LEA.

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EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 59, “Gifted and Talented Programs,” Iowa Administrative Code.

This chapter is being revised to conform to changes made in the program funding in Iowa Code chapter 257 (as reflected in Items 4, 6, and 7). The changes in Items 1, 2, 5, 8, 10, and 11 are nonsubstantive improvements to the chapter. Some changes in Item 7 and Item 9 clarify financial management of these funds consistent with 281—Chapter 98 and Iowa Code chapters 11 and 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 15, 2009, by 4:30 p.m. Comments on the proposed amendments should be directed to Su McCurdy, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4738; E-mail su.mccurdy@iowa.gov; or fax (515)281-8777.

A public hearing will be held on September 15, 2009, from 1 to 2 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)281-5296.

These amendments are intended to implement Iowa Code sections 257.42 to 257.49.

The following amendments are proposed.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 1. Amend rule 281—59.1(257) as follows:

281—59.1(257) Scope and general principles.

59.1(1) Scope. These rules apply to the provision of gifted and talented programs authorized in Iowa Code sections 257.42 to 257.49, for students who are identified as gifted and talented and who are enrolled in public ~~schools~~ school districts in this state.

59.1(2) General principles. Gifted and talented programs shall be provided by a school district and may be made available to eligible students by a local school district, as a cooperative effort between local school districts and or through cooperative arrangements between local school districts and other educational agencies. It is the responsibility of ~~the school districts~~ electing to provide such programs to ensure that ~~they~~ the programs meet the requirements of state statute and these rules.

ITEM 2. Amend rule **281—59.2(257)**, definitions of “Creative thinking” and “Program budget,” as follows:

“*Creative thinking*” refers to students who have advanced insight, outstanding imagination and innovative reasoning ability. Such students possess outstanding ability to integrate seemingly ~~unrelating~~ unrelated information in formulating unique ideas, insights, solutions, or products.

“*Program budget*” is a budget consisting of a listing of the estimated direct program expenditures, by function and object, expenditures that are necessary to accomplish the goals of the program in meeting the needs of identified students, along with a listing of the sources of revenue and, if necessary, the amounts of fund balance to be applied.

ITEM 3. Rescind the definition of “Local education agency” in rule **281—59.2(257)**.

ITEM 4. Adopt the following new definition of “Gifted and talented children” in rule **281—59.2(257)**:

“*Gifted and talented children*” refers to those students, distinguished from the total K-12 student population, who are identified as possessing outstanding ability and who are capable of high performance. Gifted and talented children are children who require appropriate instruction and educational services commensurate with their abilities and needs beyond those provided by the regular school program. Gifted and talented children include those children with demonstrated achievement or potential ability, or both, in any of the following areas or in combination: general intellectual ability, creative thinking, leadership ability, visual and performing arts ability, or specific ability aptitude.

ITEM 5. Rescind and reserve rule **281—59.3(257)**.

ITEM 6. Rescind rule 281—59.4(257) and adopt the following new rule in lieu thereof:

281—59.4(257) Program plan. The program plan submitted by school districts shall be part of the school improvement plan submitted pursuant to Iowa Code section 256.7, subsection 21, paragraph “a.” The plan shall include all of the following:

1. Program goals, objectives, and activities to meet the needs of gifted and talented children.
2. Student identification criteria and procedures.
3. Staff professional development.
4. Staff utilization plans.
5. Evaluation criteria and procedures and performance measures.
6. Program budget as defined in rule 281—59.2(257).
7. Qualifications required of personnel administering the program.
8. Other factors required by the department.

ITEM 7. Amend rule 281—59.5(257) as follows:

281—59.5(257) Responsibilities of ~~participating local~~ school districts.

59.5(1) and 59.5(2) No change.

EDUCATION DEPARTMENT[281](cont'd)

59.5(3) Student enrollment. Students shall be involved in a gifted and talented program for a sufficient portion of the regularly scheduled school time to ensure that projected student outcomes are likely to be achieved.

59.5(4) Personalized education plan. ~~The Best practice dictates that the~~ services provided for each student placed in a gifted and talented program ~~shall~~ be contained in a written, personalized gifted and talented plan. Personalized education plans should be in writing and reviewed at periodic intervals in accordance with the changing needs of the student. ~~The plan shall include~~ The following items are suggested for inclusion in a student's personalized education plan, but this is neither a mandatory nor an exhaustive list:

a. Relevant background data, assessment of present needs and projections for future needs. Relevant information may include the student's leadership ability, interest inventories, learning characteristics, and learning goals.

b. ~~A chronology of all~~ The nature and extent of the gifted and talented services rendered, provided to the student, including indirect services, such as consultative services or other supportive assistance provided to a regular classroom teacher. Other services may include modifications to curriculum and acceleration of the student's curriculum.

c. ~~Nature and extent of present services.~~ Personnel responsible for the services provided to the student, as well as those responsible for monitoring and evaluating the student's progress.

d. ~~— If a district's program plan provides for indirect services to a gifted and talented student, such as consultative services for a regular classroom teacher, the personalized student plan must document the specific type and extent of supportive assistance provided the classroom teacher on behalf of adapting the regular school program to better address the student's needs.~~

59.5(5) Student identification criteria and procedures. Students will be placed in a gifted and talented program in accordance with systematic and uniform identification procedures ~~which will be that encompass all grade levels and that are~~ characterized by the following:

a. Identification will be for the purpose of determining the appropriateness of placement in a gifted and talented program ~~or the receipt of special educational services~~ rather than for categorically labeling a student.

b. to e. No change.

59.5(6) Evaluation. ~~The local education agency~~ school district shall give attention to the following in its evaluation design:

a. to d. No change.

e. ~~— Personalized education plans must be put in writing for each gifted and talented student and reviewed at least annually.~~

59.5(7) Staff utilization plan. Staff will be deployed to ensure quality gifted and talented programs by employing the following procedures:

a. A designated staff person shall be responsible for the overall program coordination throughout ~~the local education agency school district.~~

b. The teaching staff of the gifted and talented program should work ~~in parallel~~ with the regular ~~class~~ classroom teachers to assess, plan, carry out instruction, and evaluate outcomes.

c. No change.

59.5(8) ~~Staff in-service education design~~ professional development. ~~Periodic in-service sessions will~~ professional development shall be offered for all classroom teachers to maintain and update understandings and skills about individualizing programs for identified gifted and talented students. A staff development plan for personnel responsible for gifted and talented programs shall be provided. This plan shall be based upon the assessed needs of the gifted and talented instructional and supervisory personnel.

59.5(9) Qualifications of personnel ~~administering the program.~~ Instructional personnel providing programs for gifted and talented students should have preservice or in-service preparation in gifted and talented education that is commensurate with the extent of their involvement in the gifted and talented program. The gifted and talented program teacher-coordinator shall comply with the endorsement requirements of 282—subrule 13.28(24) (formerly 282—subrule 14.140(13)). The endorsement

EDUCATION DEPARTMENT[281](cont'd)

authorizes the holder to serve as a teacher or a coordinator of programs for the gifted and talented from the prekindergarten level through grade 12.

~~59.5(10) Program budget.~~ When programs are jointly provided by two or more ~~local education agencies school districts~~ or by a ~~local education agency school district~~ in cooperation with another educational agency, the budget shall specify how each cooperating ~~local education school district or agency~~ will determine the portion of the program costs to be provided by each ~~local education school district or agency~~ and shall provide a budget that specifies the contribution of each ~~local education school district or agency~~. ~~Funds generated through the process described in Iowa Code section 257.31 will be for expenditures directly related to providing the gifted and talented program described in the program plan.~~

~~59.5(11) Budget limitations.~~ The following limits shall apply to the budget of the gifted and talented program:

~~a. — Excess costs of the gifted and talented program shall not exceed 40 percent of the district cost per pupil.~~

~~b. — The cost of supplies and materials shall not exceed 4 percent of the district cost per pupil.~~

~~c. — In determining the minimum one fourth to be funded from the district cost, no more than 15 percent of the total gifted and talented program costs may be indirect expenses.~~

~~59.5(11) Appropriate expenditures.~~ The purpose of the funding described in Iowa Code section 257.45 is to provide for the needs of identified gifted and talented students beyond those needs that are provided by the regular school program. The funding shall be used only for expenditures directly related to providing the gifted and talented program described in the program plan. Appropriate expenditures are delineated in 281—Chapter 98.

~~59.5(12) Inappropriate expenditures.~~ Inappropriate expenditures are delineated in 281—Chapter 98.

~~59.5(13) Financial management.~~ Gifted and talented funding is categorical funding and follows the general provisions in 281—Chapter 98.

~~59.5(14) Annual reporting.~~ School districts shall include and identify the detail of financial transactions related to gifted and talented resources, expenditures, and carryforward balances on their certified annual report. School districts shall use the account coding appropriate to the gifted and talented program as defined by Uniform Financing Accounting for Iowa School Districts and AEAs. Each school district shall certify its certified annual report following the close of the fiscal year but no later than September 15.

ITEM 8. Amend rule 281—59.6(257) as follows:

281—59.6(257) Responsibilities of area education agencies.

~~59.6(1)~~ When a written request is received from one or more local school boards, a gifted and talented advisory council shall be established and operated under provisions of Iowa Code sections ~~257.40 257.48 and 257.41 257.49.~~

~~59.6(2)~~ Staff of the area education agency shall cooperate with ~~local~~ school districts in the identification and placement of gifted and talented students. Cooperation may include, but is not limited to:

~~a. to c.~~ No change.

ITEM 9. Amend rule 281—59.7(257) as follows:

281—59.7(257) Responsibilities of the department.

~~59.7(1)~~ The department shall provide forms to local education agencies for gifted and talented program proposals. These materials shall be provided not fewer than 45 days before programs are due for approval. The department shall also provide other forms, or outlines as specified in this chapter. The department shall review documentation submitted by school districts and area education agencies regarding the school districts' and area education agencies' gifted and talented programs and financial transactions. The department may request that the staff of the auditor of state conduct an independent

EDUCATION DEPARTMENT[281](cont'd)

program audit to verify that the gifted and talented programs conform to a school district's program plans.

~~59.7(2) The department shall provide technical assistance to local education agencies school districts and to area education agencies in the development of gifted and talented programs.~~

~~59.7(3) The department shall perform gifted and talented program review and approval.~~

~~59.7(4) The department shall develop a format for a gifted and talented annual report. This gifted and talented report is to be filed by local education agencies with the department within 45 days following the close of the school year or program.~~

ITEM 10. Rescind and reserve rule **281—59.8(257)**.

ITEM 11. Amend **281—Chapter 59**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~257.31 to 257.36, 257.40 and 257.41~~ 257.42 to 257.49.

ARC 8051B**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 60, "Programs for Students of Limited English Proficiency," Iowa Administrative Code.

This chapter is being revised to conform to changes made in the funding scheme for programs for limited English proficient students (as reflected in Item 4). Many changes in Item 4 clarify financial management of these funds consistent with 281—Chapter 98. The changes in Items 1, 2, 3, and 5 are nonsubstantive improvements that add clarification to the chapter.

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

Interested individuals may make written comments on the proposed amendments on or before September 15, 2009, by 4:30 p.m. Comments on the proposed amendments should be directed to Su McCurdy, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4738; E-mail su.mccurdy@iowa.gov; or fax (515)281-8777.

A public hearing will be held on September 15, 2009, 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)281-5296.

These amendments are intended to implement Iowa Code sections 257.31(5)"j" and 280.4.

The following amendments are proposed.

ITEM 1. Amend rule 281—60.2(280), introductory paragraph, as follows:

281—60.2(280) Definitions. As used in these rules, the following definitions ~~will~~ apply:

ITEM 2. Amend rule **281—60.2(280)**, definition of "Fully English proficient," as follows:

"Fully English proficient" refers to a student who is able to read, understand, write, and speak the English language and to use English to ask questions, to understand teachers and reading materials, to

EDUCATION DEPARTMENT[281](cont'd)

test ideas, and to challenge what is being asked in the classroom. ~~The four language skills contributing to proficiency include reading, listening, writing, and speaking.~~

ITEM 3. Amend rule 281—60.3(280) as follows:

281—60.3(280) School district responsibilities.

60.3(1) Student identification and assessment. A school district shall use the following criteria in determining a student's eligibility:

a. In order to determine the necessity of conducting an English language assessment of any student, the district shall, at the time of registration, ascertain the place of birth of each student and whether there is a prominent use of any language(s) other than English in the home. ~~In addition, for those students whose registration forms indicate~~ If the student's registration form indicates the prominent use of another language in their lives the student's home, the district shall ~~conduct a Home Language Survey on forms developed by the department of education to determine the first language acquired by the student, and the languages spoken by the student and by others in the student's home.~~ School district personnel shall be prepared to conduct oral or native language interviews with those adults in the student's home who may not have sufficient ~~English or literacy skills to complete a survey written in English.~~

b. No change.

60.3(2) Staffing. Teachers in an English as a second language (ESL) program must possess a valid Iowa teaching license. ~~All teachers licensed after October 1, 1988, shall have endorsement 104(K-12 ESL) if they are teaching ESL. Individuals who were licensed in Iowa prior to October 1, 1988, and were allowed to teach English as a second language without completing the endorsement requirements must complete the endorsement requirements by July 1, 2012, in order to teach or continue to teach English as a second language. A waiver provision is available through the board of educational examiners for individuals who have been successfully teaching English as a second language.~~

~~All teachers licensed before October 1, 1988, have the authority to teach ESL at the level of their teaching endorsements.~~

~~Teachers in a transitional bilingual program shall possess a valid Iowa teaching license with endorsements for the area and level of their teaching assignments.~~

60.3(3) No change.

60.3(4) Medium of instruction. Instruction in all secular subjects taught in both public and nonpublic schools shall be in the English language, except when the use of a foreign language is deemed appropriate because the student is limited English proficient. When the student is limited English proficient, both public and nonpublic schools shall provide special instruction, which shall include but need not be limited to either instruction in English as a second language or transitional bilingual instruction until the student is fully English proficient or demonstrates a functional ability to speak, read, write, and understand the English language.

ITEM 4. Amend rule 281—60.5(280) as follows:

281—60.5(280) Nonpublic school participation. English as a second language and transitional bilingual programs offered by a public school district shall be made available to ~~nonpublic school~~ students residing in attending an accredited nonpublic school located within the district. The district obtains funding for such students in accordance with Iowa Code sections 257.31(5) "j" and 280.4.

ITEM 5. Amend rule 281—60.6(280) as follows:

281—60.6(280) Funding. Additional weighting for students in programs provided under this chapter is available in accordance with Iowa Code ~~section~~ sections 257.31(5) "j" and 280.4.

60.6(1) Weighting. A weighting is included in the weighted enrollment of the school district of residence for a period not exceeding four years to provide funds for the excess costs of instruction of limited English proficient students above the costs of instruction of pupils in a regular curriculum.

EDUCATION DEPARTMENT[281](cont'd)

a. A student may be included for weighting if the student meets the definition of a limited English proficient student and the student is being provided instruction related to limited English proficiency above the level of instruction provided to pupils in the regular curriculum.

b. A student may be included for weighting up to four consecutive years.

c. If a student was present on the date specified in Iowa Code section 257.6 for counting students in one year, moved out of the district or dropped out of school, but returned to the same district by the date specified for counting students in the subsequent year, the student is considered to be served in consecutive years without regard to the break in instruction from the district.

d. If a student was present on the date specified in Iowa Code section 257.6 for counting students in one year, moved out of the district or dropped out of school, and did not return to the same district by the date specified for counting students in the subsequent year, but did return to the same district in a later year, the student is considered to be a new student eligible to begin in year one if the student meets the requirements in paragraph "a."

60.6(2) Modified allowable growth. In addition to weighting, the school budget review committee (SBRC) may grant modified allowable growth for an unusual need to continue funding beyond the four years of weighting or for costs in excess of the weighting to provide instruction to limited English proficient students above the costs of regular instruction.

a. A school district of residence may apply for modified allowable growth to the SBRC. The modified allowable growth will be calculated as the total actual budgeted expenditures for the current year, reduced by the limited English proficient funding generated in the current budget year based on the limited English proficient count on the certified enrollment in the previous year, and reduced by any other grants, carryover, or other resources provided to the district for this program.

b. In order to apply for modified allowable growth under this subrule, the district must complete and submit the application form no later than January 15 following the date specified in Iowa Code section 257.6, subsection 1, for the certified enrollment. The SBRC will act on these requests during its March regular meeting. If the SBRC grants the district's request for modified allowable growth, the department of management will increase the district's budget authority by that amount.

c. The SBRC may require the district to appear at a hearing to discuss its request for modified allowable growth.

60.6(3) Appropriate expenditures. Appropriate expenditures for the limited English proficiency program are those that are direct costs of providing instruction which supplement, but do not supplant, the costs of the regular curriculum. These expenditures are delineated in 281—Chapter 98.

60.6(4) Inappropriate expenditures. Inappropriate expenditures are delineated in 281—Chapter 98.

60.6(5) Financial management. Limited English proficient funding is categorical funding and follows the general provisions in 281—Chapter 98.

60.6(6) Annual reporting. Districts shall include and identify the detail of financial transactions related to limited English proficient resources, expenditures, and carryforward balances on their certified annual report. School districts shall use the account coding appropriate to the limited English proficient program as defined by Uniform Financing Accounting for Iowa School Districts and AEAs. Each district shall submit its certified annual report following the close of the fiscal year but no later than September 15.

ITEM 6. Amend **281—Chapter 60**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 257.31(5) "j" and 280.4.

ARC 8048B**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 96, "Local Option Sales and Services Tax for School Infrastructure," Iowa Administrative Code.

2008 Iowa Acts, chapter 1134, sections 27 to 32, and 2008 Iowa Acts, chapter 1191, sections 72 and 73, created new Iowa Code chapter 423F, Statewide School Infrastructure Funding. Thus, most of the amendments proposed herein are nonsubstantive, but are necessary to reflect the additional statutory authority of Iowa Code chapter 423F. There are two substantive changes: In Item 5, paragraph 96.4(2)"d" reflects the suggestion of members of the School Budget Review Committee that there be evidence that the communities from which a district's student population comes can sustain projected enrollments. The references in paragraphs 96.4(2)"e" and 96.5(4)"b" to enrollments of at least 25 students per grade level are stricken for lack of statutory support.

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

Interested individuals may make written comments on the proposed amendments on or before September 15, 2009, by 4:30 p.m. Comments on the proposed amendments should be directed to Su McCurdy, Administrative Consultant, Iowa Department of Education, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0146; telephone (515)281-4738; E-mail su.mccurdy@iowa.gov; or fax (515)281-7700.

A public hearing will be held on September 15, 2009, 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 desires to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, may advise the Department of Education of specific needs by calling (515)281-5295.

These amendments are intended to implement Iowa Code chapters 423E and 423F.

The following amendments are proposed.

ITEM 1. Amend **281—Chapter 96**, title, as follows:

STATEWIDE/ LOCAL OPTION SALES AND SERVICES TAX
FOR SCHOOL INFRASTRUCTURE

ITEM 2. Amend rules **281—96.1(423E)** to **281—96.8(423E)**, parenthetical implementation statutes, as follows:
(423E,423F)

ITEM 3. Amend rule **281—96.1(423E,423F)**, definitions of "Actual enrollment," "Certificate of need," "Revenue purpose statement," "Sales tax," "School infrastructure" and "Statewide tax revenues per student," as follows:

"*Actual enrollment*" means the number of students each school district certifies to the department by October 15 of each year in accordance with Iowa Code section 257.6, subsection 1.

"*Certificate of need*" means the written department of education approval that a school district that must obtain if the district has a certified enrollment of fewer than 250 students in the district or that has a certified enrollment of fewer than 100 students in grades 9-12, submits to the department of education on application forms prepared for that purpose to The certificate of need must be obtained by the school district before the district may expend the supplemental school infrastructure amount for new construction or for payments for bonds issued for new construction against the supplemental school

EDUCATION DEPARTMENT[281](cont'd)

infrastructure amount or to expend the statewide sales and services amount or remaining unobligated local option sales and services balances for new construction.

~~“Revenue purpose statement” means a document prepared by the school district indicating the specific purpose or purposes for which the local sales and services tax for school infrastructure revenue and the supplemental school infrastructure amount funding, pursuant to Iowa Code chapters 423E and 423F, will be expended; which was posted at the appropriate polling places of each school district during the hours that the polls were open; and which was published in a newspaper of general circulation in the school district no sooner than 20 days and no later than 10 days prior to the local option sales and services tax for school infrastructure election.~~

~~“Sales tax” means a local option sales and services tax for school infrastructure imposed in accordance with Iowa Code chapter 423E and the statewide sales and services tax for school infrastructure imposed in accordance with Iowa Code chapter 423F.~~

~~“School infrastructure” means those activities for which a school district is authorized to contract indebtedness and issue general obligation bonds under Iowa Code section 296.1, except those activities related to a teacher’s or superintendent’s home or homes. These activities include the construction, reconstruction, repair, demolition, purchase, or remodeling of schoolhouses, stadiums, gymnasiums, fieldhouses, and bus garages; the procurement of schoolhouse sites and site improvements; and the payment or retirement of general obligation bonds issued for school infrastructure purposes or of local option sales and services tax for school infrastructure revenue bonds. For local option sales and services tax for school infrastructure elections passed on or after May 30, 2003, the~~ The definition of school infrastructure also includes activities for which revenues under Iowa Code sections 298.3 and 300.2 may be spent and property tax relief for the debt service property tax levy, regular physical plant and equipment property tax levy, voter-approved physical plant and equipment income surtax and property tax levy, and the public education and recreation property tax levy.

~~“Statewide tax revenues per student” means the amount per student established by Iowa Code subsection 423E.4(3) “b”(3).~~ 423E.4(2) “b”(3).

ITEM 4. Rescind rule 281—96.2(423E,423F) and adopt the following **new** rule in lieu thereof:

281—96.2(423E,423F) Reports to the department. Each school district shall, by October 15, annually report the school district’s actual enrollment on October 1 by the student’s county of residency according to the following:

96.2(1) County of residency. The county of residency for each of the students shall be the county in which the student lives in accordance with Iowa Code section 282.1.

96.2(2) Emancipated minor. The county of residency for an emancipated minor attending the school district shall be the county in which the emancipated minor is living.

96.2(3) County of residency unknown. If a school district cannot determine an enrolled student’s county of residency or if the county of residency is not a county in which the school district is located, the county of residency shall be the county in which the school district certifies its budget.

ITEM 5. Amend rule 281—96.4(423E,423F) as follows:

281—96.4(423E,423F) Application and certificate of need process.

~~96.4(1) Application~~ When application needed; application period. After July 1, 2008, a school district with a certified enrollment of fewer than 250 students in the entire district or a certified enrollment of fewer than 100 students in grades 9 through 12 shall not expend the amount of statewide or local sales and services tax received for new construction without prior application to the department and receipt of a certificate of need. A certificate of need is not required for repair of school facilities; for purchase of equipment, technology, or transportation equipment for transporting students as provided in Iowa Code section 298.3; or for construction necessary to comply with the federal Americans With Disabilities Act, 42 U.S.C. Sections 12101 to 12117. School districts may submit applications for certificates of need between 8 a.m. and 4:30 p.m. Monday through Friday, except on holidays. Applications shall be hand-delivered or postmarked no later than eight weeks prior to a

EDUCATION DEPARTMENT[281](cont'd)

regularly scheduled meeting of the SBRC. Delivery of applications by way of facsimile transmission is not allowed. The SBRC holds regularly scheduled meetings on the second Monday of September, December, March, and May.

96.4(2) Application form. The department shall make available an application form to Iowa public school districts ~~at least 30 days prior to the end of the application period.~~ Each applicant school district shall use the form prepared for this purpose and in the manner prescribed by the department. A school district may submit only one application during the application period. The application form shall include, but shall not be limited to, the following information:

a. to c. No change.

d. Enrollment trends by grade in a school district showing a five-year history and five years of projected enrollment by grade. The school district shall identify the grades that will be served at the new construction site. If a school district uses enrollment projections other than those prepared by the department, the school district must submit a description of the basis for those projections. The school district shall demonstrate that there is sufficient economic activity and stability to support and sustain enrollment projections of the affected attendance center.

e. If a school district's enrollment in the current year or any of the five years of projected enrollments is fewer than 250 students ~~or fewer than 25 students for any grade~~, the school district shall attach a copy of a feasibility study pursuant to Iowa Code subsection 256.9(34) or similar study conducted within the past three years with an explanation of how the study supports the project that is the subject of the application.

f. A description of the nature of the project and its relationship to improving educational opportunities for students including alignment with school district student achievement goals and including the school district's ability to meet or exceed the educational standards. A school district shall provide:

(1) A list of waivers applied for and granted to the school district or any deficiencies from educational standards if no waiver was granted.

(2) A list of courses offered by major curricular area in grades 9 through 12. The list shall include five years of history and three years of projected curricula if the proposed new construction will house any of the grades 9 through 12.

(3) A list of current and projected staffing patterns including assignments and licensure.

g. No change.

h. Evidence of a healthy financial condition and long-term financial stability. The school district shall provide:

(1) Calculation of unspent balance on the generally accepted accounting principles (GAAP) basis. The calculation shall include five years of history and three years of projected balances. The calculation of budget authority shall show and project the effect of the phaseout of the budget guarantee. Projected allowable growth shall be that known or generally anticipated at the time of the application. If the percent of allowable growth is not known or anticipated, an allowable growth of no more than 2 percent shall be utilized in the annual projections.

(2) If the unspent balance is negative in any current or projected year on the GAAP basis, the school district shall include a copy of the corrective action plan, if any, submitted to the SBRC.

(3) Calculation of unreserved fund balance on the GAAP basis by fund. The calculation shall include five years of history and three years of projected balances.

i. If a school district currently has bonded indebtedness, the voter-approved physical plant and equipment levy, ~~or the local option sales and services tax for school infrastructure~~, or categorical funding for school infrastructure, the school district shall include a statement identifying the implementation date, final year of the bonded indebtedness or the final year of the levy or ~~tax~~ categorical funding, and the levy rate. The school district shall list any obligations against those current balances and future revenues or against the local option or statewide sales and services tax for school infrastructure amounts. The school district shall attach a copy of ~~the local option sales and services tax for school infrastructure ballot~~, the school district's revenue purpose statement, if any, ~~and a list of the tax capacity per student by each county in which the school district is located.~~

EDUCATION DEPARTMENT[281](cont'd)

j. A comprehensive, districtwide infrastructure plan ~~if the school district has an infrastructure plan~~. The school district shall include the date that the plan was adopted by the board, an executive summary of the plan, and a description of how the project fits within the infrastructure plan.

k. and *l.* No change.

96.4(3) Board minutes. A school district that is submitting an application for certificate of need shall submit with its application a copy of the published minutes of the board of director's meeting showing that the board has authorized the application and the project and that the public has been informed. The section of the board minutes containing this information shall be marked in such a way as to make it easily identifiable.

96.4(4) and 96.4(5) No change.

96.4(6) Application timeline. A school district shall submit an application for a certificate of need either:

a. When the school district has received ~~a supplemental amount~~ amounts that it intends to accumulate for new construction or for payment of debt related to new construction; or

b. When the school district board has accumulated ~~supplemental~~ amounts and wants to proceed with the new construction project or debt issuance related to new construction, whichever occurs first.

96.4(7) ~~Supplemental amount restrictions~~ Compliance requirement on uses. All projects included in the application must be consistent with the provisions of the Americans With Disabilities Act and the Rehabilitation Act of 1973, Section 504, and Iowa Code chapter 104A.

ITEM 6. Amend subrule 96.5(1), introductory paragraph, as follows:

96.5(1) Task force. The department shall form a task force to review applications for certificate of need and to provide recommendations to the ~~school budget review committee~~ SBRC. The department shall invite participants from large, medium, and small school districts, the state fire marshal's office, education and professional organizations, ~~and~~ or other individuals knowledgeable in school infrastructure and construction issues. The department, in consultation with the task force, shall establish the parameters and criteria for awarding certificates of need based on information listed in Iowa Code section 423E.4, subsection ~~6~~ 5, which includes required consideration of the following:

ITEM 7. Amend paragraph **96.5(3)“e”** as follows:

e. ~~Financial~~ Sustainable financial condition and long-term financial stability of the school district. ~~A school district affected by the decline of the budget shall submit information on the impact of the budget guarantee change.~~

ITEM 8. Amend subrule 96.5(4) as follows:

96.5(4) Ineligibility for approval. If either of the following two descriptions applies to the school district, the school district shall not be eligible for a certificate of need unless a feasibility study conducted within the past three years pursuant to Iowa Code subsection 256.9(34) and the AEA plan pursuant to Iowa Code sections 275.1 to 275.4 determine that sharing, ~~or~~ reorganization, or dissolution is not feasible for the school district.

a. If either the current enrollment or any of the five years of projected enrollments for the school district is fewer than 250 students.

b. If either the current enrollment or any of the five years of projected enrollments for the school district for each grade to be served in the building that is the subject of the application is fewer than 25 students grades 9 through 12 is fewer than a total of 100 students, if a high school building is the subject of the application.

ITEM 9. Amend subrule 96.5(5) as follows:

96.5(5) School budget review committee. The ~~school budget review committee~~ SBRC shall review the recommendations from the task force for approval of certificates of need. The committee shall make recommendations on approval to the department for final consideration.

ITEM 10. Amend subrule 96.6(2) as follows:

96.6(2) Notification. The department shall notify applicants no later than two weeks following the date of receipt of the recommendations from the ~~school budget review committee~~ SBRC.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 11. Amend subrule 96.7(2) as follows:

96.7(2) *Accounting for the ~~supplemental amount~~ funding.* All revenues from the ~~supplemental local and statewide~~ school infrastructure ~~amount~~ amounts and all expenditures from the ~~supplemental local and statewide~~ school infrastructure ~~amount~~ amounts shall be separately identified and accounted for in a capital projects fund established for the local option and statewide sales and services tax for school infrastructure proceeds.

ITEM 12. Amend **281—Chapter 96**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 423E and 423F.

ARC 8049B

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 100, "Vision Iowa School Infrastructure Program," Iowa Administrative Code.

Chapter 100 was adopted and filed in October 2000 to implement 2000 Iowa Acts, chapter 1174, sections 26 to 28. The appropriation for this program was repealed, effective retroactively to July 1, 2004. (See 2005 Iowa Acts, chapter 179, section 29.) The rules in Chapter 100 serve no purpose and should be rescinded.

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

Interested individuals may make written comments on the proposed amendment on or before September 15, 2009, by 4:30 p.m. Comments on the proposed amendment should be directed to Gary Schwartz, Consultant, Iowa Department of Education, Second Floor, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa 50319-0146; telephone (515)281-4743; E-mail gary.schwartz@iowa.gov; or fax (515)281-8777.

This amendment is intended to implement Iowa Code section 256.7(5).

The following amendment is proposed.

Rescind and reserve **281—Chapter 100**.

ARC 8083B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4 and 2009 Iowa Acts, Senate File 389, section 38, the Department of Human Services proposes to amend Chapter 7, "Appeals and Hearings," and Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

The proposed amendments would establish presumptive eligibility for children. Presumptive eligibility is a process that allows a child immediate access to health care services under Medicaid pending a formal eligibility determination for Medicaid or HAWK-I by the Department.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Qualified entities will determine the presumptive eligibility for children based on self-declared household income, family size, citizenship or alien status, residency, and age. A “qualified entity” is defined as any entity allowed by federal law that the Department determines can make the presumptive eligibility decision. Qualified entities will include providers that are currently qualified to determine presumptive eligibility for pregnant women.

Presumptive eligibility would begin the day the determination is completed and continue until the child is determined eligible or ineligible for Medicaid or HAWK-I. A child may be determined presumptively eligible only once in a 12-month period.

Even if presumptive eligibility is not approved, the presumptive eligibility application will be treated as an application for Medicaid. All applications will be forwarded to the Department for a formal eligibility determination. If the household income exceeds the limit for Medicaid eligibility, the application will be referred to the third-party administrator for the HAWK-I program. The family will not have to file a separate application. This process will help to facilitate the enrollment of eligible children in Medicaid or HAWK-I.

These amendments do not provide for waivers in specified situations because the changes are mandated by state legislation and confer a benefit to the families and providers affected.

Any interested person may make written comments on the proposed amendments on or before September 15, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.3 and 2009 Iowa Acts, Senate File 389, section 38(4).

The following amendments are proposed.

ITEM 1. Amend subparagraphs **7.5(2)“a”(6)** and **(7)** as follows:

(6) A qualified provider or qualified entity has denied a person presumptive eligibility for Medicaid under 441—subrule 75.1(30), ~~or 75.1(40)~~, or 75.1(44).

(7) A qualified provider or qualified entity has determined a person to be presumptively eligible for Medicaid under 441—subrule 75.1(30), ~~or 75.1(40)~~, or 75.1(44), but presumptive eligibility ends due to the person’s failure to file an application.

ITEM 2. Adopt the following **new** subrule 75.1(44):

75.1(44) Presumptive eligibility for children. Medical assistance shall be available to children under the age of 19 who are determined by a qualified entity to be presumptively eligible for medical assistance pursuant to this subrule.

a. Qualified entity. A “qualified entity” is an entity described in paragraphs (1) through (10) of the definition of the term at 42 CFR 435.1101, as amended to October 1, 2008, that:

(1) Has been determined by the department to be capable of making presumptive determinations of eligibility, and

(2) Has signed an agreement with the department as a qualified entity.

b. Application process. Families requesting assistance for children under this subrule shall apply with a qualified entity. The qualified entity shall use the department’s Web-based system to make the presumptive eligibility determination, based on the information provided in the application.

(1) All presumptive eligibility applications shall be forwarded to the department for a full Medicaid or HAWK-I eligibility determination, regardless of the child’s presumptive eligibility status.

(2) The date a valid application was received by the qualified entity establishes the date of application for purposes of determining the effective date of Medicaid or HAWK-I eligibility unless the qualified entity received the application on a weekend or state holiday. Applications received by the qualified entity on a weekend or a state holiday shall be considered to be received on the first business day following the weekend or state holiday.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) The qualified entity shall issue Form 470-2580 or 470-2580(S), Presumptive Medicaid Eligibility Notice of Decision, to inform the applicant of the decision on the application as soon as possible but no later than within two working days after the date the determination is made.

(4) Timely and adequate notice requirements and appeal rights of the Medicaid program shall not apply to presumptive eligibility decisions made by a qualified entity.

c. Eligibility requirements. To be determined presumptively eligible for medical assistance, a child shall meet the following eligibility requirements.

(1) Age. The child must be under the age of 19.

(2) Household income. Household income must be less than 300 percent of the federal poverty level for a household of the same size. For this purpose, the household shall include the applicant child and any sibling (of whole or half blood, or adoptive), spouse, parent, or stepparent living with the applicant child. This determination shall be based on the household's gross income, with no deductions, diversions, or disregards.

(3) Citizenship or qualified alien status. The child must be a citizen of the United States or a qualified alien as defined in subrule 75.11(2).

(4) Iowa residency. The child must be a resident of Iowa.

(5) Prior presumptive eligibility. A child shall not be determined presumptively eligible more than once in a 12-month period. The first month of the 12-month period begins with the month the application is received by the qualified entity.

d. Period of presumptive eligibility. Presumptive eligibility shall begin with the date that presumptive eligibility is determined and shall continue until the earliest of the following dates:

(1) The last day of the next calendar month;

(2) The day the child is determined eligible for Medicaid;

(3) The last day of the month that the child is determined eligible for HAWK-I; or

(4) The day the child is determined ineligible for Medicaid and HAWK-I. Withdrawal of the Medicaid or HAWK-I application before eligibility is determined shall not affect the child's eligibility during the presumptive period.

e. Services covered. Children determined presumptively eligible under this subrule shall be entitled to all Medicaid-covered services, including early and periodic screening, diagnosis, and treatment (EPSDT) services. Payment of claims for Medicaid services provided to a child during the presumptive eligibility period, including EPSDT services, is not dependent upon a determination of Medicaid or HAWK-I eligibility by the department.

ARC 8086B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4 and 2009 Iowa Acts, Senate File 476, section 4, the Department of Human Services proposes to amend Chapter 36, "Facility Assessments," and Chapter 81, "Nursing Facilities," Iowa Administrative Code.

These amendments are proposed in connection with the implementation of a nursing facility quality assurance assessment based on facilities' non-Medicare patient days. The quality assurance assessment shall be effective the first quarter beginning after all required Centers for Medicare and Medicaid Services approvals are obtained and shall be paid on a quarterly basis. The assessment shall be due to the Department no later than 30 days following the end of each quarter.

The following assessment brackets are proposed:

HUMAN SERVICES DEPARTMENT[441](cont'd)

- \$1 per non-Medicare patient day if licensed beds are less than or equal to 50.
- \$1 per non-Medicare patient day for nursing facilities designated as continuing care retirement centers by the Iowa Insurance Division.
- \$1 per non-Medicare patient day for nursing facilities with annual Iowa Medicaid patient days of 26,500 or greater.
- \$5.26 per non-Medicare patient day for all other nursing facilities.

The following nursing facilities would be excluded from paying the quality assurance assessment:

- Nursing facilities operated by the state.
- Non-state government-owned or government-operated nursing facilities.
- Distinct-part skilled nursing unit or a swing-bed unit operated by a hospital.

The reimbursement methodology for nursing facilities is modified to provide a quality assurance assessment pass-through rate and a quality assurance assessment rate add-on, pursuant to 2009 Iowa Acts, Senate File 476.

These amendments do not provide for waivers in specified situations because all nursing facilities should be subject to the same assessment and reimbursement structure. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before September 15, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will also hold a public hearing for the purpose of receiving comments on these proposed amendments on Wednesday, September 16, 2009, from 2 to 4 p.m. in Room 129, Iowa Medicaid Enterprise Building, 100 Army Post Road, Des Moines, Iowa. Persons with disabilities who require assistive services or devices to observe or participate should contact the Bureau of Policy Analysis and Appeals at (515)281-8440 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement 2009 Iowa Acts, Senate File 476.

The following amendments are proposed.

ITEM 1. Adopt the following **new** Division II, heading and opening paragraph, in **441—Chapter 36**:

DIVISION II
QUALITY ASSURANCE ASSESSMENT FOR NURSING FACILITIES

These rules describe the nursing facility quality assurance assessment authorized by 2009 Iowa Acts, Senate File 476, enacted by the Eighty-third General Assembly. The rules explain how the assessment is determined and paid.

ITEM 2. Adopt the following **new** rules 441—36.6(83GA,SF476) and 441—36.7(83GA,SF476) in Division II:

441—36.6(83GA,SF476) Assessment.

36.6(1) Applicability. All nursing facilities as defined in Iowa Code section 135C.1 that are free-standing facilities or are operated by a hospital licensed pursuant to Iowa Code chapter 135B shall pay a quarterly assessment to the Department, as determined under this division, with the exception of:

- a. Nursing facilities operated by the state.
- b. Non-state government-owned or government-operated nursing facilities.
- c. Distinct-part skilled nursing units and swing-bed units operated by a hospital.

36.6(2) Assessment level.

a. Nursing facilities with 50 or fewer licensed beds are required to pay a quality assurance assessment of \$1 per non-Medicare patient day.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. Nursing facilities designated as continuing care retirement centers (CCRCs) by the insurance division of the Iowa department of commerce are required to pay a quality assurance assessment of \$1 per non-Medicare patient day.

c. Nursing facilities with annual Iowa Medicaid patient days of 26,500 or more are required to pay a quality assurance assessment of \$1 per non-Medicare patient day.

d. All other nursing facilities are required to pay a quality assurance assessment of \$5.26 per non-Medicare patient day.

441—36.7(83GA,SF476) Determination and payment of assessment. The assessment shall be determined and paid as follows:

36.7(1) Each nursing facility shall pay the quality assurance assessment to the department on a quarterly basis. The facility shall:

a. Use Form 470-4836, Nursing Facility Quality Assurance Assessment Calculation Worksheet, to calculate the quarterly assessment amount due.

b. Submit Form 470-4836 and the quarterly assessment payment no later than 30 days following the end of each calendar quarter.

36.7(2) The facility shall calculate the amount of the quarterly assessment due by multiplying the facility's total non-Medicare patient days for the preceding quarter by the applicable assessment level as determined in subrule 36.6(2).

36.7(3) If the department determines that a nursing facility has underpaid or overpaid the quality assurance assessment, the department shall notify the nursing facility of the amount of the unpaid quality assurance assessment or refund due. Such amount shall be due or refunded within 30 days of the issuance of the notice.

36.7(4) A nursing facility that fails to pay the quality assurance assessment within the time frame specified above shall pay a penalty in the amount of 1.5 percent of the quality assurance assessment amount owed for each month or portion of a month that the payment is overdue.

36.7(5) For facilities certified to participate in the Medicaid program, the department shall deduct the quarterly amount due from Medicaid payments to the facility if the department has not received the quality assurance assessment amount due by the last day of the month in which the payment is due. The department shall also withhold an amount equal to the penalty owed from any payment due.

ITEM 3. Adopt the following **new** implementation sentence for **441—Chapter 36**, Division II: These rules are intended to implement 2009 Iowa Acts, Senate File 476.

ITEM 4. Adopt the following **new** paragraph **81.6(11)“p”**:

p. The nursing facility quality assurance assessment paid pursuant to 441—Chapter 36, Division II, shall not be an allowable cost for cost reporting and audit purposes but shall be reimbursed pursuant to paragraph 81.6(21)“a.”

ITEM 5. Adopt the following **new** subrule 81.6(21):

81.6(21) Nursing facility quality assurance payments.

a. *Quality assurance assessment pass-through.* Effective with the implementation of the quality assurance assessment paid pursuant to 441—Chapter 36, Division II, a quality assurance assessment pass-through shall be added to the Medicaid per diem reimbursement rate as otherwise calculated pursuant to this rule. The quality assurance assessment pass-through shall equal the per-patient-day assessment determined pursuant to 441—subrule 36.6(2).

b. *Quality assurance assessment rate add-on.* Effective with the implementation of the quality assurance assessment paid pursuant to 441—Chapter 36, Division II, a quality assurance add-on of \$10 per patient day shall be added to the Medicaid per diem reimbursement rate as otherwise calculated pursuant to this rule.

c. *Use of the pass-through and add-on.* As a condition for receipt of the pass-through and add-on, each nursing facility shall submit information to the department on Form 470-4829, Nursing Facility Medicaid Enhanced Payment Report, demonstrating compliance by the nursing facility with the requirements for use of the pass-through and add-on. If the sum of the quality assurance assessment

HUMAN SERVICES DEPARTMENT[441](cont'd)

pass-through and the quality assurance assessment rate add-on is greater than the total cost incurred by a nursing facility in payment of the quality assurance assessment:

(1) No less than 35 percent of the difference shall be used to increase compensation and costs of employment for direct care workers determined pursuant to 2009 Iowa Acts, Senate File 476.

(2) No less than 60 percent of the difference shall be used to increase compensation and costs of employment for all nursing facility staff, with increases in compensation and costs of employment determined pursuant to 2009 Iowa Acts, Senate File 476.

d. Effective date. Until federal financial participation to match money collected from the quality assurance assessment pursuant to 441—Chapter 36, Division II, has been approved by the federal Centers for Medicare and Medicaid Services, none of the nursing facility rate-setting methodologies of this subrule shall become effective.

e. End date. If the federal Centers for Medicare and Medicaid Services determines that federal financial participation to match money collected from the quality assurance assessment pursuant to 441—Chapter 36, Division II, is unavailable for any period, or if the department no longer has the authority to collect the assessment, then beginning on the effective date that such federal financial participation is not available or authority to collect the assessment is rescinded, none of the nursing facility rate-setting methodologies of this subrule shall be effective. If the period for which federal match money is unavailable or the authority to collect the assessment is rescinded includes a retroactive period, the department shall:

(1) Recalculate Medicaid rates in effect during that period without the rate-setting methodologies of this subrule;

(2) Recompute Medicaid payments due based on the recalculated Medicaid rates;

(3) Recoup any previous overpayments; and

(4) Determine for each nursing facility the amount of quality assurance assessment collected during that period and refund that amount to the facility.

ITEM 6. Amend rule **441—81.6(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~249A.2(6), 249A.3(2)“a,”~~ 249A.2(7), 249A.3(2)“c,” 249A.4, and 249A.16, chapter 249K, and 2009 Iowa Acts, Senate File 476.

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HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 239B.4, the Department of Human Services proposes to amend Chapter 47, “Diversion Initiatives,” Iowa Administrative Code.

The proposed amendments eliminate the FIP Diversion Program. The Department and the General Assembly have agreed that funding previously used for the FIP Diversion Program will better serve the overall interests of the state and the families the Department serves by being redirected to other initiatives that have the potential to lead to self-sufficiency, such as basic needs grants, PROMISE JOBS allowances, and Family Self-Sufficiency Grants.

The amendments also make technical changes to clarify that Family Self-Sufficiency Grants are targeted toward PROMISE JOBS participants and to update a form number.

These amendments do not provide for waivers in specified situations, since no funds have been appropriated to continue this program.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Any interested person may make written comments on the proposed amendments on or before September 15, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 239B.11.

The following amendments are proposed.

ITEM 1. Amend **441—Chapter 47**, preamble, as follows:

PREAMBLE

This chapter describes the department of human services diversion ~~initiatives~~ initiative. ~~The purpose of these programs is to provide immediate, short-term assistance to families in lieu of ongoing assistance under the family investment program (FIP diversion) or to meet needs of FIP participants not currently met by existing PROMISE JOBS services (family self-sufficiency grants). Assistance under this chapter is intended to enable families to become or remain self-sufficient by removing barriers to obtaining or retaining employment.~~ While the diversion ~~initiatives~~ initiative is available statewide, local areas may exercise flexibility in program design, within the overall confines of these rules.

ITEM 2. Rescind and reserve **441—Chapter 47, Division I**.

ITEM 3. Amend rule 441—47.24(239B), introductory paragraph, as follows:

441—47.24(239B) Assistance available in family self-sufficiency grants. Family self-sufficiency grants shall be authorized for removing an identified barrier to self-sufficiency when it can be reasonably anticipated that the assistance will enable PROMISE JOBS participant families to retain employment or obtain employment in the two full calendar months following the date of authorization of payment. For example, if a payment is authorized on August 20, it should be anticipated that the participant can find employment in September or October.

ITEM 4. Amend subrule 47.25(2), introductory paragraph, as follows:

47.25(2) Notification process. PROMISE JOBS shall use Form ~~SS-1104-0~~ 470-0602, Notice of Decision: Services, to notify the candidate of the PROMISE JOBS decision regarding the family self-sufficiency grant. Decisions shall be in accordance with policies of this division and the local plan.

ARC 8056B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," and Chapter 76, "Application and Investigation," Iowa Administrative Code.

The proposed amendments:

- Provide that the resource limits for Medicaid's Medicare savings programs will increase each year beginning January 1, 2010, to match the resource limit for the full low-income subsidy (LIS) for the Medicare Part D drug program. "Medicare savings program" coverage groups include "qualified" Medicare beneficiaries, "specified low-income" Medicare beneficiaries and "expanded specified low-income" Medicare beneficiaries (depending on a person's income level). Eligibility under one of these groups entitles the member to Medicaid payment for some or all of the person's out-of-pocket

HUMAN SERVICES DEPARTMENT[441](cont'd)

costs under Medicare, such as premiums, deductibles, copayments, and coinsurance. Since the LIS resource limits are more than double the limits currently in effect for the Medicare savings programs, this change will allow more people to qualify.

- Provide that an application for LIS benefits will be considered an application for Medicare savings plan coverage (or any other coverage group for which the Department finds the applicant eligible). The Social Security Administration will forward data to the Department on all LIS applications except those on which the applicant has specifically declined to have information shared with the state. Currently, applications for Medicare savings coverage must be individually initiated by the applicant. This change is expected to increase the number of LIS recipients who become eligible for Medicare savings program coverage.

- Make technical changes to update the title of the review form used for children in foster care, subsidized adoption, or subsidized guardianship.

These changes are required by the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA), Public Law 110-275, Sections 112 and 113. These amendments do not provide for waivers in specified situations because they expand eligibility. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before September 15, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.3.

The following amendments are proposed.

ITEM 1. Amend paragraphs **75.1(29)“a”** and **“b”** as follows:

a. The person's monthly income does not exceed ~~the following percentage~~ 100 percent of the federal poverty level (as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.:

(1) ~~85 percent effective January 1, 1989~~ The amount of income shall be determined as under the federal Supplemental Security Income (SSI) program.

(2) ~~90 percent effective January 1, 1990~~ Income shall not include any amount of social security income attributable to the cost-of-living increase through the month following the month in which the annual revision of the official poverty line is published.

(3) ~~100 percent effective January 1, 1991, and thereafter.~~

(4) ~~Rescinded IAB 1/9/91, effective 1/1/91.~~

b. The person's resources do not exceed ~~twice~~ the maximum amount of resources that a person may have ~~and to obtain benefits under the Supplemental Security Income (SSI) program~~ full low-income subsidy for Medicare Part D drug benefits. The amount of ~~income and~~ resources shall be determined as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home. Then the resource determination shall be made according to subrules 75.5(3) and 75.5(4). ~~Income shall not include any amount of social security income attributable to the cost-of-living increase through the month following the month in which the annual revision of the official poverty line is published.~~

ITEM 2. Amend paragraphs **75.1(34)“a”** and **“b”** as follows:

a. The person's monthly income exceeds 100 percent of the federal poverty level but is less than ~~the following percentage~~ 120 percent of the federal poverty level (as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.:

(1) ~~110 percent effective January 1, 1993.~~

(2) ~~120 percent effective January 1, 1995, and thereafter.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. The person's resources do not exceed ~~twice~~ the maximum amount of resources that a person may have ~~and to obtain benefits under the Supplemental Security Income (SSI) program~~ full low-income subsidy for Medicare Part D drug benefits.

ITEM 3. Amend paragraph ~~75.1(36)“c”~~ as follows:

c. The person's resources do not exceed ~~twice~~ the maximum amount of resources that a person may have ~~and to obtain benefits under the Supplemental Security Income (SSI) program~~ full low-income subsidy for Medicare Part D drug benefits.

ITEM 4. Adopt the following new paragraph ~~75.52(3)“c”~~:

c. The review information for foster children or children in subsidized adoption or subsidized guardianship shall be submitted on Form 470-2914, Foster Care, Adoption, and Guardianship Medicaid Review.

ITEM 5. Adopt the following new paragraph ~~76.1(1)“e”~~:

e. The department shall initiate an application for a person who submits Form SSA-1020B-OCR-SM, Application for Extra Help with Medicare Prescription Drug Plan Costs, to the federal Social Security Administration, if the Social Security Administration transmits data from that application to the department pursuant to 42 U.S.C. 1320b-14(c)(3). The date that the data is transmitted to the department shall be treated as the date of application for medical assistance.

ITEM 6. Amend subrule 76.7(4) as follows:

~~76.7(4)~~ The review for foster children or children in subsidized adoption or subsidized guardianship shall be completed on Form 470-2914, Foster Care, ~~and Subsidized Adoption, and Guardianship~~ Medicaid Review, according to the ~~time~~ schedule of the family medical assistance program or supplemental security income program for disabled children, as applicable.

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HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

The proposed amendment clarifies that, in documentation for Medicaid services billed using time-related Current Procedural Terminology (CPT) codes, the total amount of time spent on the service shall be recorded rather than beginning and ending times. The Department intends that the Medicaid policy shall be consistent with Medicare policy in this regard. Consistency between the programs allows greater efficiency for providers.

This amendment does not provide for waivers because all providers should be subject to the same documentation requirements. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendment on or before September 15, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code section 249A.4B.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The following amendment is proposed.

Amend subparagraph 79.3(2)“c”(3), numbered paragraph “3,” as follows:

3. The complete time of the service, including the beginning and ending time if the service is billed on a time-related basis. For those time-related services billed using Current Procedural Terminology (CPT) codes, the total time of the service shall be recorded, rather than the beginning and ending time.

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HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

The proposed amendments update the rules on the Medical Assistance Advisory Council to conform to statutory changes enacted in 2005 Iowa Acts, chapter 120. The legislation expanded the membership of the Council and created an executive committee, which is required to meet monthly and make recommendations to the Department regarding the budget, policy, and administration of the Medical Assistance Program.

These amendments do not provide for a waiver because they are technical amendments that describe the membership and duties of the Medical Assistance Advisory Council.

Any interested person may make written comments on the proposed amendments on or before September 15, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.4B.

The following amendments are proposed.

Amend rule 441—79.7(249A) as follows:

441—79.7(249A) Medical assistance advisory council.

79.7(1) Officers. Officers shall be a chairperson, and a vice-chairperson.

a. The director of public health shall serve as chairperson of the council. Elections for vice-chairperson will be held the first meeting after the beginning of the calendar year.

b. The vice-chairperson’s term of office shall be two years. ~~Officers~~ A vice-chairperson shall serve no more than two terms for each office.

c. and *d.* No change.

e. The chairperson shall appoint a ~~nominating~~ committee of not less than three members to nominate vice-chairpersons and shall appoint other committees approved by the council.

79.7(2) Alternates Membership. ~~Each organization represented may select one alternate as representative when the primary appointee is unable to be present. Alternates may attend any and all meetings of the council, but only one representative of each organization shall be allowed to vote. The membership of the council and its executive committee shall be as prescribed at Iowa Code section 249A.4B, subsections 2 and 3.~~

79.7(3) Expenses, staff support, and technical assistance. ~~The travel expenses~~ Expenses of the ~~public representatives council and other expenses~~ executive committee, such as those for clerical

HUMAN SERVICES DEPARTMENT[441](cont'd)

services, mailing, telephone, and meeting place, shall be the responsibility of the department of human services. The department shall arrange for a meeting place, related services, and accommodations. The department shall provide staff support and independent technical assistance to the council and the executive committee.

79.7(4) Meetings. The council shall meet ~~at least four times each year~~ no more than quarterly. ~~At least two of these meetings shall be with the department of human services.~~ The executive committee shall meet on a monthly basis. ~~Additional meetings~~ Meetings may be called by the chairperson, upon written request of at least 50 percent of the members, or by the director of the department of human services.

a. No change.

b. Written notice of council meetings shall be mailed at least two weeks in advance of ~~such meetings~~ the meeting. Each notice shall include an agenda for the meeting.

79.7(5) Procedures.

a. and b. No change.

c. Minutes of council meetings and other written materials developed by the council shall be distributed by the department to each member ~~and alternate~~ and to the executive office of each ~~organization~~ professional group or body ~~business entity~~ represented.

d. Notice shall be ~~made given~~ to the representing organization a professional group or business entity represented on the council when the ~~member, or alternate,~~ representative of that group or entity has been absent from three consecutive meetings.

e. No change.

79.7(6) Duties. ~~The medical assistance advisory council shall:~~

a. Executive committee. Based upon the deliberations of the medical assistance advisory council and the executive committee, the executive committee shall make recommendations to the director regarding the budget, policy, and administration of the medical assistance program. Such recommendations may include:

~~a. (1) Make recommendations~~ Recommendations on the reimbursement for medical services rendered by providers of services.

~~b. (2) Assist in identifying~~ Identification of unmet medical needs and maintenance needs which affect health.

~~c. (3) Make recommendations~~ Recommendations for objectives of the program and for methods of program analysis and evaluation, including utilization review.

~~d. Reserved.~~

~~e. Reserved.~~

~~f. (4) Recommend~~ Recommendations for ways in which needed medical supplies and services can be made available most effectively and economically to the program recipients.

~~g. (5) Advise~~ Advice on such administrative and fiscal matters as the ~~commissioner~~ director of the department of human services may request.

~~b. Council.~~ The medical assistance advisory council shall:

~~h. (1) Advise~~ the professional groups and business entities represented and act as liaison between them and the department.

~~i. (2) Report~~ at least annually to the appointing authority professional groups and business entities represented.

~~j. (3) Perform~~ other functions as may be provided by state or federal law or regulation.

~~k. (4) Communicate~~ information considered by the council to the ~~member organizations~~ professional groups and bodies business entities represented.

79.7(7) Responsibilities.

a. Recommendations of the council shall be advisory and not binding upon the department of human services or the ~~member organizations~~ professional groups and bodies business entities represented. The director of the department of human services ~~will~~ shall consider ~~all advice and counsel~~ of the recommendations offered by the council and the executive committee in:

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) The director's preparation of medical assistance budget recommendations to the council on human services, pursuant to Iowa Code section 217.3, and

(2) Implementation of medical assistance program policies.

b. and *c.* No change.

d. The department shall provide the council with reports, data, and proposed and final amendments to rules, ~~regulations~~, laws, and guidelines, for its information, review, and comment.

e. and *f.* No change.

g. The department shall maintain a current list of members ~~and alternates~~ on the council and executive committee.

ARC 8047B**INSPECTIONS AND APPEALS DEPARTMENT[481]****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 2009 Iowa Acts, Senate File 484, the Department of Inspections and Appeals hereby gives Notice of Intended Action to rescind Chapter 66, "Quality-Based Inspection," and adopt new Chapter 66, "Boarding Homes," Iowa Administrative Code.

The current Chapter 66 is being rescinded as this chapter has never been implemented and no facilities participate in the program. New Chapter 66 is proposed pursuant to 2009 Iowa Acts, Senate File 484, which created new responsibilities related to boarding homes. This Notice of Intended Action has been presented to other agencies in the multidisciplinary team and the Governor's Dependent Adult Protective Advisory Council. Several suggestions were incorporated into the Notice.

Any interested person may make written suggestions or comments on these proposed rules on or before September 15, 2009. Such written materials should be sent to Steven Mandernach, Administrative Rules Coordinator, Department of Inspections and Appeals, 321 E. 12th Street, Third Floor, Lucas State Office Building, Des Moines, Iowa 50319. Comments may be sent by fax to (515)242-6863 or by E-mail to steven.mandernach@dia.iowa.gov.

Also, a public hearing regarding these proposed rules will be held on September 18, 2009, at 3 p.m., at which time persons may present their views either orally or in writing. The hearing will be conducted over the Iowa Communications Network (ICN) at the following locations:

ICN Room
Sixth Floor
Lucas State Office Building
321 E. 12th St.
Des Moines

Room 118
Iowa Lakes Community College
1900 N. Grand Ave.
Spencer

Room 024
Looft Hall
Iowa Western Community College
2700 College Rd.
Council Bluffs

Room 106
Activity Center
North Iowa Area Community College
500 College Dr.
Mason City

Room 110
Tama Hall
Hawkeye Community College
1501 E. Orange Rd.
Waterloo

Room 528
Trustee Hall
Southeastern Community College
1500 West Agency
West Burlington

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

Room #2
Keystone Area Education Agency
2310 Chaney Rd.
Dubuque

Sioux City Public Library
529 Pierce St.
Sioux City

Meeting Room D
Iowa City Public Library
123 South Linn St.
Iowa City

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 rules.

Any person who intends to attend the public hearing and who has special requirements, such as those relating to hearing or mobility impairments, should contact the Department to advise of specific needs.

These rules are intended to implement 2009 Iowa Acts, Senate File 484.

The following amendment is proposed.

Rescind 481—Chapter 66 and adopt the following **new** chapter in lieu thereof:

CHAPTER 66
BOARDING HOMES

481—66.1(83GA,SF484) Definitions.

“Activities of daily living” means the following self-care tasks: bathing, dressing, grooming, eating, transferring, toileting, and ambulation.

“Affiliated person or entity” means an individual operating as a sole proprietorship who is related within the third degree of consanguinity to the boarding home owner or lessee; or a business entity with common ownership or with 25 percent or more ownership by the boarding home owner or lessee.

“Assistance” means aid or help.

“Boarding home” means a premises used by its owner or lessee for the purpose of letting rooms for rental to three or more persons not related within the third degree of consanguinity to the owner or lessee where supervision or assistance with activities of daily living is provided to such persons. A boarding home does not include a facility, home, or program otherwise subject to licensure or regulation by the department of human services, the department of inspections and appeals, or the department of public health.

“Commencing operations” means the date on which a premises becomes a boarding home by renting to a third individual that meets the requirements pursuant to the definition of “boarding home.”

“Department” means the department of inspections and appeals.

“Director” means the director of the department of inspections and appeals.

“Known” means information that an owner, a lessee, or a manager has without seeking additional information from tenants.

“Lessee” means a person who leases the boarding home from its owner.

“Multidisciplinary team” means a team consisting of members of various departments as is appropriate for an investigation. The team may include employees of the department of inspections and appeals, the department of human services, the state fire marshal and the division of criminal investigation of the department of public safety, the department of justice, or other local, state, and federal agencies.

“Premises” means room and the structure of which it is a part and facilities and appurtenances to it and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant.

“Preponderance of the evidence” means that the evidence, considered and compared with the evidence opposed to it, produces the belief in a reasonable mind that the allegations are more likely true than not true. A “preponderance of the evidence” standard does not require that the investigator personally witnessed the alleged violation.

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

“Probable cause” means a reasonable suspicion to believe that a boarding home is in violation of 2009 Iowa Acts, Senate File 484, sections 3 to 6 [Iowa Code chapter 1350], licensing or other regulatory requirements of the department of human services, department of inspections and appeals, or department of public health; or that dependent adult abuse of any individual living in the boarding home has occurred or is occurring.

“Responsible party” means the individual designated on the registration of a boarding home as the department’s primary contact.

“Room” means an apartment, group of rooms, or single room that is occupied as a separate living quarter or, if vacant, that is intended for occupancy as a separate living quarter, in which a tenant can live and sleep separately from any other persons in the building and that has direct access from the outside of the building or through a common hall.

“Supervision” means oversight necessary to prevent accidents or ensure the health, safety, and welfare of the tenant.

“Third degree of consanguinity” means the following relatives of the owner or lessee: spouse, children, parents, siblings or half-siblings, grandchildren, grandparents, uncles, aunts, nephews, nieces, great-grandparents, and great-grandchildren.

481—66.2(83GA,SF484) Registration of boarding homes.

66.2(1) A boarding home shall file a statement of registration with the department.

a. Boarding homes in operation on January 1, 2010, or after shall register with the department within 60 days of commencing operations.

b. Boarding homes in operation prior to January 1, 2010, shall register with the department no later than March 1, 2010.

66.2(2) The statement of registration may be submitted electronically via an Internet-based system, by mail to Department of Inspections and Appeals, Health Facilities Division, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083, or by fax to (515)242-5022.

66.2(3) The registrant shall include, at a minimum, the following information on the statement of registration:

- a.* Name(s) of the owner, lessee, and manager, as applicable;
- b.* Number of rooms available for rent and maximum number of tenants for the entire boarding home;
- c.* Location of the boarding home, including street address, city, and ZIP code;
- d.* Contact information for the owner, lessee, and manager, including telephone number, mailing address and E-mail address;
- e.* Occupant loads as calculated in accordance with the building and fire codes as adopted by the applicable jurisdictions;
- f.* Whether the building is equipped with a fire sprinkler system; and
- g.* Name of the responsible party. The department will send all notices regarding the boarding home to the responsible party.

66.2(4) Failure to file a statement of registration in a timely manner may result in a penalty of no more than \$500.

66.2(5) The boarding home shall notify the department of any changes to the information on the initial statement of registration within 30 days of when the change occurs, including cessation of operation. Changes shall be submitted in the manner described in subrule 66.2(2).

481—66.3(83GA,SF484) Occupancy reports.

66.3(1) Each boarding home shall file an occupancy report annually with the department.

a. For new boarding home registrations, an occupancy report shall be filed along with the initial statement of registration. The occupancy report that accompanies the initial statement of registration shall provide information as of the last day of the preceding month.

b. After the initial registration, registrants shall submit a completed occupancy report by January 31 of each year with information current as of December 31 of the preceding year.

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

66.3(2) The occupancy report may be submitted electronically via an Internet-based system, by mail to Department of Inspections and Appeals, Health Facilities Division, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083, or by fax to (515)242-5022.

66.3(3) The owner or lessee shall include, at a minimum, the following information on the occupancy report. If the owner or lessee is unable to answer the question because the owner or lessee does not have such information, the owner or lessee shall indicate such on the report.

- a. Current number of rooms occupied;
- b. Current number of tenants residing in the boarding home;
- c. If applicable, date of last fire inspection and any deficiencies noted and how such deficiencies have been corrected;
- d. If known, the number of tenants receiving Medicaid;
- e. If known, the number of tenants receiving food assistance benefits (EBT cards);
- f. If known, the number of tenants receiving other types of state assistance and the types of state assistance;
- g. Types of services provided or arranged by the owner, lessee, manager or an affiliated person or entity; frequency of services by type; and the name and contact information of the person or entity providing or arranging such services;
- h. Any assistance or supervision provided to tenants by the owner, lessee or manager;
- i. Method of rent payments, such as cash, check, or state assistance; and
- j. If known, the number of tenants with a power of attorney, guardian or conservator.

481—66.4(83GA,SF484) Complaints.

66.4(1) Complaints.

- a. The process for filing a complaint is as follows:
 - (1) Any person with a concern regarding the operation of a boarding home may file a complaint with the Department of Inspections and Appeals, Complaint/Incident Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083, or by use of the complaint hotline, telephone 1-877-686-0027. The Web site address is https://dia-hfd.iowa.gov/DIA_HFD/Home.do.
 - (2) When the nature of the complaint is outside of the department's authority, the department shall forward the complaint to the appropriate investigatory entity.
 - (3) If other state agencies receive a complaint that relates to boarding homes, the agencies shall forward the complaint to the department.
- b. The department shall act on anonymous complaints unless the department determines that the complaint is intended to harass the boarding home or is without a reasonable basis. If the department, upon preliminary review, determines that the complaint is intended to harass or is without a reasonable basis, the department may dismiss the complaint.

66.4(2) Content of complaint reports. The complaint shall include as much of the following information as possible: the complainant's name, address and telephone number; the complainant's relationship to the boarding home and tenant; and the reason for the complaint. The complainant's name shall be confidential information and shall not be released by the department.

66.4(3) Time frames for investigation of complaints. Upon receipt of a complaint made in accordance with this rule, the department shall make a preliminary review of the complaint to determine if probable cause exists to investigate the complaint. If probable cause exists, an investigation of the boarding home shall be initiated, as provided in rule 481—66.5(83GA,SF484), within 45 working days. If there is the likelihood of immediate danger, the department shall initiate an investigation of the boarding home within 2 working days of receipt. If there is an allegation of harm, the department shall initiate an investigation of the boarding home within 20 working days of receipt of the complaint.

66.4(4) Submission of all complaints to core multidisciplinary team. A copy of all complaints and the department's initial determination whether to investigate the complaint shall be sent to the core multidisciplinary agencies: the department of human services, the state fire marshal of the department of public safety, and the department of justice. If the department has determined not to initiate an

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

investigation, the members of the core multidisciplinary team may recommend the initiation of, and the department shall initiate, an investigation.

66.4(5) *Standard for determining whether a complaint is substantiated.* The department shall apply a preponderance of the evidence standard in determining whether a complaint is substantiated.

66.4(6) *Notification of the boarding home or alleged boarding home of results of investigation.* The department shall notify the boarding home or alleged boarding home, in writing, of the final report of the complaint investigation.

66.4(7) *Notification of the complainant of results of investigation.* The complainant, if known, shall be notified of the final findings of a complaint investigation. The complainant, if known, shall also be notified if the department determines not to investigate a complaint and shall receive an explanation of the department's decision.

481—66.5(83GA,SF484) Investigations.

66.5(1) *Initiation of investigations.* Investigations may be initiated because of a complaint or other information received by the department or upon referral from other agencies. If the department determines there is probable cause to believe a boarding home is an unregistered boarding home or a registered boarding home is not in compliance with state, federal or local statutes or rules, an investigation shall be initiated.

66.5(2) *Evaluation of allegations and initial multidisciplinary team.* If an investigation is initiated, the department shall evaluate the allegations to determine which local, state, and federal agencies to include in the initial multidisciplinary team. The department shall notify the agencies of the investigation and the allegations associated with the investigation. The department shall be the lead agency for the investigation unless the multidisciplinary team determines otherwise.

66.5(3) *Addition of other agencies.* The lead agency for the investigation may add other local, state, and federal agencies to the multidisciplinary team as is determined necessary. As a component of the coordinated interagency approach, all members of the multidisciplinary team shall share investigative findings.

66.5(4) *Final findings.* Each agency shall prepare final findings regarding the agency's investigation and submit these findings to the lead agency. The lead agency shall then prepare a consolidated final findings report, which shall be maintained by the department pursuant to the state's document retention policy.

66.5(5) *Post-investigation actions.* The agencies on the multidisciplinary team shall meet to determine the action to be taken as a result of the investigation. Each agency on the multidisciplinary team shall maintain the agency's individual report pursuant to the state's document retention policy. Investigative findings that are confidential under other state, federal, or local requirements shall not be included in the final report.

66.5(6) *Notification of law enforcement.* If the multidisciplinary team believes a criminal violation has occurred or is occurring, the lead agency shall notify the appropriate law enforcement entities.

481—66.6(83GA,SF484) Penalties. The director shall consider the following when determining whether to assess a penalty for violation of 2009 Iowa Acts, Senate File 484, sections 3 to 6 [Iowa Code chapter 135O], or rules adopted pursuant to 2009 Iowa Acts, Senate File 484, sections 3 to 6 [Iowa Code chapter 135O], and determining the amount of the penalty:

1. The duration of the noncompliance;
2. The nature of the noncompliance;
3. The response of the owner or lessee upon notification of noncompliance;
4. The number of tenants impacted; and
5. The impact to the tenants.

481—66.7(83GA,SF484) Public and confidential information.

66.7(1) *Public disclosure.* The following records are open and available for inspection:

- a. Registration forms and accompanying materials;

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

b. Final findings of investigations, unless otherwise confidential by law, such as investigative findings of the division of criminal investigation of the department of public safety or dependent adult abuse investigations;

c. Official notices of penalties.

66.7(2) Confidential information. Confidential information includes the following:

a. Information that does not comprise a final finding resulting from a complaint investigation or other investigation of the multidisciplinary team and its individual members;

b. Names of all complainants;

c. Names of tenants of a boarding home, identifying personal or medical information, copies of documentation appointing a legal representative, and the address of anyone other than an owner or lessee; and

d. Social security or employer identification numbers (EIN).

66.7(3) Redaction of confidential information. If a record normally open for inspection contains confidential information, the confidential information shall be redacted prior to an agency's providing the record for inspection.

These rules are intended to implement 2009 Iowa Acts, Senate File 484.

ARC 8071B**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 proposed amendments replace the current qualified allocation plan for the low-income housing tax credit program with the 2010 qualified allocation plan, 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 2010 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 15, 2009. Comments may be addressed to Carla Pope, Affordable Rental Production Director, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Carla Pope at (515)725-4901 or E-mailed to carla.pope@iowa.gov.

IOWA FINANCE AUTHORITY[265](cont'd)

The Authority will hold a public hearing on September 15, 2009, to receive public comments on these amendments and on the proposed 2010 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, telephone (515)725-4900.

The Authority anticipates that it may make changes to the 2010 qualified allocation plan based on comments received from the public.

These amendments are intended to implement Iowa Code sections 16.5(1)"r" and 16.52 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 ~~2009 Second Amended~~ 2010 Qualified Allocation Plan shall be the qualified allocation plan for the allocation of ~~2009~~ 2010 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 includes the plan, application, and the application instructions. 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 September 3, 2008.~~

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 ~~September 3, 2008~~ August 5, 2009. 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 8072B

IOWA FINANCE AUTHORITY[265]

Notice of Termination

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(1)"r," the Iowa Finance Authority terminates the rule making initiated by its Notice of Intended Action, published in the Iowa Administrative Bulletin on June 17, 2009, as **ARC 7851B**, to amend Chapter 19, "State Housing Trust Fund," Iowa Administrative Code.

Notice of Intended Action was published to solicit comments on an amendment to Chapter 19, "State Housing Trust Fund," Iowa Administrative Code, specifically the adoption of a new allocation plan for the local housing trust fund program. The amendment was also Adopted and Filed Emergency as **ARC 7850B**, published concurrently with the Notice of Intended Action. No public comment was received on the Notice of Intended Action published as **ARC 7851B**.

Subsequent to that publication, it was deemed necessary to make an additional material amendment to Chapter 19, specifically the adoption of new allocation plans for both the local housing trust fund program and the project-based housing program, which amendment was Noticed as **ARC 7895B**, as published in the Iowa Administrative Bulletin on July 1, 2009.

Because the Notice of Intended Action published as **ARC 7851B** has been superseded by the amendment to Chapter 19 that was Noticed as **ARC 7895B** and Adopted and Filed herein as **ARC 8073B**, effective September 30, 2009, the Authority is terminating the Notice of Intended Action published as **ARC 7851B**.

ARC 8082B**LABOR SERVICES DIVISION[875]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board hereby gives Notice of Intended Action to amend Chapter 80, "Boiler and Pressure Vessel Board Administrative and Regulatory Authority," Chapter 90, "Administration of the Boiler and Pressure Vessel Program," Chapter 91, "General Requirements for All Objects," Chapter 92, "Power Boilers," Chapter 93, "Miniature Boilers Installed Prior to September 20, 2006," Chapter 94, "Steam Heating Boilers, Hot Water Heating Boilers and Hot Water Supply Boilers," and Chapter 96, "Pressure Vessels," Iowa Administrative Code.

The proposed amendments update references to various national consensus codes; rescind unnecessary rules; change the requirements for combustion air; add rules pertaining to certificates of noncompliance issued by the Iowa centralized collection unit of the Iowa Department of Revenue; change the board membership; add definitions of "power boiler" and "unfired steam pressure vessel"; and make technical and editorial changes.

The purposes of these amendments are to update the rules due to statutory changes and changes in national codes; to implement changes identified by board members during the required rules review; to make the rules easier to read; to protect the safety of the public; and to implement legislative intent.

If requested in accordance with Iowa Code section 17A.4(1)"b" by the close of business on September 15, 2009, a public hearing will be held on September 16, 2009, at 1:30 p.m. in the Stanley Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)242-5869 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than September 16, 2009, to the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

These amendments are intended to implement Iowa Code chapters 89 and 272D and 2009 Iowa Acts, House File 720.

The following amendments are proposed.

ITEM 1. Amend subrule 80.3(2) as follows:

80.3(2) The eight appointed members of the board shall include:

a. One member who is a special inspector and who is employed by an insurance company and commissioned to inspect boilers and pressure vessels.

b. ~~Two members~~ One member from a certified employee organizations, one of whom organization who shall represent steamfitters.

c. Two members who are mechanical engineers who regularly practice in the area of boilers and pressure vessels.

d. One member who is a boiler and pressure vessel distributor.

e. One member who represents boiler and pressure vessel manufacturers.

f. One member who is a mechanical contractor engaged in the business of installation, renovation, and repair of boilers and pressure vessels.

LABOR SERVICES DIVISION[875](cont'd)

g. One member from a certified employee organization who shall represent boilermakers.

ITEM 2. Amend rule 875—90.2(89,261,252J), parenthetical implementation statute, as follows:

875—90.2(89,261,252J,272D) Definitions.

ITEM 3. Amend rule **875—90.2(89,261,252J,272D)**, definition of “Certificate of noncompliance,” as follows:

“Certificate of noncompliance” means ~~a certificate of noncompliance with child support payment obligations issued by the child support recovery unit, department of human services, pursuant to Iowa Code chapter 252J or a certificate of noncompliance with student loan repayment obligations issued by the college student aid commission pursuant to Iowa Code chapter 261;~~

1. A certificate of noncompliance issued by the child support recovery unit, department of human services, pursuant to Iowa Code chapter 252J;

2. A certificate of noncompliance issued by the college student aid commission pursuant to Iowa Code chapter 261; or

3. A certificate of noncompliance issued by the centralized collection unit of the department of revenue pursuant to Iowa Code chapter 272D.

ITEM 4. Rescind the definition of “Pressure vessel” in rule **875—90.2(89,261,252J,272D)**.

ITEM 5. Adopt the following **new** definitions of “Power boiler” and “Unfired steam pressure vessel” in rule **875—90.2(89,261,252J,272D)**:

“Power boiler” means a boiler in which steam or other vapor is generated at a pressure of more than 15 pounds per square inch or a water boiler intended for operation at pressures in excess of 160 pounds per square inch or temperatures in excess of 250 degrees Fahrenheit.

“Unfired steam pressure vessel” means a vessel or container used for the containment of steam pressure either internal or external in which the pressure is obtained from an external source.

ITEM 6. Rescind and reserve rule **875—90.4(89)**.

ITEM 7. Amend subrule 90.6(1) as follows:

90.6(1) General. All boilers and unfired steam pressure vessels covered by Iowa Code chapter 89 shall be inspected according to the requirements of the National Board Inspection Code ~~(2004)~~ (2007 with 2008 addenda), which is hereby adopted by reference. A division inspector or special inspector must perform the inspections.

ITEM 8. Amend subrule 90.6(7) as follows:

90.6(7) Imminent danger. If the labor commissioner determines that continued operation of an object constitutes an imminent danger that could seriously injure or cause death to any person, notice to immediately cease operation of that object shall be posted by the labor commissioner. Upon such notice, the owner shall immediately begin the necessary steps to cease operation of the object. The object shall not be used until the necessary repairs have been completed and the object has passed inspection. Operation of an object in violation of this subrule may result in further legal action pursuant to Iowa Code ~~section~~ sections 89.11 ~~as amended by 2007 Iowa Acts, House File 368, section 7, and Iowa Code section 89.14 as amended by 2007 Iowa Acts, House File 368, section 8 and 89.13.~~

ITEM 9. Amend subrule 90.9(9), introductory paragraph, as follows:

90.9(9) Procedures. The following procedures shall apply except in the event of revocation or suspension due to receipt of a certificate of noncompliance. In instances involving receipt of a certificate of noncompliance, the applicable procedures of Iowa Code chapter 252J, ~~or 261,~~ or 272D shall apply.

ITEM 10. Amend **875—Chapter 90**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 89, 252J, ~~and 261,~~ and 272D.

LABOR SERVICES DIVISION[875](cont'd)

ITEM 11. Rescind rule 875—91.1(89) and adopt the following **new** rule in lieu thereof:

875—91.1(89) Codes adopted by reference.

91.1(1) *ASME boiler and pressure vessel codes adopted by reference.* The ASME Boiler and Pressure Vessel Code (2007 with 2008 addenda) is adopted by reference. Regulated objects shall be designed and constructed in accordance with the ASME Boiler and Pressure Vessel Code (2007 with 2008 addenda) except for objects that meet one of the following criteria:

- a. An object with an ASME stamp and National Board Registration that establish compliance with an earlier version of the ASME Boiler and Pressure Vessel Code;
- b. An object within the scope of 875—Chapter 95;
- c. An object with an ASME stamp and National Board Registration that establish compliance with DIN, BSI, JIS, or CSA;
- d. A miniature boiler installed before March 31, 1967;
- e. A power boiler or unfired steam pressure vessel installed before July 4, 1951; or
- f. A steam heating boiler, hot water heating boiler, or hot water supply boiler installed before July 1, 1960.

91.1(2) *Inspection code adopted by reference.* The National Board Inspection Code (2007 with 2008 addenda) is adopted by reference, and reinstallations, installations, alterations, and repairs after November 25, 2009, shall comply with it.

91.1(3) *Electric code adopted by reference.* The National Electric Code (2008) is adopted by reference, and reinstallations and installations after November 25, 2009, shall comply with it.

91.1(4) *Piping codes adopted by reference.* The Power Piping Code, ASME B31.1 (2007 with 2008 addenda), and the Building Services Piping Code, ASME B31.9 (2008), are adopted by reference, and reinstallations and installations after November 25, 2009, shall comply with them up to and including the first valve.

91.1(5) *Control and safety device code adopted by reference.* Controls and Safety Devices for Automatically Fired Boilers (CSD-1) (2009) is adopted by reference, and reinstallations and installations after November 25, 2009, shall comply with it.

91.1(6) *Mechanical code adopted by reference.* Excluding Section 701.1, Chapters 2 and 7 of the International Mechanical Code (IMC) (2009) are adopted by reference effective January 1, 2010.

91.1(7) *Oil burning equipment code adopted by reference.* National Fire Protection Association Standard for the Installation of Oil Burning Equipment, NFPA 31 (2006), is adopted by reference.

91.1(8) *Fuel gas code adopted by reference.* National Fire Protection Association National Fuel Gas Code, NFPA 54 (2009), is adopted by reference.

91.1(9) *Liquified petroleum gas code adopted by reference.* National Fire Protection Association Liquified Petroleum Gas Code, NFPA 58 (2008), is adopted by reference.

91.1(10) *Boiler and combustion systems hazards code adopted by reference.* National Fire Protection Association Boiler and Combustion Systems Hazards Code, NFPA 85 (2007), is adopted by reference.

ITEM 12. Amend rule 875—91.4(89) as follows:

875—91.4(89) Blowoff equipment. The blowdown from an object that enters a sanitary sewer system or blowdown that is considered a hazard to life or property shall pass through ~~some form of~~ blowoff equipment that will reduce pressure and temperature. The temperature of the water leaving the blowoff equipment shall not exceed 150 degrees F, ~~and the Fahrenheit.~~ If the local jurisdiction has a temperature limit of less than 150 degrees Fahrenheit, the temperature of the water leaving the blowoff equipment shall comply with the limit set by the local jurisdiction. The pressure of the water leaving the blowoff equipment shall not exceed 5 psig. The blowoff piping and fittings between the object and the blowoff tank shall comply with the construction or installation code. All materials used in the fabrication of object blowoff equipment shall comply with the construction or installation code. All blowoff equipment shall be equipped with openings to facilitate cleaning and inspection.

LABOR SERVICES DIVISION[875](cont'd)

ITEM 13. Rescind and reserve subrules **91.6(2)** and **91.6(3)**.

ITEM 14. Rescind subrules **91.13(3)** to **91.13(7)**.

ITEM 15. Adopt the following **new** subrules 91.13(3) and 91.13(4):

91.13(3) National combustion air standards.

a. Installations and reinstallations. Installations and reinstallations shall comply with the edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC currently adopted at rule 875—91.1(89) or with the Iowa combustion air standard in subrule 91.13(4). However, compliance with one of the listed NFPA codes constitutes compliance with this rule only if the object burns the fuel covered by the NFPA.

b. Existing objects. An adequate supply of combustion air shall be maintained for all objects while in operation. Compliance with the current edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC as adopted at rule 875—91.1(89) or with subrule 91.13(4) constitutes compliance with this rule. Compliance with an earlier edition of NFPA 31, NFPA 54, NFPA 58, NFPA 85, or IMC constitutes compliance with this rule. However, compliance with one of the listed NFPA codes constitutes compliance with this rule only if the object burns the fuel covered by the NFPA. Compliance with an earlier version of Iowa's combustion air rule constitutes compliance with this rule. Earlier versions of Iowa's combustion air rule are available for reference at [http://www.iowaworkforce.org/labor/boiler_inspection .htm](http://www.iowaworkforce.org/labor/boiler_inspection.htm).

91.13(4) Iowa combustion air standard. A permanent source of outside air shall be provided for each room to permit satisfactory combustion of fuel and ventilation if necessary under normal operations. The minimum ventilation for coal, gas, or oil burners in rooms containing objects is based on the Btu's per hour, required air, and louvered area. The minimum net louvered area shall not be less than 1 square foot. The following table shall be used to determine the net louvered area in square feet:

INPUT (Btu's per hour)	MINIMUM AIR REQUIRED (cubic feet per minute)	MINIMUM LOUVERED AREA (net square feet)
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3
5,000,000	1,200	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8
8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

When mechanical ventilation is used, the supply of combustion and ventilation air to the objects and the firing device shall be interlocked with the fan so the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute, and the total air delivered shall be equal to or greater than shown above.

ITEM 16. Adopt the following **new** rules 875—91.18(89) to 875—91.20(89):

875—91.18(89) National Board registration. Except for cast iron boilers, cast aluminum boilers, and objects governed by 875—Chapter 95, all objects shall be registered with the National Board.

875—91.19(89) ASME stamp. Except for water heaters regulated by 875—Chapter 95, all objects shall bear the appropriate ASME stamp. Objects shall not be utilized in a manner inconsistent with the stamp.

LABOR SERVICES DIVISION[875](cont'd)

875—91.20(89) CSD-1 Report.

91.20(1) The installer shall complete a Manufacturer's/Installing Contractor's Report for ASME CSD-1 (CSD-1 Report) for each object except for the following:

- a. An object within the scope of 875—Chapter 95;
- b. An object within the scope of 875—Chapter 96; or
- c. A hot water supply boiler covered by ASME Section IV, Part HLW.

91.20(2) The owner shall make the CSD-1 Report available for inspection.

ITEM 17. Rescind rule 875—92.2(89) and adopt the following **new** rule in lieu thereof:

875—92.2(89) Codes adopted by reference. The codes listed in 875—Chapter 91 apply to objects covered by this chapter.

ITEM 18. Rescind and reserve rule **875—92.3(89)**.

ITEM 19. Amend **875—Chapter 93**, title, as follows:

MINIATURE POWER BOILERS INSTALLED PRIOR TO SEPTEMBER 20, 2006

ITEM 20. Rescind rule 875—93.2(89) and adopt the following **new** rule in lieu thereof:

875—93.2(89) Codes adopted by reference. The codes listed in 875—Chapter 91 apply to objects covered by this chapter.

ITEM 21. Amend rule 875—93.5(89) as follows:

875—93.5(89) Steam stop valves. Each steam line from a miniature power boiler shall be provided with a stop valve located as close to the boiler shell or drum as is practicable except when the boiler and steam receiver are operated as a closed system.

ITEM 22. Amend rule 875—93.6(89) as follows:

875—93.6(89) Water gages.

93.6(1) Miniature power boilers for operation with a definite water level shall be equipped with a glass water gage for determining the water level. The lowest permissible water level for vertical boilers shall be at a point one-third of the height of the shell above the bottom head or tube sheet. When the boiler is equipped with an internal furnace, the water level shall not be less than one-third of the length of the tubes above the top of the furnace tube sheet. In the case of small boilers operated in a closed system where there is insufficient space for the usual glass water gage, water level indicators of the glass bull's eye type may be used.

93.6(2) Miniature power boilers shall have the lowest visible part of the water gage glass located at least 1 inch above the lowest permissible water level specified by the manufacturer.

ITEM 23. Amend subrule 93.7(1) as follows:

93.7(1) Except for miniature power boilers operating without the extraction of steam, miniature power boilers shall be provided with at least one feed pump or other feeding device unless the boiler feed line is connected to a water main carrying sufficient pressure to feed the boiler. In the latter case, in lieu of a feeding device, a suitable connection or opening shall be provided to fill the boiler when cold. Such connection shall be no less than ½-inch pipe size for iron or steel pipe and ¼ inch for brass or copper pipe.

ITEM 24. Amend rule 875—93.8(89) as follows:

875—93.8(89) Blowoff. Miniature power boilers shall be equipped with a blowoff connection, not less than ½-inch pipe size, located to drain from the lowest water space practicable. The blowoff shall be equipped with a valve or cock not less than ½-inch pipe size.

LABOR SERVICES DIVISION[875](cont'd)

ITEM 25. Amend rule 875—93.9(89) as follows:

875—93.9(89) Washout openings. Miniature power boilers exceeding 12 inches internal diameter or having more than ten square feet of heating surface shall be fitted with not less than three brass washout plugs of 1-inch pipe size that shall be screwed into openings in the shell near the bottom. In miniature power boilers of the closed type system heated by removable internal electric heating elements, the openings for these elements when suitable for cleaning purposes may be substituted for washout openings. Boilers not exceeding 12 inches internal diameter and having less than ten square feet of heating surface need not have more than two 1-inch openings for cleanouts, one of which may be used for the attachment of the blowoff valve; these openings shall be opposite each other where possible. All threaded openings shall be opposite each other where possible. All threaded openings in the boiler shall be provided with a riveted or welded reinforcement to give four full threads therein.

Electric boilers of a design employing a removable top cover flange for inspection and cleaning need not be fitted with washout openings.

ITEM 26. Amend rule 875—93.10(89) as follows:

875—93.10(89) Fixtures and fittings. All valves, pipe fittings, and appliances connected to a miniature boiler shall be equal to at least the minimal requirements of the construction or installation code; and shall be rated for not less than the maximum allowable working pressure of the miniature power boiler; ~~and in.~~ In no case will shall the rating be for less than 125 pounds.

ITEM 27. Rescind rule 875—94.2(89) and adopt the following new rule in lieu thereof:

875—94.2(89) Codes adopted by reference. The codes listed in 875—Chapter 91 apply to objects covered by this chapter.

ITEM 28. Adopt the following new subrule 94.3(9):

94.3(9) Low-water fuel cutoff.

a. Each automatically fired hot water heating boiler shall have an automatic low-water fuel cutoff which has been designed for hot water service, and it shall be so located as to automatically cut off the fuel supply when the surface of the water falls to the level established.

b. As there is no normal waterline to be maintained in a hot water heating boiler, any location of the low-water fuel cutoff above the lowest safe permissible water level established by the boiler manufacturer is satisfactory.

c. A coil-type boiler or a watertube boiler requiring forced circulation to prevent overheating of the coils or tubes shall have a flow-sensing device installed in the outlet piping in lieu of the low-water fuel cutoff to automatically cut off the fuel supply when the circulating flow is interrupted.

ITEM 29. Rescind and reserve subrule **94.5(4)**.

ITEM 30. Amend **875—Chapter 96**, title, as follows:

UNFIRED STEAM PRESSURE VESSELS

ITEM 31. Rescind rule 875—96.1(89) and adopt the following new rule in lieu thereof:

875—96.1(89) Codes adopted by reference. The codes listed in 875—Chapter 91 apply to objects covered by this chapter.

ITEM 32. Amend paragraph **96.2(1)“a”** as follows:

a. The maximum allowable working pressure for code-stamped unfired steam pressure vessels shall be determined in accordance with the applicable provisions of the ASME Code or American Petroleum Institute ~~ASME~~ Code under which they were constructed and stamped.

ITEM 33. Amend paragraph **96.2(1)“b,”** introductory paragraph, as follows:

b. The maximum allowable working pressure on the shell of unfired steam pressure vessels without a code stamp shall be determined by the following equation.

LABOR SERVICES DIVISION[875](cont'd)

ITEM 34. Amend paragraph **96.2(1)“c”** as follows:

c. The maximum allowable working pressure for noncode pressure vessels subjected to external or collapsing pressure shall be determined by the ASME Code, Section VIII, ~~Divisions 1, 2 and 3 (1998 with 1999 and 2000 addenda).~~

ITEM 35. Amend subrule 96.2(2) as follows:

96.2(2) Factor of safety. The inspector shall increase the factor of safety if the conditions and safety of the unfired steam pressure vessel demand it.

ITEM 36. Amend subrule 96.2(3) as follows:

96.2(3) End closures. The maximum allowable working pressure permitted for formed heads under pressure shall be determined by using the formulas in ASME Code, Section VIII, ~~Divisions 1, 2 and 3 (1998 with 1999 and 2000 addenda).~~

ITEM 37. Amend subrule 96.2(4) as follows:

96.2(4) Safety appliances. Each unfired steam pressure vessel shall be protected by such safety and relief valves and indicating and controlling devices as will ensure its safe operation. Valves shall not readily be rendered inoperative. The relieving capacity of safety valves shall be such as to prevent a rise of pressure in the vessel of more than 10 percent above maximum allowable working pressure, taking into account the effect of static head. Safety valve discharges shall be carried to a safe place.

ARC 8085B**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 Barbering hereby gives Notice of Intended Action to amend Chapter 5, “Fees,” Chapter 21, “Licensure,” Chapter 23, “Barber Schools,” and Chapter 24, “Continuing Education for Barbers,” Iowa Administrative Code.

These proposed amendments implement a national computerized theory examination and a national practical examination. The proposed amendments also amend the continuing education requirement for barbers by requiring two of the eight hours of continuing education to cover Iowa barbering law and rules and sanitation. The amendments realign the fee structure to be consistent with cosmetology applicant fees. Amendments to fees reflect the outsourcing of the theory examination and the increased cost associated with administering a national practical examination.

Interested parties were provided an opportunity to comment on the proposed amendments prior to their publication. The proposed amendments were pre-noticed on May 26, 2009, and sent to barber schools and to individuals who have requested to be notified of revisions to the Board’s administrative rules. Comments were due on the pre-noticed amendments by June 30, 2009. The Board received no written comments on the proposed amendments.

Any interested person may make written comments on the proposed amendments no later than September 15, 2009, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail ebaird@idph.state.ia.us.

A public hearing will be held on Tuesday, September 15, 2009, 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.

These amendments are intended to implement Iowa Code chapters 21, 147, 158 and 272C.

The following amendments are proposed.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Amend subrules 5.2(1) and 5.2(4) as follows:

5.2(1) License fee for an initial license to practice barbering, license by endorsement, license by reciprocity or an instructor's license is ~~\$120~~ \$60.

5.2(4) ~~Examination~~ Practical examination fee is ~~\$60~~ \$75.

ITEM 2. Amend rule ~~645—21.1(158)~~, definition of "Examination," as follows:

"Examination" means ~~the examination administered by the board, which includes written and practical components~~ any of the tests used by the board to determine minimum competency prior to the issuance of a barber or barber instructor license.

ITEM 3. Adopt the following **new** definitions of "NIC" and "Testing service" in rule ~~645—21.1(158)~~:

"NIC" means the National-Interstate Council of State Boards of Cosmetology, Inc.

"Testing service" means a national testing service selected by the board.

ITEM 4. Rescind rules 645—21.2(158) and 645—21.3(158) and adopt the following **new** rules in lieu thereof:

645—21.2(158) Requirements for licensure.

21.2(1) The following criteria shall apply to licensure:

a. Applicants shall complete a board-approved application form. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. The application and licensure fees shall be sent to the Board of Barbering, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. Applicants shall present proof of completion of the tenth grade or equivalent education. In the event the applicant is a refugee or immigrant from a country where high school records no longer exist, the applicant shall be considered to have met this requirement when the applicant submits an affidavit attesting to the fact that the applicant has met the tenth-grade requirement.

c. Applicants shall provide an official copy of the transcript or diploma sent directly from the school to the board showing proof of completion of training at a barber school licensed by the board. If the applicant graduated from a school that is not licensed by the board, the applicant shall direct the school to provide an official transcript showing completion of a course of study that meets the requirements of rule 645—23.8(158).

d. Applicants shall pass both the NIC theory examination and the NIC practical examination with a score of 70 percent or better on each examination.

e. Applicants shall provide verification of license(s) from every state in which the applicant has been licensed as a barber, sent directly from the state(s) to the Iowa board of barbering office.

f. Applications for a barber license must be postmarked at least 14 days prior to the NIC practical examination.

g. Licensees who were issued their licenses within six months prior to renewal shall not be required to renew their licenses until the renewal month two years later.

h. Incomplete applications that have been on file in the board office for more than two years shall be:

- (1) Considered invalid and shall be destroyed; or
- (2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

21.2(2) Foreign-trained barbers shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundation, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or World Education Services (WES) at (212)966-6311, electronically at www.wes.org or by writing to WES, P.O. Box 745, Old Chelsea Station, New York, NY 10113-0745. The professional curriculum must be equivalent to that stated in these rules. An applicant shall bear the expense of the curriculum evaluation.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a barber school in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

21.2(3) Requirements for an instructor's license. Applicants shall:

a. Complete all requirements stated in subrule 21.2(1), paragraphs "a" and "d";

b. Present proof of graduation from an accredited high school or the equivalent thereof;

c. Be licensed in the state of Iowa as a barber for not less than two years; and

d. Pass both the NIC instructor theory examination and the NIC instructor practical examination with a score of 70 percent or better on each examination.

21.2(4) Instructors who were issued their licenses within six months prior to renewal shall not be required to renew their licenses until the renewal month two years later.

21.2(5) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

21.2(6) An applicant who meets the requirements for an instructor's license except for the instructor examinations may apply for a temporary permit to be an instructor. The temporary permit shall be valid for a maximum of six months from the issue date of the permit and shall not be renewable.

645—21.3(158) Examination requirements for barbers and barber instructors.

21.3(1) *Theory examination.* Applicants shall contact the testing service directly to schedule the computer-based NIC theory examination. The fee for scheduling the written theory examination shall be paid directly to the testing service. This fee is not included in the licensure fee and practical examination fee identified in 645—subrules 5.2(1) and 5.2(4).

21.3(2) *Practical examination.* Applicants who have completed the application process and passed the NIC theory examination with a score of 70 percent or better shall be eligible to sit for the NIC practical examination administered by the board.

a. Application, supporting documentation, and licensure and practical examination fees required by the board shall be postmarked at least 14 days prior to the scheduled NIC practical examination date.

b. The board shall send a notice of the date and time of the practical examination to the address on record.

c. Applicants are required to receive a passing score of 70 percent on the practical examination to be eligible for licensure.

d. Applicants shall be notified in writing of the result of the practical examination.

e. Applicants who fail to appear for the practical examination must request in writing or by telephone to reschedule the examination. Examination fees are not refundable, but the rescheduled examination fee may be waived upon the applicant's showing of good cause for missing the previously scheduled examination. Proof of good cause shall be submitted to the board office with the request to reschedule the examination. The applicant shall be required to pay the reexamination fee if the applicant does not appear for the subsequent examination.

f. Persons who do not attain the passing score may reapply to take the practical examination. The examination fee cannot be refunded, and the applicant shall be required to pay the reexamination fee.

ITEM 5. Rescind subrule 21.5(3) and adopt the following **new** subrules 21.5(3) and 21.5(4):

21.5(3) Completes two hours of Iowa barbering laws and rules and sanitation.

21.5(4) Passes a national written and practical examination.

ITEM 6. Amend rule **645—21.7(158)**, numbered paragraph "2," as follows:

2. The applicant has met the requirements for licensure except for ~~the examination~~ passing the examinations required by the board. The temporary permit is valid from the date the application is granted for a maximum of six months and shall not be renewable.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 7. Amend subparagraph **21.16(3)“b”(3)** as follows:

(3) Verification of passing ~~the state examination~~ the examinations administered by the board within one year immediately prior to reactivation if the applicant does not have a current license and has not been in active practice in the United States during the past five years.

ITEM 8. Amend subrules 23.8(1) and 23.8(2) as follows:

23.8(1) Supervised practical instruction totaling 1,675 hours shall include:

Scalp care and shampooing
 Honing and stropping
 Shaving
 Facials, massage and packs
 Science of hair structure
 Haircutting
 Hair tonics
 Hair relaxing
 Hair coloring and hair body processing
 Hair styling
 Fitting of hairpieces
 Manicuring
 Artificial nails (all aspects)

Waxing

23.8(2) Demonstrations and lectures totaling 380 hours shall include:

Law, ethics, economics, equipment, shop management and history of barbering
 Sanitation, sterilization, personal hygiene and first aid
 Bacteriology
 Anatomy
 Skin, scalp, and hair and their common disorders
 Electricity, as applied to barbering
 Chemistry and pharmacology
 Scalp care
 Honing and stropping
 Shaving
 Facials, massage and packs
 Hair relaxing
 Science of hair structure
 Haircutting
 Hair tonics
 Instruments, soaps, shampoos, creams, lotions and tonics
 Nails

Waxing

ITEM 9. Amend subrule 24.2(1) as follows:

24.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 and ending on June 30 of each even-numbered year. Each biennium, each person who is licensed to practice as a barber in this state shall be required to complete a minimum of eight hours of continuing education ~~approved by the board that meet the requirements of rule 645—24.3(158,272C).~~ A minimum of two hours of the eight hours shall be in the content areas of Iowa barbering law and rules and sanitation. A licensee who is a barber instructor shall obtain four hours in teaching methodology in addition to meeting all continuing education requirements for renewal of the barber license.

ITEM 10. Adopt the following new paragraph **24.3(2)“c”**:

c. Two hours of continuing education per biennium must be specific to Iowa barbering law and administrative rules.

ARC 8058B**REAL ESTATE COMMISSION[193E]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 6, "Termination and Transfer," Iowa Administrative Code.

The proposed amendment to paragraph 6.2(1)"b" requires that a request for transfer submitted by a licensee to the licensee's current broker be signed and returned to the requesting licensee within 48 hours.

A public hearing will be held on September 15, 2009, at 1 p.m. in the Professional Licensing Conference Room, Second Floor, 1920 SE Hulsizer Road, Ankeny, Iowa, at which time persons may present their views on the proposed amendment either orally or in writing. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

Consideration will be given to all written suggestions or comments received before the end of the business day on September 15, 2009. Comments should be addressed to David Batts, Executive Officer, Iowa Real Estate Commission, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to David.Batts@iowa.gov.

This amendment is intended to implement Iowa Code section 543B.33.

The following amendment is proposed.

Amend paragraph **6.2(1)"b"** as follows:

b. Step 2. If a new affiliating broker has completed and signed step 1 of the ~~form~~ Application to Transfer, the releasing broker ~~must~~ shall, within 48 hours, make every reasonable effort to sign and date return the transfer form and attach the old license of the transferring licensee to the form to the requesting licensee. The releasing broker shall retain copies for records to demonstrate compliance with Iowa Code section 543B.33.

ARC 8055B**REAL ESTATE COMMISSION[193E]****Notice of Termination**

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin as **ARC 7799B** on June 3, 2009.

The rule-making process for Chapter 14 as it pertains to the Residential Seller Property Disclosure form is being terminated due to the need for more substantive changes. A new Notice of Intended Action for Chapter 14 is published herein as **ARC 8057B**.

ARC 8057B

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 14, "Seller Property Condition Disclosure," Iowa Administrative Code.

The proposed amendments to subrule 14.1(6) will require that Seller(s), Buyer(s), and a Real Estate Licensee representing the Buyer(s) acknowledge the delivery and receipt of the "Iowa Radon Home-Buyers and Sellers Fact Sheet" informational pamphlet provided by the Iowa Department of Public Health concerning radon gas. The amendments will also change the listed order of the items for which the Buyer(s) acknowledges receipt.

A public hearing will be held on September 15, 2009, at 9 a.m. in the Professional Licensing Conference Room, Second Floor, 1920 SE Hulsizer Road, Ankeny, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Consideration will be given to all written suggestions or comments received before the end of the business day on September 15, 2009. Comments should be addressed to David Batts, Executive Officer, Iowa Real Estate Commission, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to David.Batts@iowa.gov.

These amendments are intended to implement Iowa Code sections 543B.9 and 543B.18.

The following amendments are proposed.

ITEM 1. Amend subrule **14.1(6)**, Residential Property Seller Disclosure Statement, section entitled "Seller(s) Disclosure," as follows:

SELLER(S) DISCLOSURE:

Seller(s) discloses the information regarding this property based on information known or reasonably available to the Seller(s).

The Seller(s) has owned the property since ____/____/____. The Seller(s) certifies that as of the date signed this information is true and accurate to the best of my/our knowledge.

Seller(s) acknowledges requirement that Buyer(s) be provided with the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Public Health.

Seller_____ Seller_____
Date ____/____/____ Date ____/____/____

ITEM 2. Amend subrule **14.1(6)**, Residential Property Seller Disclosure Statement, section entitled "Buyer(s) Acknowledgment," as follows:

BUYER(S) ACKNOWLEDGMENT:

REAL ESTATE COMMISSION[193E](cont'd)

Buyer(s) acknowledges receipt of a copy of this Real Estate Disclosure Statement. This statement is not intended to be a warranty or to substitute for any inspection ~~the buyer(s)~~ Buyer(s) may wish to obtain.

Buyer(s) acknowledges receipt of the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Public Health.

Buyer _____ Buyer _____
Date ____/____/____ Date ____/____/____

ITEM 3. Amend subrule **14.1(6)**, Residential Property Seller Disclosure Statement, by adopting the following **new** section:

LICENSEE ACKNOWLEDGMENT:

Buyer(s) Agent acknowledges that Buyer(s) received the "Iowa Radon Home-Buyers and Sellers Fact Sheet" prepared by the Iowa Department of Public Health.

Buyer(s) Agent _____
Date ____/____/____

ARC 8046B

SECRETARY OF STATE[721]

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 47.1 and 17A.3, the Secretary of State gives Notice of Intended Action to amend Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

These proposed amendments are necessary due to technical changes made to Iowa's election laws by 2009 Iowa Acts, House File 475, effective July 1, 2009. In addition, these amendments remove the text of various Iowa Code sections reprinted throughout the chapter and replace the Iowa Code section text with references to the controlling statute. These amendments also revise some special election date provisions due to 2008 Iowa Acts, House File 2620, Division II, effective January 1, 2009. Finally, these amendments remove the text of several forms that the Secretary of State has prescribed but is not required to adopt by rule to make the forms easier for the public to find and use via posting on the Secretary of State's Web site.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 15, 2009. Written suggestions or comments should be directed to Sarah Reisetter, Elections Director, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State's office by telephone at (515)242-5071 or in person at the Secretary of State's offices on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by September 15, 2009.

SECRETARY OF STATE[721](cont'd)

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 8045B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code chapters 39, 47, 49 and 53.

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA

Public Notice

NOTICE OF OFFICIAL CONTRACT LIMITATION AMOUNT ADJUSTMENT COMMENCING SEPTEMBER 1, 2009, AND ENDING AUGUST 31, 2010

In accordance with Iowa Code subsection 8D.11(1)(c), the Iowa Telecommunications and Technology Commission (Iowa Communications Network) Executive Director hereby publishes the official adjusted contract limitation amount for the period commencing on September 1, 2009, and ending on August 31, 2010, of \$2,070,600.

The rate becomes effective on September 1, 2009. The rate was determined by applying the formula specified in the statute. According to the federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers decreased 1.4% from June 2008 to June 2009.

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:

John Gillispie, Executive Director
Iowa Telecommunications and Technology Commission
400 E. 14th Street
Des Moines, Iowa 50319
Telephone: (515)725-4707
E-mail: John.Gillispie@iowa.gov

TRANSPORTATION DEPARTMENT

Advisory Notice

Adjusted Bid Thresholds for City and County Highway, Bridge, and Culvert Construction, Reconstruction and Improvement Projects

Pursuant to the authority of Iowa Code section 314.1B, the Director of Transportation (Director) gives an advisory notice of adjusted bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects. The adjusted bid threshold values will become effective January 1, 2010.

The horizontal infrastructure bid threshold subcommittee, composed of three contractors, two county representatives, one city representative and the Director's designee, held a meeting on July 22, 2009, to review bid thresholds. After a review of the construction price index, the subcommittee made the following three adjustments to bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects:

1. The county bid threshold in Iowa Code section 309.40 will be adjusted to \$90,000 effective January 1, 2010.
2. The bid threshold in Iowa Code section 314.1, subsection 2, for cities with a population of 50,000 or less will be adjusted to \$48,000 effective January 1, 2010.

TRANSPORTATION DEPARTMENT[761](cont'd)

3. The bid threshold in Iowa Code section 314.1, subsection 2, for cities with a population of more than 50,000 will be adjusted to \$69,000 effective January 1, 2010.

All other bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects that are not addressed in this advisory notice will remain as currently stated in the appropriate Iowa Code sections.

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 James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for August is 5.75%.

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 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 11, 2009, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 0.20%
32-89 days	Minimum 0.35%
90-179 days	Minimum 0.30%
180-364 days	Minimum 0.50%
One year to 397 days	Minimum 0.85%
More than 397 days	Minimum 1.45%

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 8078B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.4(3), the Iowa Finance Authority hereby amends Chapter 3, “Multifamily Housing,” Iowa Administrative Code.

The purpose of this amendment is to conform paragraph 3.5(1)“k” to Iowa Code section 16.4(3) (as amended by 2007 Iowa Acts, chapter 54, section 16), which makes local contributing efforts optional rather than mandatory for projects assisted by the Authority, such as projects which receive multifamily housing loans from the Authority.

Chapter 3 does not provide for waivers. Persons seeking waivers may petition the Authority for a waiver in the manner set forth under Chapter 18.

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and participation would be unnecessary, impractical, or contrary to the public interest in that the normal notice and public participation process would delay implementation of the amendment, which brings the rule into conformity with statute.

The Authority also finds that this amendment confers a benefit on the public by bringing the rule into better conformity with statutory law and by allowing greater flexibility in the structuring of loans for the construction of multifamily housing projects for the benefit of low- and moderate-income Iowans. The Authority finds that this amendment should be implemented as soon as feasible in order to facilitate such loan extensions. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of this amendment is waived.

This amendment is intended to implement Iowa Code sections 16.5(1)“r” and 16.4(3).

This amendment became effective August 7, 2009.

The following amendment is adopted.

Amend subrule 3.5(1) as follows:

3.5(1) Projects eligible for assistance must meet the following criteria, in addition to any specific requirements applicable to a particular category of loan as set forth in rule 265—3.6(16), 265—3.7(16), or 265—3.8(16), as applicable:

a. to j. No change.

k. A local contributing effort in an amount of at least up to 1 percent of the proposed loan ~~is~~ may be required by the authority, if feasible, for loans made under division I of this chapter, ~~and. If a local contributing effort is required,~~ evidence of the such local contributing effort shall be presented to the authority.

l. to o. No change.

[Filed Emergency 8/6/09, effective 8/7/09]

[Published 8/26/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/26/09.

ARC 8079B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.133, the Iowa Finance Authority hereby amends Chapter 26, “Water Pollution Control Works and Drinking Water Facilities Financing,” Iowa Administrative Code.

The purpose of this amendment is to allow for extensions for planning and design loans.

Chapter 26 does not provide for waivers. Persons seeking waivers may petition the Authority for a waiver in the manner set forth under Chapter 18.

IOWA FINANCE AUTHORITY[265](cont'd)

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and participation would be unnecessary, impractical, or contrary to the public interest in that the normal notice and public participation process would delay implementation of the amendment, which benefits borrowers of planning and design loans by providing a mechanism to permit extensions of such loans under the program.

The Authority also finds that this amendment confers a benefit on the public by allowing extensions of planning and design loan repayments by public entity borrowers. The Authority finds that this amendment should be implemented as soon as feasible in order to facilitate such loan extensions. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of this amendment is waived.

This amendment is intended to implement Iowa Code sections 16.5(1)“r” and 16.133.

This amendment became effective August 7, 2009.

The following amendment is adopted.

Amend subrules 26.6(2) and 26.6(5) as follows:

26.6(2) Duration. Planning and design loans may not have a duration of longer than three years from their date of execution, unless the director provides written consent to a longer term.

26.6(5) Repayment. If the recipient does not execute an SRF construction loan, the planning and design loan shall be paid in full at the end of the three-year term, unless the loan term is extended by written consent of the director.

[Filed Emergency 8/6/09, effective 8/7/09]

[Published 8/26/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/26/09.

ARC 8045B

SECRETARY OF STATE[721]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State amends Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

These amendments are necessary due to technical changes made to Iowa’s election laws by 2009 Iowa Acts, House File 475, effective July 1, 2009. In addition, these amendments remove the text of various Iowa Code sections reprinted throughout the chapter and replace the Iowa Code section text with references to the controlling statute. These amendments also revise some special election date provisions due to 2008 Iowa Acts, House File 2620, Division II, effective January 1, 2009. Finally, these amendments remove the text of several forms that the Secretary of State has prescribed but is not required to adopt by rule to make the forms easier for the public to find and use via posting on the Secretary of State’s Web site.

Pursuant to Iowa Code section 17A.4(3), the Secretary of State finds that notice and public participation are unnecessary because several of the amendments to these rules are required due to changes in the law effective January 1 and July 1, 2009. The other amendments are technical in nature.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Secretary of State further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments be made effective upon filing. The normal effective date should be waived because 2009 Iowa Acts, House File 475, became effective July 1, 2009. These amendments confer a benefit upon the voting public by conforming the rules in Chapter 21 to 2009 Iowa Acts, House File 475.

These amendments are also published herein under Notice of Intended Action as **ARC 8046B** to allow for public comment.

These amendments are intended to implement Iowa Code chapters 39, 47, 49, and 53.

These amendments became effective July 27, 2009.

The following amendments are adopted.

SECRETARY OF STATE[721](cont'd)

ITEM 1. Amend subrule 21.1(6) as follows:

21.1(6) *Postponement of election.* An election, other than an election at which a federal office appears on the ballot, may be postponed until the following Tuesday. If the election involves more than one precinct, the postponement must include all precincts within the political subdivision. If the election is postponed, ballots shall not be reprinted to reflect the modification in the election date. The date of the close of voter ~~registration~~ preregistration by mail for the election shall not be extended. Precinct election registers prepared for the original election date may be used or reprinted at the commissioner's discretion.

On the day that the postponed election is actually held, all election day procedures must be repeated.

ITEM 2. Amend subrule 21.1(7) as follows:

21.1(7) *Absentee voting in postponed elections.* Absentee ballots shall be delivered to voters pursuant to Iowa Code section 53.22 until the date the election is actually held. Absentee ballots shall be accepted at the commissioner's office until the hour the polls close on the date the election is held. Absentee ballots which are postmarked no later than the day before the election is actually held shall be accepted if received no later than the time prescribed by the Iowa Code for the usual conduct of the election. The time shall be calculated from the date on which the election is held, not the date for which the election was originally scheduled. However, if absentee ballots have been tabulated before the election is postponed, the absentee ballots shall be sealed in an envelope by the absentee and special voters precinct board and stored securely until the date the election is actually held. The sealed envelopes shall be opened by the absentee and special voters precinct board on the date the election is actually held, counters on the tabulating equipment (if any) shall be reset to zero, and all absentee ballots tabulated on the original election date shall be retabulated.

ITEM 3. Amend subrule 21.1(8) as follows:

21.1(8) *Special Absentee and special voters precinct board in postponed elections.* The ~~special absentee and special voters~~ precinct board shall meet to consider ~~special~~ provisional ballots at the times specified in Iowa Code sections 50.22 and 52.23, calculated from the date the election is held. No absentee ballots shall be counted until the date the election is held.

ITEM 4. Amend subrule 21.1(9) as follows:

21.1(9) *Canvass of votes in postponed elections.* The canvass of votes shall also be rescheduled for one week ~~following~~ after the original ~~originally scheduled~~ canvass date.

ITEM 5. Amend subrule 21.1(10) as follows:

21.1(10) *Postponements made on election day.* If the emergency is declared while the polls are open and the decision is made to postpone the election, each precinct polling place in the political subdivision shall be notified to close its doors and to halt all voting immediately. People present in the polling place who are waiting to vote shall not be given ballots ~~or admitted to the voting machines, as appropriate.~~ People who have received and marked their ballots shall deposit them in the ballot box; unmarked ballots may be returned to the precinct election officials.

The precinct election officials shall seal all ballots which were cast before the declaration of the emergency in secure containers. The containers shall be clearly marked as ballots from the postponed election. If it is safe to do so, the ballot containers, election register, and other election supplies shall be transported to the commissioner's office. The ballots shall be stored in a secure place. If it is unsafe to travel to the commissioner's office, the chairperson of the precinct election board shall see that the ballots and the election register are securely stored until it is safe to return them to the commissioner. If no contest is pending six months after the canvass for the election is completed, the unopened, sealed ballot containers shall be destroyed.

If ~~voting machines or~~ automatic tabulating equipment is used, the ~~machines or~~ automatic tabulating equipment shall be closed and sealed without printing the results. Before the date the election is held, the ~~machines or~~ automatic tabulating equipment shall be reset to zero. ~~Any documents~~ Documents showing the progress of the count, ~~including paper records required by 2007 Iowa Acts, Senate File 369, section 7, subsection 2, if any,~~ shall be sealed in an envelope and stored. No one shall reveal the progress of the

SECRETARY OF STATE[721](cont'd)

count. After six months, the sealed envelope containing the vote totals shall be destroyed if no contest is pending.

ITEM 6. Amend subrule 21.1(11), introductory paragraph, as follows:

21.1(11) *Records kept.* The state commissioner of elections shall maintain records of each emergency declaration. The records of emergency declarations for federal elections shall be kept for 22 months, and records for all other elections shall be kept for six months following the election. The records shall include the following information:

ITEM 7. Amend paragraph **21.1(12)“b”** as follows:

b. If a federal or state court order ~~or any other order~~ extends the time established for closing the polls pursuant to Iowa Code section 49.73, any person who votes after the statutory hour for closing the polls shall vote only by casting a provisional ballot pursuant to Iowa Code section 49.81. Provisional ballots cast after the statutory hour for closing the polls shall be sealed in a separate envelope from provisional ballots cast during the statutory polling hours. The absentee and special voters precinct board shall tabulate and report the results of the two sets of provisional ballots separately.

ITEM 8. Rescind subrule **21.1(13)**.

ITEM 9. Amend subrule 21.1(14) as follows:

~~**21.1(14)**~~ **21.1(13) *Military emergencies.*** A voter who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and Iowa Code chapter 53, division II, “Absent Voting by Armed Forces,” may return an absentee ballot via electronic transmission only if the voter is located in an area designated by the U.S. Department of Defense to be an imminent danger pay area. ~~The list of imminent danger pay areas can be found at www.defenselink.mil/comptroller/fmr/07a/07a_10.pdf.~~ Procedures for the return of absentee ballots by electronic transmission are described in subrule 21.320(4).

ITEM 10. Amend subrule 21.1(15) as follows:

~~**21.1(15)**~~ **21.1(14) *Election contest emergency.*** If an election contest court finds that there were errors in the conduct of an election which make it impossible to determine the result of the election, the contest court shall notify the state commissioner of elections of its finding. The state commissioner shall order a ~~new~~ repeat election to be held. The repeat election date shall be set by the state commissioner. The repeat election shall be conducted under the state commissioner’s supervision.

The repeat election shall be held at the earliest possible time, but it shall not be held earlier than 14 days after the date the election was set aside. Voter registration, publication, equipment testing and other applicable deadlines shall be calculated from the date of the repeat election.

The repeat election shall be conducted under the same procedures required for the election that was set aside, except that all known errors in preparation and procedure shall be corrected. The nominations from the initial election shall be used in the repeat election unless the contest court specifically rejects the initial nomination process in its findings. Precinct election officials for the repeat election may be replaced at the discretion of the auditor.

The following materials prepared for the original election shall be used or reconstructed for the repeat election:

Ballots (showing the date of repeat election). This may be stamped on ballots printed for the original election.

Notice of election (showing the date of repeat election).

ITEM 11. Amend rule 721—21.2(47) as follows:

~~**721—21.2(47) *Fa*esimile documents**~~ **Electronic submission of absentee ballot applications and affidavits of candidacy.** ~~Certain documents~~ Absentee ballot applications and affidavits of candidacy may be submitted ~~via faesimile transmission~~ electronically using either fax or E-mail.

21.2(1) *Fa*esimile documents *Electronic copies of absentee ballot applications and affidavits of candidacy accepted for filing.* Assuming that all other legal requirements are met, ~~the following documents~~ absentee ballot applications and affidavits of candidacy required by Iowa Code chapters 43,

SECRETARY OF STATE[721](cont'd)

44, 45, 161A, 260C, 277, 376 and 420 may be submitted by facsimile machine electronically by either fax or E-mail if presented to the appropriate filing officer as facsimiles an exact copy of the original and if the submission is in compliance with subrule 21.2(2) is complied with.

~~a. — Affidavits of candidacy required by Iowa Code chapters 43, 44, 45, 161A, 260C, 277, 376, and 420.~~

~~b. — Applications for absentee ballots pursuant to Iowa Code chapter 53.~~

~~c. — Certificates of nomination by convention under Iowa Code chapters 43, 44 and 54.~~

~~d. — Judicial declarations of candidacy required under Iowa Code chapter 46.~~

~~e. — Lists of presidential electors required by Iowa Code chapters 43 and 54.~~

~~f. — Notices of intent to contest elections filed under Iowa Code chapters 61, 62 and 376.~~

~~g. — Objections to nomination papers filed under Iowa Code chapters 43, 44, and 277.~~

~~h. — Resignation notice by elected or appointed officials filed under Iowa Code section 69.4.~~

~~i. — Requests for recounts filed under Iowa Code chapters 43 and 50.~~

~~j. — Withdrawal notices by candidates filed under Iowa Code chapters 43, 44, 50.46 and 277.~~

~~k. — Abstracts of votes filed with the state commissioner of elections.~~

21.2(2) Original documents absentee ballot applications. The original ~~copy of documents~~ absentee ballot application submitted by ~~facsimile machine~~ electronically shall also be filed mailed to the commissioner. The original shall be mailed to the appropriate commissioner. The envelope bearing the original document absentee ballot application shall be postmarked not later than ~~the last day to file the document~~ the Friday before the election. This subrule shall not apply to documents submitted electronically by UOCAVA voters pursuant to rule 721—21.320(53).

~~a. The filing shall be void voter's absentee ballot shall be rejected by the absentee and special voters precinct board if the original of a document absentee ballot application filed by facsimile machine electronically is not received within seven days after the filing deadline for the original document in the mail by the time the polls close on election day.~~

~~b. The filing shall be void voter's absentee ballot shall be rejected by the absentee and special voters precinct board if the postmark on the envelope containing the original document absentee ballot application is later than the filing deadline date the Friday before the election.~~

~~c. — If a filing is voided because the original of a document submitted by facsimile machine was postmarked too late or arrives too late, the person who filed the document shall be notified immediately in writing.~~

21.2(3) Documents not acceptable by facsimile. Only the original of the following documents will be accepted for filing:

~~a. — Absentee ballots and any affidavit required to accompany an absentee ballot under Iowa Code chapter 53. This subrule shall not apply to documents submitted electronically by UOCAVA voters pursuant to rule 21.320(53).~~

~~b. — Nomination petitions filed under Iowa Code chapters 43, 45, 161A, 277, 280A, and 376.~~

21.2(3) Original affidavits of candidacy. The original copy of an affidavit of candidacy submitted electronically shall also be filed with the appropriate commissioner. The envelope bearing the original affidavit (if any) shall be postmarked not later than the last day to file the document.

a. The filing shall be void if the original affidavit of candidacy filed electronically is not received within seven days after the filing deadline for the original affidavit of candidacy.

b. The filing shall be void if the postmark on the envelope containing the original affidavit of candidacy is later than the filing deadline.

c. If an affidavit of candidacy filing is voided because the original affidavit of candidacy submitted by facsimile machine was postmarked too late or arrives too late, the person who filed the document shall be notified immediately in writing.

This rule ~~implements is intended to implement~~ Iowa Code sections 43.6, 43.11, 43.16, 43.19, 43.21, 43.23, 43.24, 43.54, 43.56, 43.60, 43.67, 43.76, 43.78, 43.80, 43.88, 43.115, 43.116, 44.3, 44.4, 44.9, 44.16, 45.3, 45.4, 46.20, 47.1, and 47.2; ~~50.30, 50.31, 50.32, 50.33, 50.46, 50.48, sections 53.2, 53.8, 53.11, 53.17, 53.21, 53.22, 53.25, and 53.40, as amended by 2009 Iowa Acts, House File 475; sections~~

SECRETARY OF STATE[721](cont'd)

53.45, ~~54.5~~, 61.3, ~~62.5~~, ~~69.4~~, 161A.5, ~~260C.15~~, and 277.4; ~~277.5~~, sections 260C.15 and 376.4, as amended by 2009 Iowa Acts, House File 475; ~~376.10~~, and sections 376.11, and 420.130.

ITEM 12. Amend rule 721—21.3(49,48A) as follows:

721—21.3(49,48A) Voter identification documents.

~~21.3(1) *Optional identification.* A precinct election official may require identification from any person whom the official does not know.~~

~~21.3(2) *Required identification.* Precinct election officials shall require identification under the following circumstances:~~

~~a. — From any person offering to vote whose name does not appear on the election register as an active voter.~~

~~b. — From any person whose name appears on the election register as an inactive voter.~~

~~c. — From any person offering to vote whose name is not on the election register and who wants to report a change of address from one precinct to another within the same county.~~

~~d. — From any person who applies to register to vote on election day pursuant to 2007 Iowa Acts, House File 653, section 2.~~

~~21.3(3) 21.3(1) *Identification documents for persons other than election day registrants.* Unless the person is registering to vote at the polls on election day, precinct election officials shall accept the following identification documents listed in Iowa Code section 48A.8 from any person who is asked or required to present ~~ID~~ identification pursuant to Iowa Code section 49.77 as amended by 2009 Iowa Acts, House File 475.~~

~~a. — Current and valid photo identification card; or~~

~~b. — A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.~~

~~21.3(4) 21.3(2) *Identification for election day registrants.*~~

~~a. A person who applies to register to vote on election day shall provide proof of identity and residence pursuant to Iowa Code section 48A.7A in the precinct where the person is applying to register and vote.~~

~~(1) — Proof of identity must be a photo ID card that is current and valid and includes an expiration date. The following forms of identification are acceptable: an Iowa driver's license or nonoperator's ID, an out-of-state driver's license or nonoperator's ID, a United States passport, a United States military identification card, an identification card issued by an employer, or a student identification card issued by an Iowa high school or an Iowa postsecondary educational institution. If the photo ID does not show the person's address in the appropriate precinct, the person must show proof of residence.~~

~~(2) — Proof of residence may be any of the following documents provided that the document shows the person's name and address in the precinct: residential lease, property tax statement, utility bill, bank statement, paycheck, government check, or other government document.~~

~~b. No change.~~

~~21.3(5) 21.3(3) *Current and valid identification.*~~

~~a. "Current and valid" or "~~ID~~," "identification," for the purposes of this rule, means identification that meets the following criteria:~~

~~(1) The expiration date on the ~~ID~~ identification has not passed. An ~~ID~~ identification is still valid on the expiration date. An Iowa nonoperator's ~~ID~~ identification that shows "none" as the expiration date shall be considered current and valid.~~

~~(2) The ~~ID~~ identification has not been revoked or suspended.~~

~~b. A current and valid ~~ID~~ identification may include a former address.~~

~~21.3(6) 21.3(4) *ID Identification not provided.* A person who has been requested to provide identification and does not provide it shall vote only by provisional ballot pursuant to Iowa Code section 49.81. However, a person who is registering to vote on election day pursuant to 2007 Iowa Acts, House~~

SECRETARY OF STATE[721](cont'd)

~~File 653, section 2,~~ Iowa Code section 48A.7A may establish identity and residency in the precinct by written oath of a person who is registered to vote in the precinct.

This rule is intended to implement Iowa Code section 48A.7A and section 49.77, 2007 Iowa Acts, House File 653, section 2, as amended by 2009 Iowa Acts, House File 475, and P.L. 107-252, Section 303.

ITEM 13. Amend rule 721—21.4(49) as follows:

721—21.4(49) Changes of address at the polls. An Iowa voter who has moved from one precinct to another in the county where the person is registered to vote may report a change of address at the polls on election day.

21.4(1) To qualify to vote in the election being held that day, the voter shall:

- a. Go to the polling place for the precinct where the voter lives on election day.
- b. Complete a registration ~~by mail~~ form showing the person's current address in the precinct.
- c. Present proof of identity as required by subrule ~~21.3(3)~~ 21.3(1).

21.4(2) The officials shall require a person who is reporting a change of address at the polls to cast a ~~special~~ provisional ballot if the person's registration in the county cannot be ~~verified~~ confirmed. Registration may be ~~verified~~ confirmed by:

- a. Telephoning the office of the county commissioner of elections, or
- b. ~~Consulting~~ Reviewing a printed list of all registered voters who are qualified to vote in the county for the election being held that day, or
- c. ~~Consulting~~ Researching the county's voter registration records ~~by use of~~ using a computer.

21.4(3) In precincts where the voter's declaration of eligibility is included in the election register pursuant to rule 721—21.5(49) and Iowa Code section 49.77 ~~as amended by 2006 Iowa Acts, House File 2050, section 3,~~ the commissioner shall provide to each precinct one of the two following methods for recording changes of address:

a. The voter shall be ~~provided with a form that includes~~ given both the an eligibility declaration and the a voter registration form. ~~The instructions for the voter registration form shall be printed in large type on a separate sheet of paper and shall be provided to each person who completes a voter registration form at the polls. In lieu of signing in the election register, the voter who is reporting a change of address shall complete the required fields on both the eligibility declaration form and the registration form. The eligibility declaration may be printed on the same piece of paper as the voter registration form.~~

b. The commissioner shall provide blank lines on the election register for the precinct election officials to record the voter's name, address, and, if provided, telephone number, and, in primary elections, political party affiliation. The voter shall sign the election register next to the printed information. The voter shall also complete a voter registration form showing the voter's current address.

This rule is intended to implement Iowa Code section ~~49.77(3)~~ 49.77 as amended by 2009 Iowa Acts, House File 475.

ITEM 14. Amend rule 721—21.5(49) as follows:

721—21.5(49) Eligibility declarations in the election register. To compensate for the absence of a separate declaration of eligibility form, the commissioner shall provide to each precinct a voter roster with space for each person who appears at the precinct to vote to print the following information: first and last name, address, and, at the voter's option, telephone number, and, in primary elections, political party affiliation.

The roster forms shall include the name and date of the election and the name of the precinct, and may be provided on paper that makes carbonless copies. If ~~the~~ a multicopy form is used, the commissioner shall retain the original copy of the voter roster with other records of the election.

This rule is intended to implement Iowa Code section 49.77 ~~as amended by 2006 Iowa Acts, House File 2050, section 3.~~

SECRETARY OF STATE[721](cont'd)

ITEM 15. Amend subrule 21.7(2) as follows:

21.7(2) Precinct election officials shall verify that each person who attempts to attest to the identity and residence of a person who is registering to vote on election day is a registered voter in the precinct and has not attested for any other voter in the election. The officials shall note in the ~~“remarks” column of the~~ election register that the person has attested for an election day registrant.

ITEM 16. Rescind rule 721—21.8(48A) and adopt the following **new** rule in lieu thereof:

721—21.8(48A) Notice to election day registrant. The commissioner shall send to each person who registers to vote on election day, pursuant to Iowa Code section 48A.7A, an acknowledgment of the registration by nonforwardable mail. If the postal service returns the acknowledgment as undeliverable, the commissioner shall send a notice to the voter by forwardable mail. The notice shall be substantially in the form titled “Notice to Election Day Registrant” posted on the state commissioner’s Web site.

This rule is intended to implement Iowa Code sections 48A.7A and 48A.26A.

ITEM 17. Rescind subrule 21.10(1) and adopt the following **new** subrule in lieu thereof:

21.10(1) Application form. The application shall be substantially in the form titled “Application for Political Party Status” posted on the state commissioner’s Web site.

ITEM 18. Amend rule 721—21.25(50) as follows:

721—21.25(50) Administrative recounts. When the commissioner suspects that voting equipment used in the election malfunctioned or that programming errors may have affected the outcome of the election, the commissioner may request an administrative recount after the day of the election but not later than three days after the canvass of votes. The request shall be made in writing to the board of supervisors explaining the nature of the problem and listing the precincts to be recounted and which offices and questions shall be included in the administrative recount. The board of supervisors shall respond as soon as possible after receipt of the commissioner’s request.

The recount shall be conducted by members of the ~~special absentee and special voters~~ precinct board following the provisions of Iowa Code section 50.48 as amended by ~~2007 Iowa Acts, Senate File 369, section 3~~ 2009 Iowa Acts, House File 475, Iowa Code section 50.49 and 721—Chapter 26. ~~The recount board may use a computer program board which was not used in the election to compare with the suspected defective one.~~ The commissioner may use different memory cards for the recount and shall retain the information on the memory cards used in the election pursuant to 721—subrule 22.51(13). The commissioner may also use different election definition files if the commissioner believes the original election definition files were flawed. If the commissioner uses different election definition files for the recount, the commissioner shall also retain the election definition files for the election as required by 721—subrule 22.51(14).

~~If direct recording electronic voting machines were used in the election, the paper record required by 2007 Iowa Acts, Senate File 369, section 7, subsection 2, shall be used in the recount. However, if the commissioner believes or knows that the paper records produced from a machine have been compromised due to damage, mischief, malfunction, or other cause, the printed ballot images produced from the internal audit log for that machine shall be the official record used in the recount. In addition to the external paper record, the internal audit log required by 2007 Iowa Acts, Senate File 369, section 7, subsection 1, paragraph “k,” shall be available for use in the recount and shall be used if the paper record has been compromised.~~

This rule is intended to implement Iowa Code section 50.48 as amended by ~~2007 Iowa Acts, Senate File 369, section 3~~ 2009 Iowa Acts, House File 475, and Iowa Code section 50.49.

ITEM 19. Rescind subrule 21.50(4) and adopt the following **new** subrule in lieu thereof:

21.50(4) Standards for determining polling place accessibility. The survey form available on the state commissioner’s Web site titled “Polling Place Accessibility Survey” shall be used to evaluate polling places for accessibility to persons with disabilities.

The term “off-street parking” used in the polling place accessibility survey means parking places in lots separated from the street and includes angle parking along the street if the accessible route from the

SECRETARY OF STATE[721](cont'd)

parking place to the polling place is entirely out of the path of traffic. Parking arrangements that require either the driver or passengers of the vehicle to go into the traveled part of the street are not accessible.

An access aisle at street level that is at least 60 inches wide and the same length as each accessible parking space shall be provided. An accessible public sidewalk curb ramp shall connect the access aisle to the continuous passage to the polling place. At least one parking place shall be van-accessible with a 96-inch access aisle connected to the continuous passage to the polling place by an accessible public sidewalk curb ramp. Two accessible parking spaces may share a common access aisle.

ITEM 20. Amend paragraph **21.50(6)“c”** as follows:

c. A copy of the Polling Place Accessibility Survey Form for any other buildings that were surveyed and rejected as possible polling place sites for this precinct (if any).

ITEM 21. Rescind subrule 21.50(7) and adopt the following **new** subrule in lieu thereof:

21.50(7) Application form. The form posted on the state commissioner’s Web site titled “Temporary Waiver of Accessibility Requirements” shall be used to apply for a temporary waiver of accessibility requirements.

ITEM 22. Amend rule 721—21.75(49) as follows:

721—21.75(49) Voting centers for certain elections. The commissioner may establish voting centers for the regular city election, city primary election, city runoff election, regular school election, and special elections.

21.75(1) No change.

21.75(2) Minimum requirements.

a. *Establishment.* One or more voting centers may be established in lieu of precinct polling places for the elections at which the use of voting centers is permitted. Regular polling place sites that are accessible to people with disabilities may be used as voting centers for any election at which the use of voting centers is permitted. Other suitable locations may also be used.

b. ~~*Choices.* Location of voting centers. Regular polling place sites that are accessible to people with disabilities may be used as voting centers for any election at which the use of voting centers is permitted. Other suitable locations may also be used.~~ If voting centers are established for an election, at least one voting center must be located within the boundaries of the political subdivision for which the election is being conducted. At the commissioner’s discretion, additional vote centers may be established as long as the voting center is located within the boundaries of the political subdivision for which the election is being conducted.

c. No change.

21.75(3) Hours. Voting center hours shall be the same as permitted for an election pursuant to Iowa Code Supplement section 49.67 ~~49.73~~. ~~Except for school elections, a voting center that serves a jurisdiction which includes both unincorporated territory and a city with a population in excess of 3500 shall open at 7 a.m.~~

21.75(4) No change.

21.75(5) Posting notices at regular polling places on election day. If voting centers are established in lieu of regular polling places for an election, the commissioner shall post a notice of voting center locations, not later than the hour at which the polls open on the day of the election, on each door to the usual polling place in the precinct. The notice shall remain posted until the polls have closed.

~~**21.75(5)**~~ **21.75(6) I-Voters use prohibited.** The commissioner shall not provide direct access from voting centers to the I-Voters system on election day.

21.75(7) Determining ballot rotations. For the purposes of determining ballot rotations pursuant to Iowa Code section 49.31 in an election for which the commissioner has established voting centers, the commissioner may use either precincts established pursuant to Iowa Code sections 49.3 to 49.5 or consolidated precincts established pursuant to Iowa Code section 49.11, subsection 3, paragraph “a.” If the commissioner uses consolidated precincts established pursuant to Iowa Code section 49.11, subsection 3, paragraph “a,” the commissioner shall use the same consolidated precincts used in the

SECRETARY OF STATE[721](cont'd)

last regularly scheduled election conducted for the political subdivision in which voting centers were not used.

~~21.75(6)~~ **21.75(8)** *Operation of voting centers.*

a. Election registers and voter lists. Each voting center shall have ~~a list~~ an election register containing the names, addresses and voter statuses of all registered voters who are eligible to vote in that election. The ~~voter list~~ election register may be a paper list or may be available on computers in an electronic format, rather than as an interactive connection to I-Voters.

b. No change.

c. Voters reporting address changes at voting centers. Any person who is already registered in the county and updates the person's voter registration address at a voting center shall show identification listed in Iowa Code section 48A.8. Persons unable to provide requested identification shall be offered a provisional ballot pursuant to Iowa Code section 49.81.

~~*e. d.*~~ *Ballots.* Each voting center shall have all ballot styles necessary to provide a ballot to any voter who is eligible to vote in the election for the jurisdiction served by the voting center.

~~*e.*~~ *Precinct election officials.* Voting centers shall be administered by a minimum of ~~five~~ three precinct election officials selected pursuant to Iowa Code sections 49.12 to 49.16. These officials shall be trained before each election and shall have specific instructions regarding the differences between voting centers and polling places.

f. Ballot boxes used with optical scan voting equipment at voting centers. The commissioner may instruct two precinct election officials not of the same political party to open the ballot box periodically throughout election day to ensure the ballots are stacking evenly in the ballot box to prevent a voting equipment malfunction. The precinct election officials charged with inspecting the ballot box shall ensure the ballot box is locked and secured at all times. As an alternative to this procedure, the commissioner may supply any voting center with additional ballot boxes and the precinct election officials may move the optical scan voting equipment to a new ballot box if necessary. All ballot boxes containing voted ballots shall be locked and secured by the precinct election officials at all times.

~~21.75(7)~~ **21.75(9)** *Postelection review of voter participation.*

a. Within ~~30~~ 45 days after the election, the commissioner shall review the signed declarations of eligibility or the signed election registers from each voting center, and if any person is found to have voted in more than one voting center in the election, the commissioner shall immediately notify the county attorney.

b. The notice to the county attorney shall include a copy of the person's voter registration record and copies of the declarations of eligibility signed by the voter. The notice shall also include a reference to 2008 Iowa Acts, House File 2620, section 23(1A) "*d*," which reads as follows: "*d*. Pursuant to section 39A.2, subsection 1, paragraph "b", subparagraph (3), a person commits the crime of election misconduct in the first degree if the person knowingly votes or attempts to vote at more than one voting center for the same election." The notice shall also include a reference to Iowa Code section sections 39A.2(2); and 49.11(3) "*b*," which reads as follows: "2. Election misconduct in the first degree is a class 'D' felony."

This rule is intended to implement 2008 Iowa Acts, House File 2620, division II Iowa Code sections 49.9 and 49.11.

ITEM 23. Amend subrule 21.200(2) as follows:

21.200(2) The order of placement on the ballot for each local public measure to be voted upon at a single election shall be determined by the commissioner, and a letter shall be assigned to each local public measure by the commissioner.

~~*a.*~~ ~~The letter assigned by the commissioner to each local public measure to appear on a ballot for a single election shall be printed on the ballot immediately preceding and above the words "Shall the following public measure be adopted?"~~

~~*b. a.*~~ The letter assigned by the commissioner shall be printed on the ballot at least 1/8 of an inch high in the designated place.

SECRETARY OF STATE[721](cont'd)

~~e.~~ *b.* Even if only one public measure is to appear on a ballot to be voted upon at a single election, an identifying letter shall be assigned by the commissioner and shall be printed on the ballot in the prescribed manner.

ITEM 24. Rescind rule 721—21.300(53) and adopt the following **new** rule in lieu thereof:

721—21.300(53) Satellite absentee voting stations.

21.300(1) Establishment of stations. Satellite absentee voting stations may be established by the county commissioner of elections or by a petition of eligible electors of the jurisdiction conducting the election.

a. Satellite absentee voting stations established by the county commissioner. The county commissioner of elections may designate locations in the county for satellite absentee voting stations. Satellite absentee voting stations established by the commissioner shall be accessible to elderly and disabled voters. Satellite absentee voting stations must also be established so as to provide for voting in secret and ballot security.

b. Satellite absentee voting stations established after receipt of a valid petition. A petition requesting a satellite absentee voting station shall be substantially in the form titled “Petition Requesting Satellite Absentee Voting Station” available on the state commissioner’s Web site. If the commissioner receives a petition requesting a satellite absentee voting station on or before the petition deadline set forth in Iowa Code section 53.11, the commissioner shall determine the validity of the petition within 24 hours. A petition requesting a satellite absentee voting station is valid if it contains signatures of not less than 100 eligible electors of the jurisdiction conducting the election. Electors signing the petition must include their signature, house number, street, and date the petition was signed. Signatures on lines not containing all of the required information shall not be counted. The heading on each page of the petition shall include the satellite location requested and the election name or date for which the location is requested. Signatures on petition pages without the required heading shall not be counted.

c. Mandatory rejection of certain satellite absentee voting stations. Otherwise valid petitions for satellite absentee voting stations shall be rejected within four days of the commissioner’s receipt of the petition if:

- (1) The site requested is not accessible to elderly and disabled voters,
- (2) The site requested has other physical limitations that make it impossible to meet the requirements for ballot security and secret voting, or
- (3) The owner of the site refuses permission to locate the satellite absentee voting station at the site requested on the petition.

d. Discretionary rejection of certain satellite absentee voting stations. Otherwise valid petitions for satellite absentee voting stations may be rejected within four days of the commissioner’s receipt of the petition if:

- (1) A petition is received requesting satellite voting for a city runoff election and a special election is scheduled to be held between the regular city election and a city runoff election.
- (2) The owner of the site demands payment for its use.

e. Provision of ballots. Only ballots from the county in which the site is located may be provided at the satellite absentee voting station. Ballots must be provided for the precinct in which the satellite absentee voting station is located; however, it is not necessary to provide ballots from all of the precincts in the political subdivision for which the election is being conducted.

21.300(2) Notice provided. Notice shall be published at least seven days before the opening of any satellite absentee voting station. If more than one satellite absentee voting station will be provided, a single publication may be used to notify the public of their availability. If it is not possible to publish the notice at least seven days before the station opens due to the receipt of a petition, the notice shall be published as soon as possible.

A notice shall also be posted at each satellite absentee voting station at least seven days before the opening of the satellite absentee voting station. The notice shall remain posted as long as the satellite absentee voting station is scheduled for service. If it is not possible to post the notice at least seven days before the station opens due to the receipt of a petition, the notice shall be posted as soon as possible.

SECRETARY OF STATE[721](cont'd)

Both the published and posted notices shall include the following information:

- a. The name and date of the election for which ballots will be available.
- b. The location(s) of the satellite absentee voting station(s).
- c. The dates and times that the station(s) will be open.
- d. The precincts for which ballots will be available.
- e. An announcement that voter registration forms will be available for new registrations in the county and that changes in the registration records of people who are currently registered within the county may be made at any time.

If the satellite absentee voting station is located in a building with more than one public entrance, brief notices of the location of the satellite absentee voting station shall be posted on building directories, bulletin boards, or doors. These notices shall be posted no later than the time the station opens and shall be removed immediately after the satellite absentee voting station has ceased operation for an election.

21.300(3) Staff. Satellite absentee voting station workers may be selected from among the staff members of the commissioner's office, from the election board panel drawn up pursuant to Iowa Code sections 49.15 and 49.16, or a combination of these two sources. Compensation of workers selected from the election board panel shall be at the rate provided in Iowa Code section 49.20.

At least three people shall be assigned to work at each satellite absentee voting station; more workers may be added at the commissioner's discretion. All workers must be registered voters of the county, and for primary and general elections the workers must be registered with a political party; however, workers not affiliated with any party may be assigned to work at a satellite absentee voting station as long as not more than one-third of the workers assigned to a particular satellite absentee voting station are not affiliated with a political party. For all elections, no more than a simple majority of the workers shall be members of the same political party.

People who are prohibited from working at the polls pursuant to Iowa Code section 49.16 may not work at satellite absentee voting stations.

21.300(4) Oath required. Before the first day of service at a satellite absentee voting station, each worker shall take an oath substantially in the form titled "Election Official/Clerk Oath" available on the state commissioner's Web site. The oath must be taken before each election.

21.300(5) Suggested supplies for each satellite absentee voting station. A list of supplies suggested for each satellite absentee voting station is available on the state commissioner's Web site.

21.300(6) Ballot transport and storage. At the commissioner's discretion the ballots may be transported between the commissioner's office and the satellite absentee voting station by the workers who will be on duty that day, or by two people of different political parties who have been designated as couriers by the commissioner. It is not necessary for the same people to transport the ballots in both directions.

If the ballots are transported by the satellite absentee voting station workers, two workers who are members of different political parties and the ballots must travel together in the same vehicle.

Ballots may be stored at the satellite absentee voting station during hours when the station is closed only if they are kept in a locked cabinet or container. The cabinet must be located in a room which is kept locked when not in use. Voted absentee ballots must be delivered to the commissioner's office at least once each week.

21.300(7) Ballot receipts. Satellite absentee voting station workers shall sign receipts for the ballots taken to the satellite absentee voting site. The receipt shall be substantially in the form titled "Satellite Absentee Voting Station Ballot Record and Receipt" available on the state commissioner's Web site. A copy of the ballot record and receipt shall be retained in the commissioner's office. The original shall be sent with the ballots to the satellite absentee voting station.

21.300(8) Arrangement of the satellite absentee voting station. Protection of the security of the ballots (both voted and unvoted) and the secrecy of each person's vote shall be considered in the arranging of the satellite absentee voting station.

a. *Security.* The satellite absentee voting station shall be arranged so that ballots are protected against removal from the station by unauthorized persons.

SECRETARY OF STATE[721](cont'd)

b. Voting area. Voting booths without curtains shall be placed so that passersby and other voters may not walk directly behind a person using the booth. At least one voting booth must be accessible to the disabled. The booth must be designed to accommodate a person seated in a chair or wheelchair. A chair must be provided for voters who wish to sit down while voting or waiting in line.

c. Campaign signs and electioneering. No signs supporting or opposing any candidate or question on the ballot shall be posted on the premises of or within 300 feet of any outside door of any building affording access to a satellite absentee voting station during the hours when absentee ballots are available at the satellite absentee voting station. No electioneering shall be allowed within the sight or hearing of voters while they are at the satellite absentee voting station.

21.300(9) *Operation of the satellite absentee voting station.* At all times the satellite absentee voting station shall have at least two workers present to preserve the security of the ballots, both voted and unvoted.

21.300(10) *Voter registration at the satellite absentee voting station.* Each satellite absentee voting station shall provide forms necessary to register voters, including the oaths necessary to process voters registering pursuant to Iowa Code section 48A.7A, and to record changes in voter registration records. Workers shall also be provided with a method of verifying whether people applying for absentee ballots are registered voters.

The commissioner may provide a list of registered voters in the precincts served by the station. The list may be on paper or contained in a computerized data file.

As an alternative, the commissioner may provide a computer connection with the commissioner's office. Satellite absentee voting stations shall not be directly connected to the I-Voters statewide voter registration database.

21.300(11) *Procedure for issuing absentee ballot.* The instructions for absentee voting are available on the state commissioner's Web site and shall be provided to satellite absentee voting station workers unless the commissioner prepares instructions containing substantially the same information as the instructions available on the state commissioner's Web site.

21.300(12) *Closing a station.* The instructions for closing a satellite absentee voting station are available on the state commissioner's Web site and shall be provided to satellite absentee voting station workers unless the commissioner prepares instructions containing substantially the same information as the instructions available on the state commissioner's Web site.

This rule is intended to implement Iowa Code section 53.11.

ITEM 25. Amend rule 721—21.301(53) as follows:

721—21.301(53) Absentee ballot requests from voters whose registration records are “inactive.”

21.301(1) *In person.* Absentee voters whose registration records are “inactive” and who appear in person to vote, either at the office of the commissioner or at a satellite absentee voting station, shall be ~~required to provide identification before voting~~ assigned a status of “active” after requesting an absentee ballot. ~~The voter may present any of the identification documents prescribed in subrule 21.3(3). If the voter does not have appropriate identification documents, the official or staff person receiving the application shall challenge the ballot and notify the voter that the voter must provide a copy of the appropriate form of identification not later than the date upon which the absentee and special precinct board will meet to review provisional ballots after election day pursuant to Iowa Code section 50.21.~~

21.301(2) *By mail.* When a request for an absentee ballot is received by mail from a voter whose registration record has been made “inactive” pursuant to Iowa Code section 48A.29, the commissioner shall ~~respond to the request.~~ update the voter's residential address to the address listed on the absentee ballot request if requested by the voter and assign the voter a status of “active.”

a. —Form. ~~The commissioner shall send a voter registration form and the following notice:~~

~~Notice to the Voter:~~

~~Your request for an absentee ballot has been received and processed. However, our records show that your voter registration is not currently active. To restore your registration, please complete the enclosed voter registration form and return it to:~~

~~County Auditor~~

SECRETARY OF STATE[721](cont'd)

(Address)

~~Return the registration form separately. Do not enclose it with your absentee ballot.~~

~~This registration form must be received in my office no later than (the time the polls close) on (election day), or be postmarked no later than (the day before election day).~~

~~*b. — Instructions to commissioner.* If the registration form is received by the deadline for receipt of absentee ballots as prescribed in Iowa Code section 53.17, and all other legal requirements are met, the ballot shall be counted. If the return carrier envelope is received before the registration form, the envelope shall not be opened but shall be held until the deadline for receipt of absentee ballots. If the registration form has not been received by the deadline, the officials of the absentee and special voters precinct board shall open the return carrier envelope. If the registration form is enclosed, and all other legal requirements are met, the ballots shall be counted. However, if the registration form is not enclosed in the return carrier envelope, the affidavit envelope containing the ballot shall not be opened.~~

21.301(3) Absentee ballots received from a voter subsequently assigned “inactive” status. The commissioner shall set aside the absentee ballot of a voter whose status is changed to “inactive” pursuant to Iowa Code section 48A.26, subsection 6, after the voter has submitted the voter’s ballot. The commissioner shall notify the voter, pursuant to Iowa Code section 53.31, informing the voter that the absentee ballot may be counted if the voter personally delivers or mails a copy of the voter’s identification as set forth in Iowa Code section 48A.8 to the commissioner’s office before the absentee and special voters precinct board convenes to count absentee ballots, or reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22. If the commissioner does not receive a copy of the voter’s identification before the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the absentee and special voters precinct board shall reject the absentee ballot.

~~This rule is intended to implement Iowa Code sections 48A.29 and 53.2~~ section 48A.29 and sections 48A.26, 48A.37 and 53.25 as amended by 2009 Iowa Acts, House File 475.

ITEM 26. Amend rule 721—21.302(48A) as follows:

721—21.302(48A) In-person absentee registration. After the close of voter registration for an election, a person who appears in person to apply for and vote an absentee ballot may register to vote if the person provides proof of identity and residence in the precinct in which the voter intends to vote using identification that meets the requirements set forth in Iowa Code section 48A.7A. The voter must also complete an oath of person registering on election day. If the voter does not have appropriate identification, the voter may establish identity and residence using the attestation procedure in Iowa Code section 48A.7A, subsection 1, paragraph “c.” Otherwise, the person may cast only a provisional ballot pursuant to Iowa Code section 49.81. Provisional ballot envelopes shall be used.

~~**21.302(1)** Proof of identity must be a photo ID card that is current and valid and includes an expiration date. An ID is still current on the date it expires. An Iowa nonoperator’s ID card that shows “none” as an expiration date is considered current and valid. The following forms of identification are acceptable: an Iowa driver’s license or nonoperator’s ID, an out of state driver’s license or nonoperator’s ID, a United States passport, a United States military identification card, an identification card issued by an employer, or a student identification card issued by an Iowa high school or an Iowa postsecondary educational institution. If the photo ID does not show the person’s address in the appropriate precinct, the person must show proof of residence.~~

~~**21.302(2)** Proof of residence may be any of the following documents provided that the document shows the person’s name and address in the precinct: residential lease, property tax statement, utility bill, bank statement, paycheck, government check, or other government document.~~

~~**21.302(3)** A voter who does not have appropriate identification documents may have another registered voter from the same precinct attest to the person’s identity and residence. An attester must be a registered voter and must live in the same precinct as the applicant. A person may not attest to the identity and residence of another voter for an election if the person registered to vote under the provisions of 2007 Iowa Acts, House File 653, section 2, for the same election and the person’s identity and residence were established by the attestation of another registered voter. The attester shall not attest~~

SECRETARY OF STATE[721](cont'd)

~~to the identity of more than one person. The commissioner shall keep a list of all persons who have attested for in-person absentee registrants and send the list to the polling place on election day with the list of absentee voters required by Iowa Code section 49.72.~~

This rule is intended to implement ~~2007 Iowa Acts, House File 653~~ Iowa Code section 48A.7A.

ITEM 27. Amend rule 721—21.303(53) as follows:

721—21.303(53) Mailing absentee ballots. The commissioner shall mail the following materials to each person who has requested an absentee ballot:

1. to 3. No change.

4. Affidavit envelope. The affidavit envelope, which shall be marked with the ~~serial~~ I-Voters-assigned sequence number used to identify the absentee request in the commissioner's records.

5. No change.

6. Delivery envelope. The delivery envelope, which shall be addressed to the voter and bear the ~~serial~~ I-Voters-assigned sequence number used to identify the absentee request in the commissioner's records. All other materials shall be enclosed in the delivery envelope.

7. and 8. No change.

This rule is intended to implement Iowa Code section sections 53.8 ~~as amended by 2007 Iowa Acts, Senate File 601, section 223, and Iowa Code section 53.17 as amended by 2007 Iowa Acts, Senate File 601, section 227~~ 2009 Iowa Acts, House File 475.

ITEM 28. Adopt the following new rule 721—21.304(53):

721—21.304(53) Absentee ballot requests from voters whose registration records are “pending.” A voter who requests an absentee ballot and is assigned a status of “pending” must provide identification pursuant to Iowa Code section 48A.8 as amended by 2009 Iowa Acts, House File 475.

21.304(1) In-person applicants. In-person applicants for absentee ballots assigned a status of “pending” must show identification pursuant to Iowa Code section 48A.8 as amended by 2009 Iowa Acts, House File 475, before casting a ballot. If an in-person applicant provides identification as required by Iowa Code section 48A.8 when casting an absentee ballot in person, the commissioner shall assign the voter's registration record a status of “active” and provide the voter with an absentee ballot. Voters who are unable to provide identification as required by Iowa Code section 48A.8 shall be offered a provisional ballot pursuant to Iowa Code section 49.81.

21.304(2) By-mail applicants. By-mail applicants for absentee ballots assigned a status of “pending” must either come to the commissioner's office and show identification pursuant to Iowa Code section 48A.8 as amended by 2009 Iowa Acts, House File 475, or mail a photocopy of identification pursuant to Iowa Code section 48A.8 before the voter's absentee ballot can be counted by the absentee and special voters precinct board. The commissioner shall mail the voter a notice informing the voter of the requirement to provide one of the identification documents listed in Iowa Code section 48A.8 before the voter's absentee ballot can be considered for counting by the absentee and special voters precinct board. If a by-mail applicant provides identification as required by Iowa Code section 48A.8, the commissioner shall assign the voter's registration record a status of “active.”

21.304(3) By-mail absentee voters assigned a status of “pending” who do not provide identification prior to election day. The ballot of a by-mail absentee voter assigned a status of “pending” who has not shown identification in person at the commissioner's office or provided a photocopy of identification by mail pursuant to Iowa Code section 48A.8 as amended by 2009 Iowa Acts, House File 475, shall be challenged by a member of the absentee and special voters precinct board on election day pursuant to Iowa Code section 53.31. The absentee and special voters precinct board shall immediately mail notice of the challenge to the voter. The notice shall include the deadline for the voter to provide identification pursuant to Iowa Code section 48A.8. If the voter provides identification pursuant to Iowa Code section 48A.8 prior to the time the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the voter's ballot shall be considered for counting by the absentee and special voters precinct board. If the voter does not provide identification pursuant

SECRETARY OF STATE[721](cont'd)

to Iowa Code section 48A.8 prior to the time the absentee and special voters precinct board reconvenes to consider challenged absentee ballots pursuant to Iowa Code section 50.22, the voter's absentee ballot shall be rejected by the absentee and special voters precinct board. The voter shall be notified of the reason for rejection pursuant to Iowa Code section 53.25 as amended by 2009 Iowa Acts, House File 475.

This rule is intended to implement Iowa Code section 53.31 and sections 48A.8 and 53.25 as amended by 2009 Iowa Acts, House File 475.

ITEM 29. Amend paragraphs **21.320(2)**“c,” “f” and “g” as follows:

c. Methods for transmitting absentee ballot requests. UOCAVA voters may transmit absentee ballot requests by any of the following methods:

(1) to (3) No change.

(4) Scanned application form or letter transmitted by E-mail. Requests by E-mail that do not include either an image of the physical signature or a digital signature shall not be accepted.

f. Subsequent request after ballot has been sent. Not more than one ballot shall be transmitted by the commissioner to any UOCAVA voter for a particular election unless, after the ballot has been mailed or transmitted electronically pursuant to rule 721—21.320(53), the voter reports a change in the address, E-mail address or fax number to which the ballot should be sent. The commissioner shall void the original absentee ballot request and include a comment in the voter's registration record, noting the serial I-Voters-sequence number of the original ballot and noting that a replacement ballot was sent to an updated address. The original ballot shall be counted only if the replacement ballot does not arrive before the deadline for receiving absentee ballots set forth in Iowa Code section 53.17. If the original ballot is returned voted, it shall be counted

g. Requests for absentee ballots for a period of two general elections. Iowa Code ~~Section~~ Supplement section 53.40 as amended by 2009 Iowa Acts, House File 475, permits UOCAVA voters to request the commissioner to send absentee ballots for all elections as permitted by state law. In response to an absentee ballot request in which the UOCAVA voter specifies that the voter wants to receive ballots for all elections, the commissioner shall send the applicant a ballot for each election held after the application is received and through the next two general elections. If the voter does not specify that the voter wants to receive ballots for all elections, the commissioner shall send the applicant a ballot only for federal elections through the next two general elections.

(1) When an absentee ballot for a UOCAVA voter ~~who has requested absentee ballots for all elections through the next two general elections~~ is returned as undeliverable by the United States Postal Service or an E-mail server or a fax cannot be transmitted to the number provided by the voter, the commissioner shall contact the Federal Voting Assistance Program (FVAP) to determine whether the voter has a forwarding address on file with that office. If so, the commissioner shall contact the voter by the best means available to notify the voter that the voter must provide the commissioner with a new address if the voter wishes to continue to receive absentee ballots until the end of the period for which the voter has requested ballots. do the following:

1. Verify that the commissioner's office sent the absentee ballot to the address, E-mail address or fax number requested by the UOCAVA voter. If the absentee ballot was sent incorrectly, the commissioner shall correct the error and immediately transmit a new absentee ballot.

2. If the absentee ballot was sent to the correct mailing address, E-mail address or fax number, the commissioner shall E-mail the voter if the commissioner has an E-mail address on file to inform the voter that the voter's ballot was returned undeliverable, and the commissioner must be provided with a new FPCA containing a new mailing address if the voter wishes to continue to receive absentee ballots.

3. If the absentee ballot was sent to the correct mailing address, E-mail address or fax number, the commissioner shall also attempt to contact the voter by sending a forwardable notice to both the voter's residential address and the voter's absentee mailing address informing the voter that the voter's ballot was returned undeliverable, and the commissioner must be provided with a new FPCA containing a new mailing address, E-mail address or fax number if the voter wishes to continue to receive absentee ballots.

SECRETARY OF STATE[721](cont'd)

4. If the absentee ballot was mailed, E-mailed or sent to the correct address or fax number, the commissioner shall terminate the voter's current FPCA request and shall not send the voter any further ballots unless a new absentee ballot request is received from the voter.

~~(2) The commissioner shall also send a written notice to the voter's residence address by forwardable mail. The notice shall advise the voter that the voter must provide the commissioner with a new address if the voter wishes to continue to receive absentee ballots until the end of the period for which the voter has requested ballots.~~

~~(3) (2)~~ If the voter provides a new FPCA with a new mailing address, E-mail address or fax number before election day, the commissioner shall enter the revised information in a new absentee request on the voter's registration record and transmit the ballot via the method requested by the voter. The voter may request that the commissioner transmit the ballot electronically pursuant to subrule 21.320(3).

~~(4) If the voter does not respond to either request for additional information within 30 days, the commissioner shall cancel the absentee ballot request and notify the voter.~~

ITEM 30. Amend paragraph **21.320(3)"a"** as follows:

a. Electronic transmission of absentee ballots by facsimile machine or by E-mail is limited to UOCAVA voters who specifically ask for this service. A UOCAVA voter who asks for electronic transmission of an absentee ballot may request this service for all elections for which the person is qualified to vote or for specific elections either individually or for a specific period of time. The commissioner ~~shall~~ may employ FVAP's secure transmission program to facilitate electronic transmission of absentee ballots to UOCAVA voters.

ITEM 31. Amend paragraph **21.320(4)"a"** as follows:

a. Electronic transmission of a voted absentee ballot from the voter to the commissioner is permitted only for UOCAVA voters who are in an area designated as an imminent danger pay area, as provided in subrule ~~21.1(14)~~ 21.1(13). ~~The~~ In addition, the absentee ballot may be returned via electronic transmission only if the voter waives the right to a secret ballot. In addition to signing the affidavit required by Iowa Code section 53.13, the voter shall sign a statement in substantially the following form: "I understand that by returning this ballot by electronic transmission my voted ballot will not be secret. I hereby waive my right to a secret ballot."

ITEM 32. Amend rule **721—21.320(53)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 53.40 and 53.46 and Iowa Code Supplement ~~section 53.40~~.

ITEM 33. Amend subrule 21.352(3) as follows:

21.352(3) Instructions. Each reviewer shall receive instructions in substantially the form ~~prescribed~~ prepared by the state commissioner of elections. The instructions shall provide basic security and procedural guidance and include a method for accounting for all returned absentee ballots. The prohibitions shall include:

- a. ~~Not to leave~~ Leaving unsecured ballots unattended.
- b. ~~Not to alter~~ Altering any information on any affidavit.
- c. ~~Not to add~~ Adding any information to any affidavit, except as specifically required to comply with the requirements of the law.
- d. ~~Not to seal~~ Sealing any affidavit envelope found open.
- e. ~~Not to discard~~ Discarding any return carrier envelopes, ballots, or affidavit envelopes returned by voters.

ITEM 34. Amend subrule 21.354(2) as follows:

21.354(2) Examination of affidavit envelope. The reviewer shall make sure that:

a. and b. No change.

c. The affidavit includes all of the following:

~~(1) An address.~~

~~(2) (1)~~ A signature.

SECRETARY OF STATE[721](cont'd)

~~(3)~~ (2) For primary elections only, political party affiliation.

ITEM 35. Amend subrule 21.354(4) as follows:

21.354(4) Defective and deficient affidavits. The commissioner shall contact the voter if the reviewer finds any of the following flaws in the affidavit or affidavit envelope:

a. The commissioner shall contact the voter immediately if the affidavit envelope is defective. An affidavit envelope is defective if:

(1) to (3) No change.

(4) The voter submits a change of address in a new precinct after returning a voted absentee ballot.

b. The commissioner shall contact the voter within 24 hours if the affidavit is deficient. A deficient affidavit lacks:

(1) The signature of the voter.

~~(2) The voter's address.~~

~~(3)~~ (2) For primary elections only, political party affiliation.

c. If an affidavit envelope has flaws that are included in both paragraphs "a" and "b," the commissioner shall follow the process in paragraph "a."

ITEM 36. Amend paragraph **21.354(5)"b"** as follows:

b. Defective ~~(improperly closed)~~ affidavit envelopes must be attached to the original application, replacement application and replacement ballot for review by the absentee and special voters precinct board.

ITEM 37. Amend rule 721—21.355(53) as follows:

721—21.355(53) Notice to voter. When the commissioner finds a deficiency in an absentee ballot affidavit or finds a defective ~~(improperly closed)~~ affidavit envelope, the commissioner shall notify the voter in writing and, if possible, by telephone ~~or~~ and by E-mail. The commissioner shall keep a separate checklist for each voter showing the reasons for which the voter was contacted and the methods used to contact the voter.

21.355(1) Notice to voter—deficient ballot affidavit. Within 24 hours after receipt of an absentee ballot with a deficient affidavit, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include:

a. Reason for deficiency (lack of signature, ~~address~~, or, for primary elections only, political party affiliation).

b. The voter's options for correcting the affidavit as follows:

(1) Completing the affidavit at the commissioner's office by 5 p.m. the day before the election; ~~or~~

(2) Treating the affidavit as defective and completing the process of applying for a replacement ballot pursuant to Iowa Code section 53.18; or

~~(2)~~ (3) Casting a provisional ballot at the polls on election day.

c. Address of commissioner's office, business hours and contact information.

21.355(2) Notice to voter—defective ballot affidavit. Immediately after determining that an absentee ballot affidavit envelope ~~was not properly closed~~ is defective, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include the following information:

a. Reason for defect, ~~such as envelope not sealed, envelope opened and resealed, or the ballot was outside the affidavit envelope.~~

b. The voter's options for correcting the defect as follows:

(1) Applying for a replacement ballot; or

(2) Casting a provisional ballot at the polls on election day.

c. Process for applying for a replacement ballot.

d. Address of commissioner's office, business hours and contact information.

SECRETARY OF STATE[721](cont'd)

21.355(3) and **21.355(4)** No change.

Rules 721—21.351(53) through 721—21.355(53) are intended to implement Iowa Code ~~section~~ sections 53.18 as amended by 2007 Iowa Acts, Senate File 601, section 229 and 53.25 as amended by 2009 Iowa Acts, House File 475.

ITEM 38. Amend rule 721—21.359(53) as follows:

721—21.359(53) Processing absentee ballots before election day. ~~Only when the voters have been provided with secrecy envelopes may the commissioner direct the special precinct board to open affidavit envelopes on the day before election day.~~ The commissioner may only direct the absentee and special voters precinct board to open affidavit envelopes on the Monday before election day under the following circumstances:

For any election, only if the commissioner has provided secrecy envelopes (or folders) pursuant to subrule 21.359(1) and the commissioner determines removing secrecy envelopes from affidavit envelopes is necessary due to the quantity of voted absentee ballots received as set forth in Iowa Code section 53.23, subsection 3, paragraph “a.”

For general elections, if the commissioner convenes the absentee and special voters precinct board pursuant to Iowa Code section 53.23, subsection 3, paragraph “c,” to begin tabulation of absentee ballots.

21.359(1) ~~The secrecy envelope shall be closed on at least two sides and shall~~ completely cover the ballot. The envelope shall have the following message printed on it using at least 24-point type:

<h1>Secrecy Envelope</h1> <p>After you vote, put your ballot in here.</p>

21.359(2) ~~The special precinct~~ When the absentee and special voters precinct board convenes to begin processing absentee ballots, the board shall first review voters’ affidavits and applications to determine which ballots will be accepted for counting and prepare the notices to those voters whose ballots have been rejected for the reasons set forth in Iowa Code section 53.31. The affidavit Affidavit envelopes containing ballots that will not be counted and the are rejected shall be stored in the manner prescribed by Iowa Code section 53.26. The applications submitted for those rejected ballots shall be stored in a secure location for the time period required by Iowa Code section 50.12.

21.359(3) ~~The affidavit envelopes containing the ballots that will be counted~~ have been accepted for counting by the absentee and special voters precinct board shall be stacked with the affidavits facing down. The envelopes shall be opened and the secrecy envelope containing the ballot shall be removed. The affidavit envelope and application shall be stored together.

21.359(4) If a voter has not enclosed the ballot in a secrecy envelope and the ballot has not been folded in a manner that conceals all votes marked on the ballot, the officials shall put the ballot in a secrecy envelope without examining the ballot. ~~Two of the special precinct election officials, one from each of the political parties referred to in Iowa Code section 49.13(2), shall sign the secrecy envelope.~~

21.359(5) The following security procedures shall be followed:

a. The process shall be witnessed by observers appointed by the county chairperson of each of the political parties referred to in Iowa Code section 49.13, subsection 2. If, after receiving notice from the commissioner pursuant to Iowa Code section 53.23, subsection 3, paragraph “a,” either or both political parties fail to appoint an observer, the commissioner may continue with the proceedings.

b. No ballots shall be counted or examined before election day except as provided in Iowa Code section 53.23, subsection 3, paragraph “c,” as amended by 2009 Iowa Acts, House File 670, section 1.

c. ~~The~~ When secrecy envelopes are removed from affidavit envelopes on the day before an election and not tabulated as permitted by Iowa Code section 53.23, subsection 3, paragraph “c,” as amended by 2009 Iowa Acts, House File 670, section 1, the number of secrecy envelopes shall be recorded before the ballots are stored and the number shall be verified before any ballots are removed from the secrecy

SECRETARY OF STATE[721](cont'd)

envelopes on election day. The ballots may be bundled and sealed in groups of a specified number to make counting easier.

This rule is intended to implement ~~1997 Iowa Acts, House File 636, section 73~~ Iowa Code section 53.23 as amended by 2009 Iowa Acts, House File 670.

ITEM 39. Amend rule 721—21.360(53) as follows:

721—21.360(53) Failure to affix postmark date. For any absentee ballot referred to in Iowa Code section 53.17, if the officially authorized postal service fails to affix a postmark date on the return carrier envelope, or the postmark date is illegible, but the date ~~of the~~ written on the voter's affidavit envelope is a date no later than the day prior to the election, the ballot shall be counted as provided in Iowa Code section 53.17. If no date can be read on either the return carrier envelope or the affidavit envelope, the affidavit envelope shall not be opened, and the ballot shall be rejected as provided in Iowa Code section 53.25 as amended by 2009 Iowa Acts, House File 475.

This rule is intended to implement Iowa Code section 53.17 and section 53.25 as amended by 2009 Iowa Acts, House File 475.

ITEM 40. Amend rule 721—21.361(53) as follows:

721—21.361(53) Rejection of absentee ballot. ~~The special precinct election~~ absentee and special voters precinct board shall reject absentee ballots without opening the affidavit envelope if any of the conditions cited ~~below~~ in Iowa Code section 53.25 as amended by 2009 Iowa Acts, House File 475, exist.

21.361(1) An absentee ballot shall be rejected if ~~the absentee voter's affidavit is insufficient. An insufficient affidavit lacks one or more of the following:~~ the affidavit lacks the voter's signature.

~~a. — The signature of the voter;~~

~~b. — The voter's address;~~

~~c. — In primary elections only, the political party affiliation of the voter.~~

21.361(2) An absentee ballot shall be rejected if the applicant is not a duly registered voter in the precinct in which the ballot is cast. "Precinct" means a precinct established pursuant to Iowa Code sections 49.3 through 49.5- or a consolidated precinct established by the commissioner pursuant to Iowa Code section 49.11, subsection 3, paragraph "a."

21.361(3) and **21.361(4)** No change.

21.361(5) An absentee ballot shall be rejected if the affidavit envelope contains more than one ballot of any kind. ~~This includes all ballots contained in the affidavit envelope, whether or not they are enclosed in secrecy envelopes.~~

21.361(6) An absentee ballot shall be rejected if the voter has voted in person at the polls.

21.361(7) An absentee ballot shall be rejected if in primary elections ~~the political party declared on the affidavit envelope is different from the political party whose ballot was requested on the application for the ballot~~ the voter does not declare a party affiliation on the voter's affidavit.

~~**21.361(8)** Rescinded IAB 9/26/07, effective 9/7/07.~~

This rule is intended to implement Iowa Code sections ~~43.38, 49.9~~ and 53.14 and section 53.25 as amended by 2009 Iowa Acts, House File 475.

ITEM 41. Amend rule 721—21.800(422B) as follows:

721—21.800(422B 423B) Local sales and services tax elections.

21.800(1) Petitions requesting imposition, rate change, use change, or repeal of local sales and services taxes shall be filed with the county board of supervisors.

~~a. — The petition shall be signed by eligible electors equal in number to at least 5 percent of the persons in the whole county who voted at the last preceding state general election. Each petition shall include:~~

~~(1) — A statement in substantially the following form: We the undersigned eligible electors of _____ County hereby request imposition of a local sales and services tax.~~

SECRETARY OF STATE[721](cont'd)

~~(2) — Each person signing the petition shall add the person's address (including street number, if any) and the date that the person signed the petition.~~

a. Each person signing the petition shall include the person's address (including street number, if any) and the date that the person signed the petition.

b. Within 30 days after receipt of the petition, the supervisors shall provide written notice to the county commissioner of elections directing that an election be held to present to the voters of the entire county the question of imposition, rate change, use change, or repeal of a local sales and services tax. In the notice the supervisors shall propose a specific date for include the date of the election.

~~c. The proposed election date election shall be at least 75 held on the first possible special election date for counties set forth in Iowa Code section 39.2, subsection 4, paragraph "c," but no sooner than 84 days, but not more than 90 days, after the date upon which notice is given to the commissioner. The local option tax election may be held in conjunction with a state general election, or at a special election held at any time other than the time of a city regular election. However, if the date proposed by the supervisors conflicts with another scheduled election as defined in Iowa Code section 47.6(2), the commissioner shall notify the supervisors of this fact. The supervisors shall propose another date for the special election within 7 days of receiving notice from the commissioner.~~

21.800(2) As an alternative to the method of initiating a local option tax election described in subrule 21.4(1) 21.800(1), governing bodies of cities and the county may initiate a local option tax election by filing motions with the county auditor pursuant to Iowa Code section 422B.1(3) "b" 423B.1, subsection 4, paragraph "b," requesting submission of a local option tax imposition, rate change, use change, or repeal to the qualified electors. Within 30 days of receiving a sufficient number of motions, the county commissioner shall, ~~in consultation with the governing bodies of the cities and with the board of supervisors, set a date for the local option tax election~~ notify affected jurisdictions of the local option tax election date. The election shall be held on the first possible special election date for counties set forth in Iowa Code section 39.2, subsection 4, paragraph "c," but no sooner than ~~105 84 days nor later than 120 days~~ after the date upon which the commissioner received the motion triggering the election. ~~If this would result in the special election being held at a time of a conflicting election as defined by Iowa Code section 47.6 or on a date upon which special elections are forbidden to be held by Iowa Code section 39.2(1), the election may be held on a date as close as possible to the required time period.~~

21.800(3) Notice of local sales and services tax election.

a. No change.

b. The city councils and the supervisors shall provide to the county commissioner the following information to be included in the notice and on the ballots for imposition elections:

(1) to (4) No change.

c. The information to be included in the notice shall be provided to the commissioner by the city councils of each city in the county not later than 67 days before the date of the election. If a jurisdiction fails to provide the information in subparagraphs 21.800(3) "b"(1), 21.4(3) "b"(3) 21.800(3) "b"(3), and 21.4(3) "b"(4) 21.800(3) "b"(4) above, the following information shall be substituted in the notice and on the ballot:

(1) One percent (1%) for the rate of the tax.

~~(1) (2)~~ Zero percent (0%) for property tax relief.

~~(2) (3)~~ The specific purpose for which the revenues will otherwise be expended is: Any lawful purpose of the city (or county).

d. The notice of election provided for in Iowa Code section 49.53 as amended by 2009 Iowa Acts, House File 475, shall also be published at the time and in the manner specified in that section.

21.800(4) Definitions.

~~"Abstract of ballot" means abstract of votes.~~

This rule is intended to implement Iowa Code sections ~~422B.1 and 422B.9~~ section 423B.1.

ITEM 42. Amend rule 721—21.801(422B) as follows:

721—21.801(422B 423B) Form of ballot for local option tax elections. If questions pertaining to more than one of the authorized local option taxes are submitted at a single election, all of the public measures

SECRETARY OF STATE[721](cont'd)

shall be printed on the same ballot. The form of ballots to be used throughout the state of Iowa for the purpose of submitting questions pertaining to local option taxes shall be as follows:

21.801(1) Local sales and services tax propositions. Sales and services tax propositions shall be submitted to the voters of an entire county. If the election is being held for the voters to decide whether to impose the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of imposition shall be voted upon in all parts of the county where the tax has not been approved. If the election is being held for the voters to decide whether to repeal the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of repeal shall be voted upon in all parts of the county where the tax was previously imposed. If the election is being held for the voters to decide whether to change the rate or use of the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of rate or use change shall be voted upon in all parts of the county where the tax was previously imposed.

The ballot submitted to the voters of each incorporated area and the unincorporated area of the county shall show the intended uses for that jurisdiction. The ballot submitted to the voters in contiguous cities within a county shall show the intended uses and repeal dates, if not uniform, for each of the contiguous cities. The ballots shall be in substantially the following form:

a. Imposition question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES
NO

Summary: To authorize imposition of a local sales and services tax in the [city of _____] [unincorporated area of the county of _____], at the rate of _____ percent (_____ %) to be effective on _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, ~~or place on the left hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25.~~ Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 as amended by 2009 Iowa Acts, House File 475.)

A local sales and services tax shall be imposed in the [city of _____] [unincorporated area of the county of _____] at the rate of _____ percent (_____ %) to be effective on _____ (month and day), _____ (year).

Revenues from the sales and services tax shall be allocated as follows:

(Choose one or more of the following:)

[_____ for property tax relief (insert percentage or dollar amount)]

[_____ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of _____]

[_____ for property tax relief (insert percentage or dollar amount) in the county of _____]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

b. Imposition question for voters in contiguous cities:

SECRETARY OF STATE[721](cont'd)

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES NO

Summary: To authorize imposition of a local sales and services tax in the cities of _____, _____, _____, (list additional cities, if applicable) at the rate of _____ percent (_____%) to be effective on _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, ~~or place on the left hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25.~~ Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 as amended by 2009 Iowa Acts, House File 475.)

A local sales and services tax shall be imposed in the cities of _____, _____, _____, (list additional cities, if applicable) at the rate of _____ percent (_____%) to be effective on _____ (month and day), _____ (year).

Revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF _____:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF _____:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF _____:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

c. Imposition question with an automatic repeal date for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES NO

Summary: To authorize imposition of a local sales and services tax in the [city of _____] [unincorporated area of the county of _____], at the rate of _____ percent (_____%) to be effective from _____ (month and day), _____ (year), until _____ (month and day), _____ (year).

SECRETARY OF STATE[721](cont'd)

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, ~~or place on the left hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25.~~ Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 as amended by 2009 Iowa Acts, House File 475.)

A local sales and services tax shall be imposed in the [city of _____] [unincorporated area of the county of _____] at the rate of _____ percent (____%) to be effective from _____ (month and day), _____ (year), until _____ (month and day), _____ (year).

Revenues from the sales and services tax shall be allocated as follows:

(Choose one or more of the following:)

[_____ for property tax relief (insert percentage or dollar amount)]

[_____ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of _____]

[_____ for property tax relief (insert percentage or dollar amount) in the county of _____]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

d. Imposition question with an automatic repeal date for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES NO

Summary: To authorize imposition of a local sales and services tax in the cities of _____, _____, _____, (list additional cities, if applicable) at the rate of _____ percent (____%) to be effective from _____ (month and day), _____ (year), until _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, ~~or place on the left hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25.~~ Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 as amended by 2009 Iowa Acts, House File 475.)

A local sales and services tax shall be imposed in the cities of _____, _____, _____, (list additional cities, if applicable) at the rate of _____ percent (____%) to be effective from _____ (month and day), _____ (year), until _____ (month and day), _____ (year).

Revenues from the sales and services tax are to be allocated as follows:

FOR THE CITY OF _____: _____ for property tax relief (insert percentage or dollar amount)

SECRETARY OF STATE[721](cont'd)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF _____:
_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF _____:
_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

e. Repeal question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES [] NO []

Summary: To authorize repeal of the ___ percent (___%) local sales and services tax in the [city of _____] [unincorporated area of the county of _____] effective _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 as amended by 2009 Iowa Acts, House File 475.)

The ___ percent (___%) local sales and services tax shall be repealed in the [city of _____] [unincorporated area of the county of _____] effective _____ (month and day), _____ (year).

Revenues from the sales and services tax have been allocated as follows:

(Choose one or more of the following:)

[_____ for property tax relief (insert percentage or dollar amount)]

[_____ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of _____]

[_____ for property tax relief (insert percentage or dollar amount) in the county of _____]

The specific purpose (or purposes) for which the revenues were otherwise expended was (were):

(List specific purpose or purposes)

f. Repeal question for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SECRETARY OF STATE[721](cont'd)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES NO

Summary: To authorize repeal of the ____ percent (____%) local sales and services tax in the cities of _____, _____, _____, (list additional cities, if applicable) effective _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, ~~or place on the left hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25.~~ Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 as amended by 2009 Iowa Acts, House File 475.)

The ____ percent (____%) local sales and services tax shall be repealed in the cities of _____, _____, _____, (list additional cities, if applicable) effective _____ (month and day), _____ (year).

Revenues from the sales and services tax have been allocated as follows:

FOR THE CITY OF _____:
_____ for property tax relief (insert percentage or dollar amount)
The specific purpose (or purposes) for which the revenues were otherwise expended was (were):
(List specific purpose or purposes)

FOR THE CITY OF _____:
_____ for property tax relief (insert percentage or dollar amount)
The specific purpose (or purposes) for which the revenues were otherwise expended was (were):
(List specific purpose or purposes)

FOR THE CITY OF _____:
_____ for property tax relief (insert percentage or dollar amount)
The specific purpose (or purposes) for which the revenues were otherwise expended was (were):
(List specific purpose or purposes)

g. Rate change question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES NO

Summary: To authorize an increase (or decrease) in the rate of the local sales and services tax to ____ percent (____%) in the [city of _____] [unincorporated area of the county of _____] effective _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, ~~or place on the left hand~~

SECRETARY OF STATE[721](cont'd)

~~side inside the curtain of each voting machine as provided in Iowa Code section 52.25.~~ Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 as amended by 2009 Iowa Acts, House File 475.)

The rate of the local sales and services tax shall be increased (or decreased) to ____ percent (____ %) in the [city of _____] [unincorporated area of the county of _____] effective _____ (month and day), ____ (year). The current rate is ____ percent (____ %).

Revenues from the sales and services tax are allocated as follows:

(Choose one or more of the following:)

[_____ for property tax relief (insert percentage or dollar amount)]

[_____ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of _____]

[_____ for property tax relief (insert percentage or dollar amount) in the county of _____]

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

h. Rate change question for voters in contiguous cities:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES
NO

Summary: To authorize an increase (or decrease) in the rate of the local sales and services tax to ____ percent (____ %) in the cities of _____, _____, _____, (list additional cities, if applicable) effective _____ (month and day), ____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, ~~or place on the left hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25.~~ Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 as amended by 2009 Iowa Acts, House File 475.)

The rate of the local sales and services tax shall be increased (or decreased) to ____ percent (____ %) in the cities of _____, _____, _____, (list additional cities, if applicable) effective _____ (month and day), ____ (year).

Revenues from the sales and services tax are allocated as follows:

FOR THE CITY OF _____:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF _____:

SECRETARY OF STATE[721](cont'd)

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

CURRENT USES OF THE TAX:

FOR THE CITY OF _____:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF _____:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

FOR THE CITY OF _____:

_____ for property tax relief (insert percentage or dollar amount)

The specific purpose (or purposes) for which the revenues are otherwise expended is (are):

(List specific purpose or purposes)

k. No change.

21.801(2) For a local vehicle tax:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES
NO

Summary: To authorize the county of (insert name of county) to impose a local vehicle tax at the rate of _____ dollars (\$_____) per vehicle and to exempt the following classes from the tax:

The revenues are to be expended as set forth in the text of the public measure.

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, ~~or place on the left hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25.~~ Counties using optical scan ballots which are read by automatic tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25 as amended by 2009 Iowa Acts, House File 475.)

The county of _____, Iowa shall be authorized to impose a local vehicle tax at the rate of _____ dollars (\$_____) per vehicle and to exempt the following classes of vehicles from the tax:

(insert percentage or dollar amount) of the revenues is/are to be used for property tax relief.

SECRETARY OF STATE[721](cont'd)

The balance of the revenues is to be expended for:
(List purposes for which remaining revenues will be used)

ITEM 43. Amend rule 721—21.802(422B) as follows:

721—21.802(422B 423B) Local vehicle tax elections.

21.802(1) Petitions requesting imposition of local vehicle taxes shall be filed with the county board of supervisors.

~~a. —The petition shall be signed by eligible electors equal in number to at least 5 percent of the persons in the whole county who voted at the last preceding state general election. Each petition shall include:~~

~~(1) —A statement in substantially the following form: We the undersigned eligible electors of _____ County hereby request imposition of a local vehicle tax at a rate of _____ dollar(s) per vehicle with the following classes (if any) to be exempt: _____.~~

~~(2) —Each person signing the petition shall add the person's address (including street numbers, if any) and the date that the person signed the petition.~~

~~a. Each person signing the petition shall add the person's address (including street number, if any) and the date that the person signed the petition.~~

~~b. Within 30 days after receipt of the petition, the supervisors shall provide written notice to the county commissioner of elections directing that an election be held to present to the voters of the entire county the question of imposition of a local vehicle tax. In the notice the supervisors shall ~~propose a specific date for~~ include the date of the election.~~

~~c. The ~~proposed election date~~ election shall be at least 75 held on the first possible special election date for counties set forth in Iowa Code section 39.2, subsection 4, paragraph "c," but no sooner than 84 days, but not more than 90 days, after the date upon which notice is given to the commissioner. The local option tax election may be held in conjunction with a state general election, or at a special election held at any time other than the time of a city regular election. However, if the date proposed by the supervisors conflicts with another scheduled election as defined in Iowa Code section 47.6(2), the commissioner shall notify the supervisors of this fact. The supervisors shall propose another date for the special election within 7 days of receiving notice from the commissioner.~~

21.802(2) Notice of local vehicle tax election. Not less than 60 days before the date that a local vehicle tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include a sample ballot, but shall include all of the information that will appear on the ballot. The notice of election provided for in Iowa Code section 49.53 as amended by 2009 Iowa Acts, House File 475, shall also be published at the time and in the manner specified in that section.

ITEM 44. Rescind subrule 21.820(1) and adopt the following new subrule in lieu thereof:

21.820(1) Petitions requesting elections to approve or disapprove the conduct of gambling games on an excursion gambling boat or at a gambling structure shall be filed with the county board of supervisors and shall be substantially in the form posted on the state commissioner's Web site titled "Petition Requesting Special Election."

a. Within 10 days after receipt of a valid petition, the supervisors shall provide written notice to the county commissioner of elections directing the commissioner to submit to the qualified electors of the county a proposition to approve or disapprove the conduct of gambling games on an excursion gambling boat or at a gambling structure in the county. The election shall be held on the next possible special election date pursuant to Iowa Code section 39.2, subsection 4, paragraph "a," but no fewer than 46 days from the date notice is given to the county commissioner.

b. If a regularly scheduled or special election is to be held in the county on the date selected by the supervisors, notice shall be given to the commissioner no later than the last day upon which nomination papers may be filed for that election. If the excursion gambling boat or the gambling structure election

SECRETARY OF STATE[721](cont'd)

is to be held with a local option tax election, the supervisors shall provide the commissioner at least 60 days' written notice. Otherwise, the supervisors shall give at least 46 days' written notice.

[Filed Emergency 7/27/09, effective 7/27/09]

[Published 8/26/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/26/09.

ARC 8063B**ADMINISTRATIVE SERVICES DEPARTMENT[11]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 8A.413, the Department of Administrative Services hereby amends Chapter 57, "Appointments," Iowa Administrative Code.

This amendment reflects a change in and clarification of the rescinding of an appointment when an employee has been disqualified or removed by the appointing authority. The appropriate administrative remedy for this type of action is being corrected.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation prior to the adoption of this amendment are impracticable because these changes are noncontroversial.

This amendment shall become effective September 30, 2009.

This amendment is intended to implement Iowa Code section 8A.413.

The following amendment is adopted.

Amend rule 11—57.9(8A) as follows:

11—57.9(8A) Rescinding appointments. If, after being appointed, it is found that an employee should have been disqualified or removed as provided for in these rules, the ~~director~~ appointing authority may rescind the appointment. An employee with permanent status may file a grievance in accordance with 11—Chapter 61. ~~An employee with permanent status may appeal the director's decision to the public employment relations board. The appeal must be filed within 30 calendar days after the date the director's decision was issued. Decisions by the public employment relations board constitute final agency action.~~

[Filed Without Notice 8/5/09, effective 9/30/09]

[Published 8/26/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/26/09.

ARC 8087B**CULTURAL AFFAIRS DEPARTMENT[221]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 303.1A, the Department of Cultural Affairs hereby adopts new Chapter 13, "Iowa Cultural Trust," Iowa Administrative Code.

The new rules are organizing rules for the Iowa Cultural Trust. The Trust was established in the Iowa Code several years ago but is only now beginning to organize its grant-making function. Iowa Code section 303.1A(6) and chapter 303A indicate that rules should be established for both the grant making and the establishment of trust credits in this program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 1, 2009, as **ARC 7925B**. The Department of Cultural Affairs sought input about the rules by holding a public hearing on July 21, 2009. No members of the public provided comments. These rules are identical to those published under Notice.

The Department Director approved and adopted these rules on August 5, 2009.

These rules are intended to implement Iowa Code section 303.1A(6) and chapter 303A.

CULTURAL AFFAIRS DEPARTMENT[221](cont'd)

These rules will become effective on September 30, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 13] is being omitted. These rules are identical to those published under Notice as **ARC 7925B**, IAB 7/1/09.

[Filed 8/7/09, effective 9/30/09]

[Published 8/26/09]

[For replacement pages for IAC, see IAC Supplement 8/26/09.]

ARC 8053B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

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

The State Board of Education amends this chapter to update administrator preparation requirements to reflect current state and national standards (Item 20); to include requirements that address changing forms of delivery systems (Items 5, 6, 7, 8, 11, 12, 13, 14, 18 and 19); to include specific rules for approval of professional educational programs that lead to state licensure in areas other than teacher or administrator preparation (Items 22 and 23); to change the schedule for site visits (Items 7 and 10); to include requirements that better prepare new educators to implement the required Iowa Core Curriculum (Items 19 and 20); and to provide further clarification of rules (Items 1, 2, 3, 4, 5, 15, and 17).

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

Notice of Intended Action was published in the May 20, 2009, Iowa Administrative Bulletin as **ARC 7780B**. A public hearing was held on June 12, 2009, and public comments were allowed until close of business on that same date. No written or oral comments were received.

These amendments are identical to those published under Notice.

These amendments will become effective on September 30, 2009.

These amendments are intended to implement Iowa Code sections 256.7(3), 256.16, and 272.25.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [79.1 to 79.17, 79.19 to 79.21] is being omitted. These amendments are identical to those published under Notice as **ARC 7780B**, IAB 5/20/09.

[Filed 8/3/09, effective 9/30/09]

[Published 8/26/09]

[For replacement pages for IAC, see IAC Supplement 8/26/09.]

ARC 8054B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts new Chapter 98, "Financial Management of Categorical Funding," Iowa Administrative Code.

This chapter provides guidance in a single document for school districts and area education agencies on financial management of funding pursuant to Iowa Code section 256.9(18), and for auditors examining the financial condition and transactions of school districts and area education agencies pursuant to Iowa Code section 11.6(1)"a"(1).

EDUCATION DEPARTMENT[281](cont'd)

Notice of Intended Action was published in the May 20, 2009, Iowa Administrative Bulletin as **ARC 7781B**. A public hearing was held on June 9, 2009, and public comments were allowed until close of business on that same date. Two individuals appeared, but one, a lobbyist for the home school assistance program, provided the comments. In addition, the same individual provided written questions and comments. The comments in essence requested that the home school assistance program be treated as a public school program similar to the statewide voluntary four-year-old preschool program. However, the preschool program is a public school program, but a home school assistance program is not dual enrollment into a public school program, but rather is a program that is home-based with assistance given by the public school to that home-based instructional program. The requested changes would conflict with the intent of the program as home-based and would contradict appropriate accounting procedures or terminology.

One change has been made in response to public comment. The word “supervising” has been added before “teacher” in the first sentence of paragraph 98.12(1)“a.” Paragraph “a” now reads as follows:

“a. Salary and benefits for the supervising teacher of HSAP students. If the teacher is a part-time HSAP teacher and a part-time regular classroom teacher, then the portion of time that is related to HSAP may be charged to the program, but the portion of time that is related to the regular classroom shall not.”

No public comments were received from any other individuals or groups, and no comments were received on any other programs.

In response to a review by department staff of editorial questions that arose during the Notice process, other nonsubstantive changes have been made to clarify the language in Chapter 98, including:

- In paragraph 98.21(2)“a,” the phrase “beyond the services provided” has been changed to “to provide services beyond those provided” for clarity.
- The punctuation was modified in paragraph 98.64(2)“f.”
- The introductory paragraph of rule 281—98.65(276,300), last sentence, has been revised to change the term “PERL levy” to “a levy for a PERL fund.”
- In rule 281—98.93(298A), next to last sentence, the term “these funds” was changed to “these pension trust funds.”

Finally, rule 281—98.112(275) pertaining to the equalization levy fund and originally overlooked has been added since Chapter 98 was published under Notice of Intended Action. The new rule reads as follows:

“281—98.112(275) Equalization levy fund. If necessary to equalize the division of liabilities and distribution of assets in a reorganization, merger, or dissolution, the board of a school district may provide for the levy of additional taxes upon the property of the former district so as to effect equalization pursuant to Iowa Code section 275.31. Once the levy has been received, the district shall transfer the funds before the end of the fiscal year to the funds for which equalization was necessary and for which the taxes were levied.

“98.112(1) Sources of revenue for the equalization levy fund. Sources of revenue for the equalization levy fund include a tax levy pursuant to Iowa Code section 275.31, and interest on those moneys.

“98.112(2) Appropriate uses of the equalization levy fund. Appropriate expenditures from the equalization levy fund are limited to transfers to the funds, in the same proportion, for which equalization was necessary and for which the taxes were levied.

“98.112(3) Inappropriate uses of the equalization levy fund. Inappropriate uses of the equalization levy fund would include transfers to any fund for which equalization was not required or for which the equalization tax was not levied and any uses other than transfers.”

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

These rules will become effective on September 30, 2009.

EDUCATION DEPARTMENT[281](cont'd)

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

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 98] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 7781B**, IAB 5/20/09.

[Filed 8/3/09, effective 9/30/09]

[Published 8/26/09]

[For replacement pages for IAC, see IAC Supplement 8/26/09.]

ARC 8062B

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code chapters 511 and 521A, the Insurance Division hereby amends Chapter 93, “Conduit Derivative Transactions,” Iowa Administrative Code.

The rules in Chapter 93 provide for quarterly reports to the Insurance Commissioner of a conduit’s derivative transaction activities to enable the Insurance Division to monitor the conduit’s obligations to the insurers in the conduit’s holding company system. This amendment allows the Insurance Commissioner to exempt a conduit from subrule 93.6(3) if the conduit’s obligations to the insurers in its holding company system are unconditionally guaranteed by a “qualified counterparty” as defined in rule 191—93.2(511,521A), which, in this context, essentially means an investment grade business entity. Such a guarantee can obviate the need for monitoring since the obligations of the conduit are certain to be met. The Division intends that Iowa insurance companies and insurance holding companies will comply with the amendment beginning September 30, 2009.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 1, 2009, as **ARC 7914B**. Comments regarding this new subrule were to be received during the comment period and at the public hearing on July 21, 2009. No public comment was received, and this amendment is identical to the one published under Notice of Intended Action.

This amendment is intended to implement Iowa Code chapters 511 and 521A.

This amendment will become effective September 30, 2009.

The following amendment is adopted.

Adopt the following **new** subrule 93.6(3):

93.6(3) Exemptions from reporting requirements. Upon application, a conduit may be exempted by the insurance commissioner from the reporting requirements of this rule if all of the conduit’s obligations arising out of the conduit’s derivative transaction activities are unconditionally guaranteed by a qualified counterparty.

[Filed 8/5/09, effective 9/30/09]

[Published 8/26/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/26/09.

ARC 8061B

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby adopts new Chapter 97, “Accounting for Certain Derivative Instruments Used to Hedge the Growth in Interest

INSURANCE DIVISION[191](cont'd)

Credited for Indexed Insurance Products and Accounting for the Indexed Insurance Products Reserve,” Iowa Administrative Code.

The purpose of the new rules is to address the mismatch related to changes in value for the derivative assets as compared to the interest accrual in the reserve calculation and to provide insurance companies with the ability, once certain criteria are met, to: (1) change the accounting for option assets that hedge insurance companies indexed insurance products to the amortized cost method, and (2) change the indexed annuity reserve calculation methodology such that index credit returns will be included in the reserve only after they have been credited to the policy. The new chapter will allow for a more accurate representation of an insurance company’s capital position.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 1, 2009, as **ARC 7915B**. Comments regarding this new chapter were to be received during the comment period and at the public hearing on July 21, 2009. No public comment was received, and the rules are identical to those published under Notice of Intended Action.

These rules do not provide for waivers.

These rules will become effective September 30, 2009.

These rules are intended to implement Iowa Code chapter 508.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 97] is being omitted. These rules are identical to those published under Notice as **ARC 7915B**, IAB 7/1/09.

[Filed 8/5/09, effective 9/30/09]

[Published 8/26/09]

[For replacement pages for IAC, see IAC Supplement 8/26/09.]

ARC 8073B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.181, the Iowa Finance Authority hereby amends Chapter 19, “State Housing Trust Fund,” Iowa Administrative Code.

The purpose of this amendment is to adopt updated and improved allocation plans for the local housing trust fund program and the project-based housing program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 1, 2009, as **ARC 7895B**. The Authority did not receive any public comment on the proposed amendment. The Authority has made no changes to the amendment as published under Notice.

The Iowa Finance Authority adopted this amendment on August 5, 2009.

This amendment is intended to implement Iowa Code section 16.5(1)“r” and section 16.181 as amended by 2009 Iowa Acts, Senate File 207.

This amendment will become effective on September 30, 2009.

The following amendment is adopted.

Amend rule 265—19.1(16) as follows:

265—19.1(16) Trust fund allocation plans. The trust fund allocation plan entitled Iowa Finance Authority State Housing Trust Fund Allocation Plan for the Local Housing Trust Fund Program dated ~~May~~ June 2009 shall be the allocation plan for the award, pursuant to the local housing trust fund program, of funds held within the state housing trust fund established in Iowa Code section 16.181. The trust fund allocation plan entitled Iowa Finance Authority State Housing Trust Fund Allocation Plan for the Project-Based Housing Program dated ~~September 2008~~ June 2009 shall be the allocation plan for the distribution, pursuant to the project-based housing program, of funds held within the state housing trust fund. The trust fund allocation plans for the local housing trust fund program and the project-based housing program include the plans, applications, and application instructions. The trust fund allocation

IOWA FINANCE AUTHORITY[265](cont'd)

plans for the local housing trust fund program and the project-based housing program are incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

[Filed 8/6/09, effective 9/30/09]

[Published 8/26/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/26/09.

ARC 8074B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.40, the Iowa Finance Authority hereby amends Chapter 29, “Jump-Start Housing Assistance Program,” Iowa Administrative Code.

The purpose of these amendments is to provide for the allocation of program funds made available by 2009 Iowa Acts, Senate File 376, section 29, and 2009 Iowa Acts, House File 64, division I.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 1, 2009, as **ARC 7900B**. These amendments were also Adopted and Filed Emergency and were published as **ARC 7899B** on the same date. The Authority did not receive any public comment on the proposed amendments. The Authority has made no changes to the amendments as published under Notice.

The Iowa Finance Authority adopted these amendments on August 5, 2009.

These amendments are intended to implement Iowa Code sections 16.5(1)“r” and 16.40, 2009 Iowa Acts, Senate File 376, section 29, and 2009 Iowa Acts, House File 64, division I.

These amendments will become effective on September 30, 2009, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [29.3(1), 29.5(1), 29.8] is being omitted. These amendments are identical to those published under Notice as **ARC 7900B** and Adopted and Filed Emergency as **ARC 7899B**, IAB 7/1/09.

[Filed 8/6/09, effective 9/30/09]

[Published 8/26/09]

[For replacement pages for IAC, see IAC Supplement 8/26/09.]

ARC 8075B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.40, the Iowa Finance Authority hereby amends Chapter 29, “Jump-Start Housing Assistance Program,” Iowa Administrative Code.

The purpose of these amendments is to modify and clarify certain provisions of the program of housing assistance for persons affected by the natural disasters that occurred in Iowa in 2008.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 17, 2009, as **ARC 7843B**. These amendments were also Adopted and Filed Emergency and were published as **ARC 7842B** on the same date. The Authority did not receive any public comment on the proposed amendments. The Authority has made no changes to the amendments as published under Notice.

The Iowa Finance Authority adopted these amendments on August 5, 2009.

These amendments are intended to implement Iowa Code sections 16.5(1)“r” and 16.40 and 2009 Iowa Acts, Senate File 289.

IOWA FINANCE AUTHORITY[265](cont'd)

These amendments will become effective on September 30, 2009, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [29.5(2), 29.6] is being omitted. These amendments are identical to those published under Notice as **ARC 7843B** and Adopted and Filed Emergency as **ARC 7842B**, IAB 6/17/09.

[Filed 8/6/09, effective 9/30/09]

[Published 8/26/09]

[For replacement pages for IAC, see IAC Supplement 8/26/09.]

ARC 8080B**IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, division III, section 13(4), the Iowa Finance Authority adopts new Chapter 33, “Water Quality Financial Assistance Program,” Iowa Administrative Code.

The purpose of these rules is to provide a process for granting funds to communities receiving loans from the Iowa Water Pollution Control Works and Drinking Water Facilities Financing Program pursuant to Iowa Code section 16.131 for water quality and wastewater improvement projects.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 1, 2009, as **ARC 7896B**. The Authority received written comments on the rules. Based on consideration of the public comment received, the Authority made the following changes to the rules as originally noticed:

1. Project eligibility in subrules 33.3(2) and 33.4(2) was changed to include any project eligible for SRF loans. This would include wastewater, drinking water and storm water projects.

2. In subrule 33.5(1), the words “For wastewater projects” were deleted.

3. The following sentence was deleted from subrule 33.6(4): “After construction, recipients shall also agree to provide the authority and the department periodic access to the project site to ensure it is being operated and maintained as designed.”

4. In subrule 33.7(2), the word “may” was changed to “can” in the second sentence.

The Iowa Finance Authority adopted these rules on August 5, 2009.

These rules will become effective on September 30, 2009.

These rules are intended to implement Iowa Code sections 16.5(1)“r” and 16.131 and 2009 Iowa Acts, Senate File 376, section 13(4).

The following amendment is adopted.

Adopt the following **new** 265—Chapter 33:

CHAPTER 33

WATER QUALITY FINANCIAL ASSISTANCE PROGRAM

265—33.1(16,83GA,SF376) Overview.

33.1(1) Statutory authority. The authority to provide financial assistance to communities for water quality and wastewater improvement projects is provided by 2009 Iowa Acts, Senate File 376, section 13(4). The water quality financial assistance fund shall consist of funds appropriated from the revenue bonds capital fund created in 2009 Iowa Acts, Senate File 376, section 2.

33.1(2) Purpose. The purpose of the program shall be to provide grants to enhance water quality and to assist communities with water and wastewater improvement projects. Financial assistance under the program shall be used to provide additional assistance to communities receiving loans from the Iowa water pollution control works and drinking water facilities financing program.

IOWA FINANCE AUTHORITY[265](cont'd)

265—33.2(16,83GA,SF376) Definitions.

“*Authority*” or “*IFA*” means the Iowa finance authority as established by chapter 16 of the Code of Iowa.

“*Community*” means a city, county, sanitary district, water district, state agency, or other governmental body or corporation empowered to provide sewage collection and treatment services, or any combination of two or more of the governmental bodies or corporations acting jointly, in connection with a project.

“*Department*” or “*DNR*” means the Iowa department of natural resources.

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

“*Program*” means the water quality financial assistance program created in 2009 Iowa Acts, Senate File 376, section 13(4).

“*Recipient*” means the entity receiving funds from the program.

“*SRF*” means the Iowa water pollution control works and drinking water facilities financing program, which is jointly administered by IFA pursuant to Iowa Code section 16.131 as amended by 2009 Iowa Acts, House File 281, and DNR pursuant to Iowa Code section 455B.294.

265—33.3(16,83GA,SF376) Small community assistance fund.

33.3(1) *Program fund.* Of the amount appropriated, \$35 million shall be allocated to the small community assistance fund. The maximum award for a recipient under the small community assistance fund shall be \$2 million.

33.3(2) *Project eligibility.* Financial assistance shall only be available under the program for projects that are also receiving funding from the SRF.

33.3(3) *Eligible applicants.* Only communities with a population of 10,000 or less, as determined by the most recent federal census, may apply for the small community assistance fund.

265—33.4(16,83GA,SF376) Large community assistance fund.

33.4(1) *Program fund.* Of the amount appropriated, \$20 million shall be allocated to the large community assistance fund.

33.4(2) *Project eligibility.* Eligible projects are those projects that are also receiving funding from the SRF.

33.4(3) *Eligible applicants.* Only communities with a population of more than 10,000, as determined by the most recent federal census, may apply for the large community assistance fund.

265—33.5(16,83GA,SF376) Project priority.

33.5(1) *Priority for all projects.* Priority shall be given to projects that will provide significant improvement to water quality in the relevant watershed; this criterion will be determined by the score given to a project by the department pursuant to the project priority rating system used for the water pollution control state revolving fund set forth in 567—Chapter 91, Iowa Administrative Code. For drinking water projects, priority will be determined by the project priority system used for the drinking water state revolving fund set forth in 567—Chapter 44, Iowa Administrative Code.

33.5(2) *Small community assistance fund priority.* Under the small community assistance fund, priority shall also be given to communities that have the greatest financial need. Factors used to determine need will include, but are not limited to: median household income as a percentage of the statewide median household income; residential user rates as a percentage of median household income; the existing and forecasted debt of the system; and the unemployment rate of the community.

265—33.6(16,83GA,SF376) Project funding.

33.6(1) *Applications.* Applications will be accepted on forms developed by IFA and available at www.iowafinanceauthority.gov. IFA will coordinate with other applicable state or federal financing programs when possible. Applications for the large community assistance fund will be due October 30, 2009. Applications for the small community assistance fund will be due March 30, 2010.

IOWA FINANCE AUTHORITY[265](cont'd)

33.6(2) Costs. All eligible costs must be documented to the satisfaction of the authority before proceeds may be disbursed.

33.6(3) Record retention. The recipient shall maintain records that document all costs associated with the project. Recipients shall agree to provide the authority access to these records. The recipient shall retain such records and documents for inspection and audit purposes for a period of three years from the date of the final grant payment.

33.6(4) Site access. The recipient shall agree to provide the authority, the department and the department's agent access to the project site at all times during the construction process to verify that the funds are being used for the purpose intended and that the construction work meets applicable state and federal requirements.

265—33.7(16,83GA,SF376) Termination and rectification of disputes.

33.7(1) Termination. The authority shall have the right to terminate any grant when terms of the agreement have been violated. Grants are subject to termination if construction has not begun within one year of the execution of a grant agreement. The director will establish a repayment schedule for funds already disbursed to the recipient. All terminations will be in writing.

33.7(2) Rectification of disputes. Failure of the recipient to implement the approved project or to comply with the applicable requirements constitutes grounds for the authority to recapture or withhold funds. The recipient is responsible for ensuring that the identified problem(s) is rectified. Once the deficiency is corrected, the funds can be released. A recipient that disagrees with the director's withholding of funds may request a formal review of the action. The recipient must submit a request in writing to the director within 30 days of notification by the authority of its planned action.

These rules are intended to implement Iowa Code section 16.5(1) "r" and section 16.131 as amended by 2009 Iowa Act, House File 281, and 2009 Iowa Acts, Senate File 376, section 13(4).

[Filed 8/6/09, effective 9/30/09]

[Published 8/26/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/26/09.

ARC 8076B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1) "b," 16.5(1) "r," and 2009 Iowa Acts, Senate File 376, section 30, the Iowa Finance Authority hereby adopts new Chapter 35, "Affordable Housing Assistance Grant Fund," Iowa Administrative Code.

The purpose of these rules is to implement 2009 Iowa Acts, Senate File 376, section 30, by regulating the operation of the Affordable Housing Assistance Grant Fund.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 1, 2009, as **ARC 7898B**. These amendments were also Adopted and Filed Emergency and were published as **ARC 7897B**. The Authority did not receive any public comment on the proposed rules. The Authority has made no changes to the rules as published under Notice.

The Iowa Finance Authority adopted these rules on August 5, 2009.

These rules are intended to implement Iowa Code section 16.5(1) "r" and 2009 Iowa Acts, Senate File 376, section 30.

These rules will become effective on September 30, 2009, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following amendment is adopted.

IOWA FINANCE AUTHORITY[265](cont'd)

Adopt the following **new** 265—Chapter 35:

CHAPTER 35
AFFORDABLE HOUSING ASSISTANCE GRANT FUND

265—35.1(16,83GA,SF376) Affordable housing assistance grant fund allocation plan. The affordable housing assistance grant fund allocation plan entitled Iowa Finance Authority Affordable Housing Assistance Grant Fund Allocation Plan dated June 2009 shall be the allocation plan for the award, pursuant to the affordable housing assistance grant fund program, of funds held within the affordable housing assistance grant fund established in 2009 Iowa Acts, Senate File 376, section 30. The allocation plan for the affordable housing assistance grant fund program is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

265—35.2(16,83GA,SF376) Location of copies of the plan. The allocation plan for the affordable housing assistance grant fund program may be reviewed and copied in its entirety on the authority's Web site at www.iowafinanceauthority.gov. Copies of the allocation plan for the affordable housing assistance grant fund program, the application forms, and all related attachments and exhibits, if any, shall be deposited with the administrative rules coordinator and at the state law library. The plan incorporates by reference 2009 Iowa Acts, Senate File 376, section 30.

These rules are intended to implement Iowa Code section 16.5(1) "r" and 2009 Iowa Acts, Senate File 376, section 30.

[Filed 8/6/09, effective 9/30/09]

[Published 8/26/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/26/09.

ARC 8077B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(1)"r" and 2009 Iowa Acts, Senate File 376, section 28, the Iowa Finance Authority hereby adopts new Chapter 36, "Public Service Shelter Grant Fund," Iowa Administrative Code.

The purpose of these rules is to implement 2009 Iowa Acts, Senate File 376, section 28, by regulating the operation of the Public Service Shelter Grant Fund.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 1, 2009, as **ARC 7893B**. These rules were also Adopted and Filed Emergency and were published as **ARC 7894B** on the same date. The Authority did not receive any public comment on the proposed rules. The Authority has made no changes to the rules as published under Notice.

The Iowa Finance Authority adopted these rules on August 5, 2009.

These rules are intended to implement Iowa Code section 16.5(1)"r" and 2009 Iowa Acts, Senate File 376, section 28.

These rules will become effective on September 30, 2009, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following amendment is adopted.

Adopt the following **new** 265—Chapter 36:

CHAPTER 36
PUBLIC SERVICE SHELTER GRANT FUND

IOWA FINANCE AUTHORITY[265](cont'd)

265—36.1(16,83GA,SF376) Public service shelter grant fund allocation plan. The allocation plan entitled Iowa Finance Authority Public Service Shelter Grant Fund Allocation Plan dated June 2009 shall be the allocation plan for the award, pursuant to the public service shelter grant fund program, of funds held within the public service shelter grant fund established in 2009 Iowa Acts, Senate File 376, section 28. The allocation plan for the public service shelter grant fund program is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

265—36.2(16,83GA,SF376) Location of copies of the plan. The allocation plan for the public service shelter grant fund program may be reviewed and copied in its entirety on the authority's Web site at www.iowafinanceauthority.gov. Copies of the allocation plan for the public service shelter grant fund program, the application forms, and all related attachments and exhibits, if any, shall be deposited with the administrative rules coordinator and at the state law library. The plan incorporates by reference 2009 Iowa Acts, Senate File 376, section 28.

These rules are intended to implement Iowa Code section 16.5(1) "r" and 2009 Iowa Acts, Senate File 376, section 28.

[Filed 8/6/09, effective 9/30/09]

[Published 8/26/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/26/09.

ARC 8081B

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board amends Chapter 90, "Administration of the Boiler and Pressure Vessel Program," Iowa Administrative Code.

Subrule 90.7(2) currently sets a \$25 fee for a one-year certificate and a \$50 fee for a two-year certificate. This amendment updates the subrule to reflect statutory changes set forth in 2009 Iowa Acts, House File 720, by establishing a \$100 fee for a new, four-year certificate.

The principal reason for this amendment is to implement legislative intent. No variance provision is included in this rule making. Applicable variance procedures are set forth in 875—Chapter 81.

Notice of Intended Action was published in the June 17, 2009, Iowa Administrative Bulletin as **ARC 7865B**. This amendment was simultaneously Adopted and Filed Emergency as **ARC 7863B**. No public comment was received on the proposed amendment. This amendment is identical to that published under Notice of Intended Action.

This amendment shall become effective on September 30, 2009, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

This amendment is intended to implement Iowa Code chapter 89 and 2009 Iowa Acts, House File 720.

The following amendment is adopted.

Amend subrule 90.7(2) as follows:

90.7(2) Certificate fee. A \$25 fee shall be paid for each one-year certificate, ~~and~~ a \$50 fee shall be paid for each two-year certificate, and a \$100 fee shall be paid for each four-year certificate.

[Filed 8/7/09, effective 9/30/09]

[Published 8/26/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/26/09.

ARC 8069B**REGENTS BOARD[681]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby amends Chapter 2, "Supplemental Specific Rules for Each Institution," Iowa Administrative Code.

These amendments update admission rules for the College of Veterinary Medicine at Iowa State University.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 1, 2009, as **ARC 7907B**. A comment period was established. No comments were received. These amendments are identical to those published under Notice.

The Board of Regents adopted these amendments on August 5, 2009.

These amendments will become effective on September 30, 2009.

These amendments are intended to implement Iowa Code section 262.9.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [2.26(1) to 2.26(4)] is being omitted. These amendments are identical to those published under Notice as **ARC 7907B**, IAB 7/1/09.

[Filed 8/6/09, effective 9/30/09]

[Published 8/26/09]

[For replacement pages for IAC, see IAC Supplement 8/26/09.]

ARC 8070B**REGENTS BOARD[681]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 262.9, the Board of Regents hereby amends Chapter 13, "Iowa State University of Science and Technology Organization and General Rules," Iowa Administrative Code.

These amendments update titles and other information about departments to clarify who may enter into contracts; to revise rules to comply with the Smokefree Air Act (Iowa Code chapter 142D); and to make other technical changes.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 1, 2009, as **ARC 7905B**. A comment period was established. No comments were received. These amendments are identical to those published under Notice.

The Board of Regents adopted these amendments on August 5, 2009.

These amendments will become effective September 30, 2009.

These amendments are intended to implement Iowa Code section 262.9.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 13] is being omitted. These amendments are identical to those published under Notice as **ARC 7905B**, IAB 7/1/09.

[Filed 8/6/09, effective 9/30/09]

[Published 8/26/09]

[For replacement pages for IAC, see IAC Supplement 8/26/09.]

ARC 8060B**UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 17A.7, 476.1, and chapters 476B and 476C as amended by 2009 Iowa Acts, Senate File 456, the Utilities Board (Board) gives notice that on August 4, 2009, the Board issued an order in Docket No. RMU-2009-0005, In re: Wind Energy Tax Credits, “Order Adopting Rules.” The Board is adopting amendments to 199 IAC 15.18(476B), 15.19(476C), 15.20(476B), and 15.21(476C). The amendments reflect changes to Iowa Code chapters 476B and 476C contained in 2009 Iowa Acts, Senate File 456, which was signed by the Governor on April 23, 2009. The amendments also clarify that tax credit applications made pursuant to chapters 476B and 476C are not subject to the Board’s electronic filing rules found in 199 IAC 14.

2009 Iowa Acts, Senate File 456, made several changes to Iowa Code chapter 476B. The changes include setting a maximum nameplate capacity of 30 megawatts for eligibility applications filed after March 1, 2008; setting a minimum nameplate application of $\frac{3}{4}$ of a megawatt, or 750 kilowatts, for eligibility applications filed after July 1, 2009, by listed educational institutions or hospitals; changing the requirements for seeking approval from the county board of supervisors; and removing a prohibition against receiving both property tax and sales tax exemptions. The amendments to 199 IAC 15.18 and 15.20 reflect these changes.

2009 Iowa Acts, Senate File 456, also made changes to Iowa Code chapter 476C. The changes include allowing an eligible wind generation facility to apply for a 12-month extension of its 30-month operational deadline if the facility is not operational due to the unavailability of necessary equipment. The new statutory requirement for extensions is reflected in the amendment to 199 IAC 15.19(4).

Notice of Intended Action in Docket No. RMU-2009-0005 was published in IAB Vol. XXXI, No. 26 (06/17/2009), p. 2787, as **ARC 7849B**. Written comments were received from the Consumer Advocate Division of the Department of Justice (Consumer Advocate) supporting the proposed amendments. An oral presentation was held on July 29, 2009. Consumer Advocate again offered comments supporting the amendments. There were no other commenters.

The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board’s general waiver provision in 199 IAC 1.3(17A,474,476,78GA,HF2206) is applicable to these amendments.

The adopted amendments are identical to those published under Notice. Therefore, no additional notice is necessary prior to adopting these amendments.

The amendments will become effective on September 30, 2009.

These amendments are intended to implement Iowa Code section 476.1 and chapters 476B and 476C as amended by 2009 Iowa Acts, Senate File 456.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [15.18(1), 15.19(4), 15.20(1), 15.21(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 7849B**, IAB 6/17/09.

[Filed 8/5/09, effective 9/30/09]

[Published 8/26/09]

[For replacement pages for IAC, see IAC Supplement 8/26/09.]



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA
EXECUTIVE ORDER NUMBER SIX

WHEREAS, the State of Iowa is committed to the development and deployment of a broad array of new clean technology businesses and industries (such as cellulosic ethanol and biodiesel fuel production, wind turbine manufacturing and green building construction and retrofits) as demonstrated by the creation in 2007 of the Iowa Office of Energy Independence, the Iowa Power Fund, and the continued funding of the Grow Iowa Values Fund; and

WHEREAS, the State of Iowa is at the same time committed to leadership in environmental protection through increasing the use of renewable energy, alternative fuels and energy efficient technologies through the creation in 2007 of the Iowa Office of Energy Independence, the Iowa Power Fund, the Climate Change Advisory Council, the signing of the Midwest Regional Greenhouse Gas Reduction Accord, the continued funding of the Grow Iowa Values Fund, and the continued implementation of Governor Vilsack's Executive Order 41 and Governor Culver's Executive Order 3; and

WHEREAS, the State of Iowa's executive agencies and Regent institutions are among the largest consumers of energy-related goods and services such as natural gas, electricity, water and transportation fuels in the State; and

WHEREAS, the State of Iowa recognizes that in the long term the costs of traditional fossil fuels will likely continue to increase as nations around the world move toward regulating carbon emissions; as energy demands in developing nations such as China and India continue to increase; and as energy companies face the onset of "peak oil" and the resulting cost increases for finding, extracting and refining fossil fuels; and

WHEREAS, Iowa's procurement and financing rules and regulations governing state building construction, building retrofits and office space leasing were developed in an era when energy was less expensive and the threat of global warming and climate change was not widely understood; and

WHEREAS, recent legislative activity on the Federal Energy Bill of 2007 and the Federal Farm, Nutrition, and Bioenergy Act of 2007 are likely to increase the amount of federal funding available to states for the use and deployment of energy efficient technologies, alternative fuels and renewable energy technologies and will likely reward state governments that are organized and poised to draw down those new federal funding sources through efficient partnerships with the private sector and non-profit organizations; and

WHEREAS, by aggressively "greening" the state's own office building footprint, the State of Iowa could produce a "quadruple bottom line" impact of: (1) building out new green building clean technology businesses and industries; (2) creating new "green collar" jobs in the building retrofit and renewable energy sectors in Iowa; (3) saving taxpayers money in the long-term by cutting state office energy consumption; and (4) reducing greenhouse gas emissions, all while deploying green building technologies that already exist; and

WHEREAS, the Director of the Office of Energy Independence is charged by statute with coordinating and monitoring all existing state renewable energy, renewable fuels, and energy efficiency programs and policy; and establishing performance measures for determining effectiveness of renewable energy, renewable fuels, and energy efficiency efforts; and

WHEREAS, the State of Iowa has been leading the way for more than two decades with executive orders, statutes and administrative rules related to recycling, energy efficiency and the use of renewable fuels by state agencies, most recently through the successful implementation of Governor Vilsack's Executive Order 41; and

WHEREAS, this Administration intends to continue the tradition of leadership by example and integrate clean energy, environmental protection and resource conservation programs, policies and procedures into all appropriate aspects of governing; and

WHEREAS, the State of Iowa makes significant expenditures in the operation of state agency programs and the Regent institutions and can therefore be instrumental in establishing and sustaining markets for environmentally preferable products, services, and facilities as well as influencing the behavior of vendors who want to do business with the State of Iowa; and

WHEREAS, the first annual Iowa Plan for Energy Independence, submitted by the Office of Energy Independence in December 2007, outlined the framework for strategies and options for achieving energy independence from foreign sources of energy by the year 2025, and emphasized that state government must lead by example.

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by the power vested in me by the laws and the constitution of the State of Iowa, do hereby order as follows:

Executive Order Number Forty-one, issued by Governor Thomas J. Vilsack on April 22, 2005, shall be rescinded. In its place, this Executive Order Number SIX shall be enacted and followed by all state agencies within the executive branch of government to the fullest extent allowable under law.

I. GREEN GOVERNMENT COORDINATORS

The director of each state Agency under the jurisdiction of the Governor shall appoint a Green Government Coordinator to support the Green Government Initiative outlined in this Executive Order. Green Government Coordinators should be familiar with the procurement statute and administrative rules related to their own agency and shall be provided the time, resources and support from their agency necessary to achieve the tasks and responsibilities outlined in this Executive Order.

Coordinators shall serve on Green Government Task Forces as assigned and provide reasonable assistance and cooperation as requested by the Green Government Initiative Steering Committee and/or the Director of the Office of Energy Independence for the purpose of carrying out their duties pursuant to this order.

Coordinators shall facilitate the implementation of key Green Government initiatives that will create jobs and reduce negative environmental impacts across state government.

II. GREEN GOVERNMENT INITIATIVE

A. Green Government Steering Committee. The Green Government Initiative shall be implemented by all state executive branch agencies under the jurisdiction of the Governor, as outlined in this Executive Order. The initiative shall be led by a Steering Committee chaired by the Director of the Office of Energy Independence and including the chairperson or chairperson's designee of the Iowa Utilities Board, and the directors or directors' designees of the Department of Administrative Services, the Department of Natural Resources, the Department of Transportation, and the Department of Economic Development.

The Green Government Steering Committee will be advised by a Green Government Advisory Committee that may include members from the private sector, local and county government, academic institutions, non-profit organizations, non-profit foundations, the public, state agencies not under the Governor's jurisdiction, and interested members of the legislative and judicial branches of government. The Green Government Steering Committee may also coordinate and collaborate with the State Energy Council (formerly known as the Energy Coordinating Council) and other executive branch agencies as necessary.

The Green Government Steering Committee will perform two main functions for the State of Iowa:

1. The Green Government Steering Committee will provide policy advice and support to the Governor's Office of Energy Independence, the Iowa Department of Economic Development and other state agencies involved with the development and deployment of new clean technology businesses and industries in the State of Iowa; and

2. The Green Government Steering Committee will oversee, coordinate, verify and validate the implementation of the goals of this Executive Order and report back to the Governor's Office on the attainment of the goals set forth below. The Steering Committee will be responsible for developing, implementing, and maintaining a progress reporting system and process.

The Steering Committee shall host a Green Government Summit on or before July 31, 2008 for all direct participants in the Green Government Initiative. The Green Government Summit will produce a list of additional new common sense, cost saving and innovative ideas and policies for implementation beginning in 2009, after implementation of the policies and programs set forth in this Executive Order are already underway. The Green Government Summit will solicit advice and input from state agency staff, county and local governments, the private sector and non-profit organizations on the best ways to achieve the goals set forth in this Executive Order and make Iowa a national leader in energy efficiency, renewable energy technology deployment and alternative fuel production.

B. Green Government Task Forces. The Green Government Steering Committee shall provide leadership and guidance to the following Task Forces which may be supplemented with other Task Forces at the discretion of the Steering Committee:

1. **Energy Excellent Buildings Task Force.** The Office of Energy Independence, the Department of Administrative Services, the Department of Transportation, the Department of Human Services and the Department of Corrections shall provide leadership to this Task Force. Membership shall include representatives from all state agencies under the Governor's jurisdiction with responsibilities for building, retrofitting, retro-commissioning, operating and maintaining state office buildings and state facilities.

The Buildings Task Force shall focus on "greening" new and existing state office buildings and facilities. Implementation areas of interest should include, but are not limited to: use of energy efficient lighting and lighting systems, modernizing physical plants and HVAC systems, continuing to include life-cycle cost estimating in agency decision making, utilization of finance mechanisms that meet sound management principles for retrofits and retro-commissions, and reporting mechanisms to track long-term cost savings and environmental impact, including but not limited to carbon emission reductions, improved indoor air quality, and water conservation.

The Buildings Task Force shall also evaluate current leased space to determine opportunities for energy efficiency improvements that will pay for themselves within the remainder of the lease term, and develop energy efficient criteria to be used when procuring leased space.

The goal of the Energy Excellent Buildings Task Force will be to reduce the use of electricity, natural gas, fuel oil and water in all state office buildings by at least 15% overall in the next 5 years, taking into account growth in the state workforce and/or changes in building operations.

Under Governor Vilsack's Executive Order 41, participating state agencies reduced the use of electricity and natural gas from a 2000 baseline. The Energy Excellent Buildings Task Force shall strive to achieve at least another 15% reduction at state office buildings by 2015.

2. **Sustainable Materials Task Force.** The Office of Energy Independence, the Department of Administrative Services, the Department of Natural Resources, and the Department of Transportation shall provide leadership to this Task Force whose membership will include all impacted state agencies under the Governor's jurisdiction.

The Task Force shall focus on procurement, operations and disposal of all materials used in state government. Areas of interest should include, but are not limited to: reuse, recycling, remanufacturing / demanufacturing of computers and other technology, co-location of computer equipment in common space to reduce power loss overhead for power conditioning and air conditioning and reduce the square footage of high operating cost data centers, life-cycle

costing, purchase of products with recycled content and/or biodegradable or environmentally-friendly products.

The goal of the Sustainable Materials Task Force shall be to promote resource efficiency by promoting practices that support the following principles:

- Recycled content: Products with identifiable recycled content, including postindustrial content, with a preference for postconsumer content.
- Natural, plentiful, or renewable: Materials harvested from sustainably managed sources and preferably certified by an independent third party.
- Resource efficient manufacturing processes: Products manufactured with resource-efficient processes including reduced energy consumption, minimal waste (recycled, recyclable and/or source reduced product packaging), and reduced greenhouse gases.
- Locally available: Building materials, components, and systems found locally or regionally saving energy and resources in transportation to the project site.
- Salvaged, refurbished, or remanufactured: Saving a material from disposal and renovating, repairing, restoring or generally improving the appearance, performance, quality, functionality or value of a product.
- Reusable or recyclable: Materials that can be easily dismantled and reused or recycled at the end of their useful life.
- Recycled or recyclable product packaging: Products enclosed in recycled content or recyclable packaging.
- Durable: Materials that are longer lasting or are comparable to conventional products with long life expectancies.

3. **Biofuels Task Force.** The Office of Energy Independence, the Department of Administrative Services, the Department of Natural Resources and the Department of Transportation shall provide leadership for this Task Force. Membership shall include representatives from all impacted state agencies under the Governor's jurisdiction.

The Task Force shall focus on at least three issue areas: (1) increasing the use of biofuels by state agencies to the maximum amount feasible; (2) reducing the number of vehicle miles traveled by the state employee workforce; and (3) increasing the fuel efficiency of the state vehicle fleet. The Task Force shall, using data gathered during the audit required by this Executive Order, set specific five- and ten-year targets related to these issue areas.

C. Board of Regents Participation. The Board of Regents will provide representatives for participation in the Green Government Steering Committee and the Task Forces created in this Executive Order. The Board of Regents, in the development of sustainability goals, policies and practices for facilities and operations under their governance authority, will seek to coordinate these efforts with those of the Green Government Initiative and provide progress reports and data which can be readily incorporated into the reporting systems developed by the Green Government Steering Committee.

D. Reporting and Publication of Results. The Task Forces, in consultation with the Steering Committee, shall develop a system that builds upon the successes of the reporting system used to implement Governor Vilsack's Executive Order 41. The Task Forces, in consultation with the Steering Committee, shall work with state agencies to conduct a thorough and complete audit of current practices related to:

- Procurement – "green" purchasing and life-cycle costing
- Operations – building design, construction and maintenance, operations and equipment
- Disposal – recycling and remanufacturing / demanufacturing

Agencies shall complete the audit and provide data to the Steering Committee by December 1, 2008.

Using the audit data, the Steering Committee shall develop a Green Government Master Plan, which will outline steps for developing, implementing and augmenting programs, plans and policies to promote environmentally sustainable and

economically efficient practices. The Master Plan shall be completed by March 15, 2009 and submitted to the Governor.

The Steering Committee shall develop a reporting system with specific metrics by which it can track and measure progress toward clean energy and environmental goals set forth in the Green Government Master Plan.

- The Energy Excellent Buildings Task Force reporting system should include, but not be limited to, the amount of electricity, natural gas and water consumed in each state office building with information on each building's square footage.
- The Sustainable Materials Task Force reporting system should include, but not be limited to, the percentage of state electronic equipment recycled and disposed, and the percent of recycled or repurposed materials used in state construction projects.
- The Biofuels Task Force reporting system should include, but not be limited to, the increases in fuel efficiency of the state fleet and the decreases in the number of miles driven by state agency employees as well as the resulting cost savings.

Whenever feasible, this reporting system and the data it produces should be posted on the Office of Energy Independence's web site and made available to the public.

The activities and progress of the Green Government Initiative shall be included in the Plan for Energy Independence, submitted annually by the Office of Energy Independence to the Governor and the General Assembly pursuant to the Iowa Code.

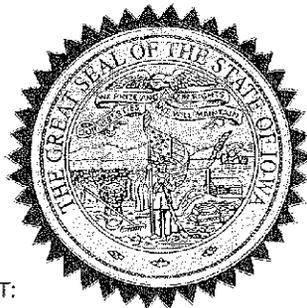
The progress of the agency in the area of Green Government (reporting and results) shall be included as a measure of performance for all Agency directors beginning in 2009.

E. Financing. State agencies, working with the Steering Committee and Task Forces, shall access all existing financial resources to finance energy improvements that pay for themselves through available mechanisms.

F. State Employee Participation. The Steering Committee, in cooperation with the Task Forces, shall offer educational and training efforts necessary to carry out provisions of this order and other related directives.

To assist the Green Government Initiative in achieving participation and involvement of employees at every level of state government, the Office of Energy Independence shall implement a "green suggestion box" on its website, for use by state employees with suggestions on "greening" government. Employees without access to the Internet shall be encouraged to mail suggestions directly to the Office of Energy Independence.

G. Administrative Support. The Department of Administrative Services, the Department of Natural Resources, and the Office of Energy Independence shall provide administrative support necessary to facilitate the implementation of the Green Government Initiative.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 21st day of February, in the year of our Lord two thousand eight.

Chester J. Culver
CHESTER J. CULVER
GOVERNOR

ATTEST:

MICHAEL A. MAURO
SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA
EXECUTIVE ORDER NUMBER SEVEN

WHEREAS, on Sunday, May 25, 2008, and continuing, severe storm systems moved across portions of Iowa, spawning severe weather including tornados, heavy rains, wind, hail and severe thunderstorms; and

WHEREAS, the severe damage and flooding resulting from these storm systems have caused unprecedented devastation and damage to communities through much of the state, including its people, economy, infrastructure, natural resources and critical institutions; and

WHEREAS, given the devastation caused by these storms, we have the opportunity to turn tragedy into opportunity by building back smarter, stronger, more sustainably, and safer than before; and

WHEREAS, unprecedented state, federal and other private and public resources will be committed to the rebuilding of these areas; and

WHEREAS, such resources must be coordinated, targeted and leveraged with traditional resources to maximize their impact as well as to improve efficiency and to avoid duplication of efforts; and

WHEREAS, the importance and magnitude of the rebuilding undertaking requires that a single unit of government be charged with such a task, and that recovery efforts be effectively coordinated; and

WHEREAS, such unit must be administered by a professional staff whose members shall be guided by a capable and experienced council, to ensure that the redevelopment is conducted to the highest standards of integrity, quality and transparency; and

WHEREAS, this unit must work across levels of government and with the citizens and businesses of the state to develop and realize a comprehensive long-term vision for a rebuilt and renewed Iowa.

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by the power vested in me by the laws and the constitution of the State of Iowa, do hereby order as follows:

- I. A REBUILD IOWA OFFICE shall be established.
 - A. The purpose of this OFFICE shall be to coordinate state activities concerning the rebuilding effort following the most recent series of natural disasters in Iowa.
 - B. The OFFICE shall be formed as a separate legal entity under a 28E Agreement entered into by several public agencies and any private agencies as necessary.
 - C. The OFFICE shall be authorized:
 1. To exercise and enjoy all of the powers, privileges and authority conferred by law on any public agency joining in the 28E Agreement;
 2. To enter into agreements with departments and agencies of state government, pursuant to Iowa Code chapter 28D, as necessary, to staff the OFFICE;

3. To be the recipient of intra-departmental or interdepartmental transfers of funds, pursuant to Iowa Code section 8.39, as determined appropriate by the Iowa Department of Management;
 4. To enter into contractual agreements with vendors and consultants, consistent with Iowa statutes and administrative rules related to procurement, to carry out the purposes and duties the OFFICE; and
 5. To perform all other lawful actions consistent with the purposes and duties of the OFFICE, as set forth herein.
- D. The duties of the OFFICE shall include, but not be limited to, the following:
1. Establishing and realizing short-term priorities for recovery and long-term plans for redevelopment on behalf of the Governor and the State of Iowa;
 2. Establishing federal and state legislative agenda for the recovery and rebuilding efforts and for coordinating between levels and branches of government to implement that agenda;
 3. Identifying funding sources and/or innovative financing alternatives to adequately fund recovery and redevelopment;
 4. Receiving, establishing priorities and creating guidelines for disbursing and overseeing the use of all funds made available to the State of Iowa as a result of these disaster events, including, but not limited to, Federal disaster program funds administered by the State under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and special appropriations;
 5. Establishing timelines and benchmarks by which progress in disaster recovery and long-term reconstruction can be measured;
 6. Providing means for the public, businesses, non-governmental organizations, communities and other stakeholders to have input into the recovery process; and
 7. Providing state and local units of government with guidance for long-term recovery after a disaster.
- E. The OFFICE shall have a professional staff.
1. The OFFICE shall have an Executive Director who shall be appointed by the Governor and who shall serve at the pleasure of the Governor.
 2. The Governor's direction to all gubernatorial appointees, cabinet officials, agency and department heads as it pertains to the rebuild efforts and operations of the REBUILD IOWA OFFICE and the REBUILD IOWA ADVISORY COMMISSION shall be expressed through the Executive Director. The Executive Director shall serve as the executive and administrative officer of the REBUILD IOWA ADVISORY COMMISSION and shall discharge all operational, administrative and executive functions of the OFFICE, subject to the control, jurisdiction and supervision of the Governor.
 3. The OFFICE, in addition to regular staff members provided to it, may draw upon staffing and other resources from any other executive branch agency, as needed.
- II. A REBUILD IOWA ADVISORY COMMISSION shall be established, whose members shall meet at regularly scheduled public meetings and at the call of the Chairperson.
- A. The duties of the COMMISSION shall include, but not be limited to, the following:
1. To provide leadership in the development and execution of agreements, as may be needed, pursuant to Iowa Code chapter 28E, by which the REBUILD IOWA OFFICE will be established, and agreements pursuant to Iowa Code chapter 28D, as necessary;

2. To provide ongoing vision, creativity, leadership and assistance to the OFFICE in carrying out its duties, as described herein;
3. To assist the Governor and the OFFICE by recommending policies associated with recovery and rebuilding, and assisting with the identification of strategic issues and broad-based needs and priorities;
4. To coordinate, make recommendations for and oversee the OFFICE's efforts to direct recovery planning and resource allocation affecting programs and services for the recovery; and
5. To provide oversight of the activities of the OFFICE.

B. ADVISORY COMMISSION MEMBERSHIP:

1. The ADVISORY COMMISSION shall have 15 voting Members, to include a Chairperson, all of whom shall be appointed by, and who shall serve at the pleasure of, the Governor.
2. ADVISORY COMMISSION vacancies shall be filled by the appointment of the Governor.

C. ADVISORY COMMISSION TASK FORCES:

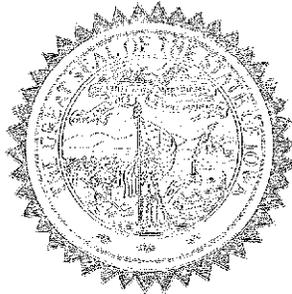
1. The ADVISORY COMMISSION shall have TASK FORCES, which may include members of the ADVISORY COMMISSION and other state agencies and stakeholder groups, to assist the ADVISORY COMMISSION in carrying out its duties and responsibilities.
2. The initial TASK FORCES shall initially include, but shall not necessarily be limited to, the following topics:
 - a. Housing;
 - b. Infrastructure and Transportation;
 - c. Economic and Workforce Development;
 - d. Public Health and Healthcare;
 - e. Environmental Quality and Review;
 - f. Education;
 - g. Flood Plain Management and Hazard Mitigation;
 - h. Records Retention and Management;
 - i. Cultural Heritage; and
 - j. Long-Term Recovery Planning.
3. Thereafter, TASK FORCES shall be created and shall disband as shall be directed, from time to time, by a majority vote of the ADVISORY COMMISSION.
4. The initial activities for each TASK FORCE shall include, but shall not be limited to, the following:
 - a. Fact gathering and identification of best-practices;
 - b. Community outreach;
 - c. Public education; and
 - d. The preparation of public reports and development of recommendations of recovery-related policies and priorities.
5. The ADVISORY COMMISSION shall submit a report to the Governor and the General Assembly within 45 days of its first meeting. This report shall include an assessment of the storms' impact on the state's people, schools, businesses, and private and public infrastructure, with recommendations for initial steps to be taken by the legislative and executive branches to assist in recovery.
6. No later than October 31, 2008, the ADVISORY COMMISSION shall report to the Governor and the General Assembly its comprehensive long-term vision for rebuilding a safer, stronger, and better Iowa. In developing its recommendations for strategies to achieve that vision, the COMMISSION

shall work with all levels of government, private sector businesses, and citizens from all parts of the state.

7. Thereafter, the ADVISORY COMMISSION, in cooperation with the OFFICE, shall submit a written comprehensive report quarterly to the Governor and to the General Assembly, addressing short-term and long-term priorities and planning for issues addressed by each of the TASK FORCES, and other issues, as warranted.

D. ADVISORY COMMISSION COMMITTEES. The ADVISORY COMMISSION shall appoint or disband COMMITTEES comprised solely of ADVISORY COMMISSION members, by majority vote, as the ADVISORY COMMISSION shall deem necessary to carry out its purposes and duties.

III. This EXECUTIVE ORDER, and any agreements entered into pursuant to this ORDER, shall include a termination date no later than three years from the date this ORDER is signed.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 27th day of June, in the year of our Lord two thousand eight.

Chester J. Culver

CHESTER J. CULVER
GOVERNOR

ATTEST:

Michael A. Mauro

MICHAEL A. MAURO
SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER EIGHT

WHEREAS, it is a goal of this Administration to achieve and maintain a fair and equitable workforce environment in the State of Iowa; and

WHEREAS, certain employers in Iowa and elsewhere may also improperly classify individuals they hire as "independent contractors," even when those workers legally should be classified as "employees" (hereinafter referred to as "employee misclassification"); and

WHEREAS, the practice of employee misclassification is often an attempt by employers to avoid the employers' legal obligations under federal and state labor, employment and tax laws, including laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and income tax; and

WHEREAS, the practice of employee misclassification has serious adverse effects on the residents, businesses and economy of Iowa, because this practice: (1) increases uncertainty of collecting unemployment taxes; (2) unfairly shifts the tax burden to the overwhelming majority of Iowa employers who adhere to federal and state labor laws; (3) allows employers who misclassify their employees an improper competitive advantage over law-abiding businesses; and (4) undermines fundamental laws intended to ensure employees receive legally-required employment insurance and workers' compensation; and

WHEREAS, enforcement efforts to address the problem of employee misclassification should be studied and enhanced, to improve the efficient coordination and cooperation between state agencies to address the problem of employee misclassification; and

WHEREAS, the creation of a Task Force to examine and report on the issue of employee misclassification is an effective method to better understand the magnitude of these employment practices and come up with cooperative solutions to enforcement of applicable laws.

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by the power vested in me by the laws and constitution of the State of Iowa, do hereby order as follows:

An INDEPENDENT CONTRACTOR REFORM TASK FORCE shall be created.

A. **Membership.** Membership on the Task Force shall include:

- The Governor, or the Governor's designee;
- The Director of Iowa Workforce Development, or the director's designee;
- The Director of the Iowa Department of Revenue, or the director's designee;
- The Director of the Department of Economic Development, or the director's designee; and
- The Labor Commissioner, or the Commissioner's designee;

The Director of Iowa Workforce Development or the director's designee shall serve as Chairperson of the Task Force.

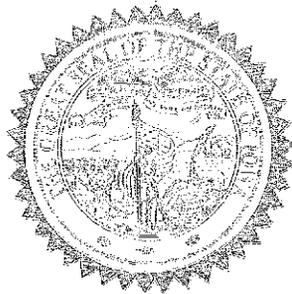
B. Duties. The Task Force shall:

1. Review Iowa laws, regulations, policies and procedures related to employee misclassification.
2. Assess existing methods, both within Iowa and in other jurisdictions, of preventing, investigating and taking enforcement action against employee misclassification violations.
3. Identify and recommend potential regulatory or statutory changes that would improve prevention and enforcement efforts and systematically address the problem of employee misclassification in Iowa.
4. Develop a plan and a timeline, with input from appropriate stakeholder groups, to redress the problems caused by and prevent the practice of employee misclassification through coordinated legal and regulatory changes.
5. Identify and recommend ways to prevent employee misclassification, such as through the dissemination of educational materials regarding the legal differences between independent contractors and employees, thereby reducing the need for corrective action.

C. Final Report. The Task Force shall submit a written report outlining its activities and making recommendations for corrective action to the Governor's Office no later than December 17, 2008.

D. Administrative Support. Iowa Workforce Development shall provide the administrative support necessary to facilitate the work of the Task Force.

E. Dissolution. The Task Force shall be dissolved upon submission of its report to the Governor's Office.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 16th day of July, in the year of our Lord two thousand eight.

Chester J. Culver

 CHESTER J. CULVER
 GOVERNOR

ATTEST:

Michael A. Mauro

 MICHAEL A. MAURO
 SECRETARY OF STATE



EXECUTIVE ORDER NUMBER NINE

WHEREAS, on Sunday, May 25, 2008, and continuing, severe storm systems moved across portions of Iowa, spawning severe weather including tornados, heaving rains, wind, hail and severe thunderstorms; and

WHEREAS, the severe damage and flooding resulting from these storm systems have caused unprecedented devastation and damage to communities throughout much of the state, including its people, economy, infrastructure, natural resources, and critical institutions; and

WHEREAS, on October 3, 2008, President Bush signed into law the Heartland Disaster Tax Relief Act of 2008 (the "Disaster Relief Act"), Public Law 110-343, which provides temporary tax relief to certain areas, including areas in Iowa, damaged by the severe storms, tornados and flooding in 2008; and

WHEREAS, among other things, the Disaster Relief Act provides for the issuance of a new category of tax-exempt bonds ("Qualified Midwestern Disaster Area Bonds"), which Bonds may be issued on a tax-exempt basis for an expanded array of permissible projects; and

WHEREAS, under the Disaster Relief Act, the Qualified Midwestern Disaster Area Bonds must be allocated to uses on the basis of providing assistance to areas in the order in which such assistance is most needed; and

WHEREAS, the Qualified Midwestern Disaster Area Bonds must be issued before January 1, 2013, and are limited in aggregate amount available to be issued under the Disaster Relief Act; and

WHEREAS, pursuant to section 702 of the Disaster Relief Act, to implement the provisions thereof, and further, to ensure an accurate, efficient and timely allocation of the additional tax-exempt bonding authority provided under the Disaster Relief Act, a single agency shall be directed to administer this allocation.

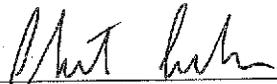
NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by the power vested in me by the laws and the constitution of the State of Iowa, do hereby order as follows:

- I. The Iowa Finance Authority, a public instrumentality and agency of the State of Iowa, is directed to administer the allocation of additional tax-exempt bonding authority provided by the Disaster Relief Act.
- II. The Iowa Finance Authority shall develop administrative rules to implement the accurate, efficient and timely allocation of this additional tax-exempt bonding authority, including necessary provisions to ensure that said bonds are allocated to uses on the basis of providing assistance to areas in the order in which such assistance is most needed.

- III. The Iowa Finance Authority shall track the allocation of this additional tax-exempt bonding authority to ensure compliance with the Disaster Relief Act and applicable federal regulations, and shall provide all necessary reports to the Internal Revenue Service relating thereto.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 7th day of November, in the year of our Lord two thousand eight.



CHESTER J. CULVER
GOVERNOR

ATTEST:



MICHAEL A. MAURO
SECRETARY OF STATE
By: Frank J. Chalko, Deputy



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER TEN

WHEREAS, irresponsible actions by Wall Street financial interests, combined with the impact of misguided economic and fiscal policies of the federal government in the past eight years, have resulted in creating the worst economic recession since the Great Depression, one that is hitting Main Streets and factories and farms and families in Iowa and across the nation and the world; and

WHEREAS, at least 43 other states across the country have experienced significant reductions in their revenues and are using their state reserve funds to combat the adverse effects of this economic downturn; and

WHEREAS, the State of Iowa, in 2008, experienced a series of unprecedented natural disasters, wreaking havoc on Iowa homeowners, businesses and governmental jurisdictions and requiring unanticipated emergency draws from the state's General Fund for Fiscal Year 2009 to assist in the payment of damages; and

WHEREAS, the State of Iowa, using sound fiscal and management practices, has created reserve funds, and has positioned itself to avoid some of the worst budgetary impacts of the combined forces of the recession and natural disasters upon the State Treasury; and

WHEREAS, on December 12, 2008, the State's Revenue Estimating Conference (REC) reduced its projection of state revenues for Fiscal Year 2009 by \$99.5 million; and

WHEREAS, the Department of Management has informed me that budget allotments to state departments and agencies must be modified in order to avoid an overdraft or deficit in the State's General Fund for Fiscal Year 2009; and

WHEREAS, conservative fiscal management during this period of uncertainty necessitates the creation of an economic buffer in budget allotments in the event that the actual revenue collected by the State at the end of Fiscal Year 2009 is even lower than now-anticipated; and

WHEREAS, I have already announced on December 9, 2008, \$77 million in expenditure adjustments, including a proposed de-appropriation of \$37 million, fund transfers of \$12 million, and a reduction of expenditures of \$28 million; and

WHEREAS, a 1.5 percent reduction in appropriations, pursuant to Iowa Code 8.31, would reduce state expenditures by an additional \$91.4 million and help the State avoid an overdraft or deficit in the Fiscal Year 2009 General Fund; and

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by the power vested in me by the Constitution and laws of the State of Iowa, do hereby order and direct a uniform modification of allotment requests, pursuant to Iowa Code §8.31, to achieve an annual 1.5 percent budget reduction for fiscal year 2009. The Department of Management shall take all necessary steps under Iowa law to effectuate the annual

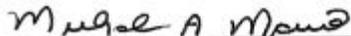
1.5 percent budget reduction for fiscal year 2009, directed to all state departments and establishments, as provided in Iowa Code §8.2(5). Actions taken by the Department of Management and all state departments and establishments described above, to implement this order, shall commence on December 22nd, 2008.

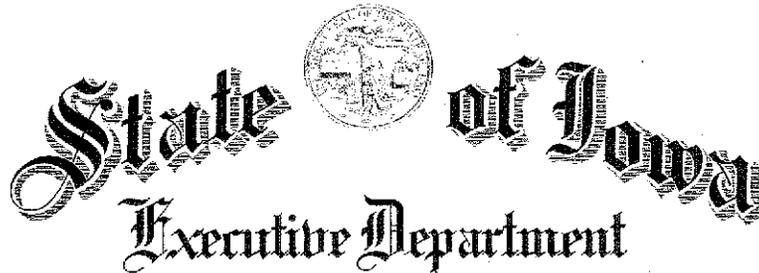


IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 22nd day of December, in the year of our Lord two thousand eight.


CHESTER J. CULVER
GOVERNOR

ATTEST:


MICHAEL A. MAURO
SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER ELEVEN

WHEREAS, it is a goal of this Administration to achieve and maintain a fair and equitable workforce environment and quality of life in the State of Iowa; and

WHEREAS, it is the responsibility of state government to protect our most vulnerable residents—such as dependent adults with mental retardation—from becoming the targets of predatory actions by others; and

WHEREAS, certain persons in Iowa and elsewhere have taken advantage of those who are dependent upon others for their care; and

WHEREAS, it is imperative to know whether the mistreatment of dependent adults with mental retardation occurs as isolated incidences or whether it is the result of systemic problems with existing laws, regulations and practices; and

WHEREAS, incidences of mistreatment of dependent adults with mental retardation not only adversely affects those persons but also has serious adverse effects on the residents, businesses, economy and quality of life of Iowa and the reputation of our State; and

WHEREAS, enforcement efforts to address challenges related to the treatment of dependent adults with mental retardation should be studied and enhanced, to improve the efficient coordination and cooperation between state agencies to address problems related to the care and treatment of these citizens; and

WHEREAS, the creation of a Task Force to examine and report on the issues related to dependent adults with mental retardation is an effective method to better understand the magnitude of these practices and to effectuate cooperative solutions to the enforcement of applicable laws.

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by the power vested in me by the laws and constitution of the State of Iowa, do hereby order as follows:

A DEPENDENT ADULT TASK FORCE shall be created.

A. **Membership.** Membership on the Task Force shall include:

- The Governor, or the Governor's designee;
- The Director of the Department of Elder Affairs or the Director's designee;
- The Director of the Iowa Department of Human Services, or the Director's designee;
- The Director of the Department of Inspections and Appeals, or the Director's designee;
- The Commissioner of the Department of Public Safety, or the Commissioner's designee;
- The Labor Commissioner, or the Commissioner's designee; and
- The Executive Director of the Iowa Civil Rights Commission, or the Executive Director's designee.

The Director of the Department of Elder Affairs or that Director's designee shall serve as Chairperson of the Task Force.

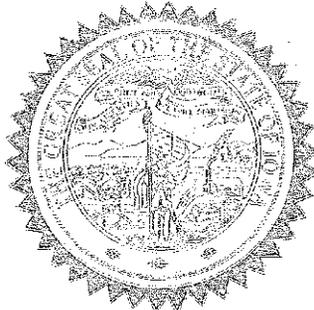
B. Duties. The Task Force shall:

1. Review Iowa laws, regulations, policies and procedures related to the care and employment of dependent adults with mental retardation;
2. Engage the assistance and services of state agencies, members of the nonprofit and nongovernmental sector, interested groups and citizens who are not formally named to the Task Force, but who can assist with analysis of and access to data bases and systems that might help detect the existence of unregulated congregate residential settings and non-registered and / or unregulated workplaces where there may exist abuse or neglect of dependent adults with mental retardation;
3. Determine the extent to which dependent adults with mental retardation are residents of or are receiving care in unlicensed facilities;
4. Assess existing methods, both within Iowa and in other jurisdictions, of investigating and initiating enforcement action against persons who neglect, abuse or take advantage of dependent adults with mental retardation;
5. Identify and recommend potential regulatory or statutory changes that would improve prevention and enforcement efforts and systematically address the problem of the mistreatment of dependent adults with mental retardation in the State of Iowa;
6. Develop a plan and a timeline, with input from appropriate stakeholder groups, to redress the problems caused by and prevent the mistreatment of dependent adults with mental retardation through coordinated legal and regulatory changes; and
7. Identify and recommend ways to increase public awareness and education to prevent the mistreatment of dependent adults with mental retardation.

C. Final Report. The Task Force shall submit a written report outlining its activities and making recommendations for corrective action to the Governor's Office no later than April 1, 2009.

D. Administrative Support. The Department of Elder Affairs shall provide the administrative support necessary to facilitate the work of the Task Force.

E. Dissolution. The Task Force shall be dissolved upon submission of its report to the Governor's Office.

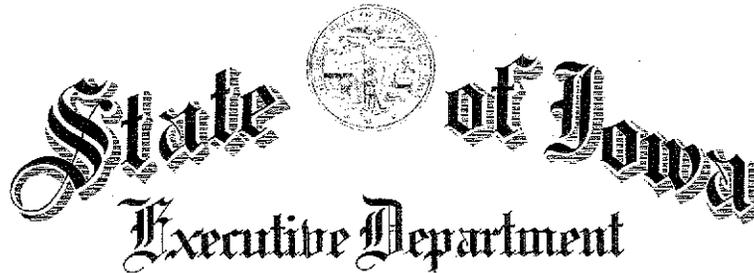


IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 17th day of February, in the year of our Lord two thousand nine.

CHESTER J. CULVER
GOVERNOR

ATTEST:

MICHAEL A. MAURO
SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER TWELVE

WHEREAS, the economies of the United States and the State of Iowa suffered significant setbacks in 2008, including frozen credit markets, declining home values, substantial job losses, and weaknesses in the financial, manufacturing, and automotive industries; and

WHEREAS, in April 2009, the national unemployment rate increased to 8.5 percent, and the states face a combined revenue shortfall estimated between \$350 to \$370 billion over the next two-and-a-half years; and

WHEREAS, in February 2009, the unemployment rate in Iowa increased to 4.9 percent, the highest rate in 17 years, State revenue has dropped nearly \$130 million for FY2009, and revenue for FY2010 is projected to drop \$270 million; and

WHEREAS, the Culver-Judge Administration is dedicated to alleviating the effects of the national economic recession on Iowans; and

WHEREAS, the U.S. Congress has passed, and President Barack Obama has signed into law, on February 17, 2009 the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, (hereinafter "ARRA"), a federal economic stimulus bill; and

WHEREAS, the ARRA encompasses \$787 billion in tax cuts and supplemental appropriations to states for the purpose of promoting economic recovery; and

WHEREAS, the funds provided under the ARRA to the State of Iowa will enable the people of our State to preserve and create jobs, to improve state infrastructure, to promote energy efficiency, to improve learning, to protect health care coverage, to provide unemployment assistance and to stabilize state and local budgets; and

WHEREAS, I have certified to President Obama that the ARRA funds received by the State of Iowa will be used to create jobs and to promote economic growth within the state, and

WHEREAS, the ARRA requires that the states prepare for the effective and efficient receipt and allocation of funds to stimulate the economy as quickly as possible; and

WHEREAS, the ARRA requires the states to provide timely and comprehensive reporting to the Federal Government on the management and use of the ARRA funds to ensure that the funds are spent in a prudent and transparent manner; and

WHEREAS, there is an unprecedented requirement for tracking the ARRA funds and for identifying and reporting any suspected waste, fraud and abuse of said funds; and

WHEREAS, the State of Iowa has been chosen by the Government Accountability Office (GAO) as one of 16 states that will be followed on a bi-monthly basis over the next two years to provide an ongoing analysis of the use of the ARRA funds, and

WHEREAS, the Culver-Judge Administration is committed to meeting or exceeding all ARRA requirements, to promoting transparent government and to ensuring that funds provided under the ARRA are used effectively to benefit Iowans and to keeping Iowans informed about how State agencies are utilizing funds to improve Iowa's economy and to put Iowan's back to work; and

WHEREAS, the creation of a board will ensure that the ARRA funds are spent efficiently, accountably and transparently.

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by the power vested in me by the laws and the constitution of the State of Iowa do hereby order the creation of the IOWA ACCOUNTABILITY AND TRANSPARENCY BOARD to monitor and report on the State of Iowa's efforts to implement the AARA.

A. Purpose. The Board shall ensure that Iowa meets or exceeds the accountability and transparency requirements of the ARRA, shall monitor the State of Iowa's use of the ARRA funds in order to prevent fraud, waste, and abuse and shall make recommendations to the Governor, as needed, to assure that best practices are implemented.

B. Organization. The Board shall be composed of fourteen members. Voting members shall include the following representatives, or their respective designees:

- The Governor;
- Three Citizens, appointed by the Governor;
- The State Auditor;
- The State Treasurer; and
- Three local government members – one each from a city, a county, and a council of government – appointed by the Governor from lists of nominees provided by their respective associations.

Non-voting members shall include the following representatives, or their respective designees:

- The Director of the Department of Management; and
- Four members of the general assembly, one each appointed by the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives.

The Governor shall appoint the Chairperson of the Board. The Attorney General shall serve as the Board's legal counsel.

C. Duties. The Board shall:

- a. Assess existing practices to prevent waste, fraud and abuse and to provide recommendations regarding opportunities to strengthen those practices.
- b. Coordinate with the Department of Management to provide input and information for the website recovery.iowa.gov, which will list projects and programs financed by ARRA funds, contract awards and the number of jobs created or preserved by these programs.
- c. Oversee on-time audits and reporting to determine whether wasteful spending, ineffective management or other abuses are occurring.
- d. Report suspected incidents of waste, fraud or abuse to the Office of the Governor.
- e. Oversee the web-based ARRA transparency "dashboard".
- f. Monitor agency ARRA fund spending to ensure that Iowa continues to meet or exceed the transparency and accountability requirements of ARRA.

D. Meetings. The Board will meet as necessary, but not less than quarterly.

E. Administrative Support. The Department of Management will serve as the host agency to the Board.

F. Dissolution. The Board will dissolve on July 30, 2012.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 14th day of April, in the year of our Lord two thousand nine.

Chester J. Culver

 CHESTER J. CULVER
 GOVERNOR

ATTEST:

Michael A. Mauro

 MICHAEL A. MAURO
 SECRETARY OF STATE



State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER THIRTEEN

WHEREAS, Iowans reasonably expect that State government expense reimbursements will be properly accounted for; and

WHEREAS, it is the goal of the Culver-Judge Administration to maintain cost-effective and transparent practices within government, in a manner that ensures that taxpayer funds are used effectively and that information concerning how those funds are spent by employees who work at State agencies is available to the public; and

WHEREAS, state employees who seek reimbursement for costs incurred by them in the course of their official duties for such things as meals, travel and other work-related expenses should be held accountable for demonstrating that those expenses have been incurred; and

WHEREAS, the Department of Administrative Services (DAS) is the state agency that is best equipped to establish an enterprise-wide policy that will assure the creation of an expense reimbursement process consistent with all applicable accountability, transparency and cost-effectiveness standards, in a manner that will prevent and detect any instances of fraud, waste or abuse; and

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by the power vested in me by the laws and the constitution of the State of Iowa do hereby order:

- I. DAS is directed to implement policy that requires every executive department of the Culver-Judge Administration to institute cost-effective and transparent accounting practices that will track reimbursements paid to state employees for meals, travel and other work-related costs and that will prevent and detect any instances of fraud, waste or abuse.
- II. The policy shall provide that executive branch employees shall submit actual receipts, provided by the supplier, for meals, travel and other work-related, allowable costs.
- III. DAS shall work with appropriate executive branch departments to develop the most cost-effective and efficient methods of implementing the policy.
- IV. DAS shall implement the policy effective July 1, 2009 for all meals, travel and other work-related costs incurred on or after July 1, 2009.
- V. On or before December 31, 2009, DAS shall issue a report to the Governor setting forth the terms and conditions of the policy and describe the effect of the policy during the first six months of its implementation.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 26th day of May, in the year of our Lord two thousand nine.



CHESTER J. CULVER
GOVERNOR

ATTEST:



MICHAEL A. MAURO
SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER FOURTEEN

- WHEREAS,** in order to facilitate the effective and efficient delivery of services to constituents, governments ought to partner and coordinate with non-profit community organizations; and
- WHEREAS,** in times of economic recovery, when government resources are stretched, it is especially important that governments at all levels are willing and able to assist community and faith-based non-profit organizations to serve those in need; and
- WHEREAS,** in 2001 the White House Office of Faith-Based and Community Initiatives was established to strengthen and expand the role of faith-based and community organizations in addressing the nation's social problems and delivering important social services to Americans; and
- WHEREAS,** since 2003 the Larned A. Waterman Iowa Nonprofit Resource Center has been the state-appointed White House Faith-Based and Community Initiative Liaison for the State of Iowa; and
- WHEREAS,** in 2005 Iowa created a Nonprofit Task Force to investigate, among other things, the collaboration among state, local and tribal governments in Iowa and nonprofit organizations in the State; and
- WHEREAS,** the Larned A. Waterman Iowa Nonprofit Resource Center provided invaluable administrative services for the aforementioned Task Force; and
- WHEREAS,** working with its partner, the University of Iowa Institute of Public Affairs which assists local governments in Iowa, the Larned A. Waterman Iowa Nonprofit Resource Center is the organization that is best equipped to assist State, local and tribal governments in their efforts to coordinate more effectively with nonprofit organizations; and
- WHEREAS,** the Larned A. Waterman Iowa Nonprofit Resource Center should be appointed as the White House Faith-Based and Neighborhood Partnership Liaison for the State of Iowa under the American Recovery and Reinvestment Act (ARRA) of 2009-Strengthening Communities Fund-State, local and tribal Government Capacity Building Program.

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by the power vested in me under the laws of the United States of America and under the laws and the Constitution of the State of Iowa, do hereby authorize the Larned A. Waterman Iowa Nonprofit Resource Center to apply for a Strengthening Communities Fund-State, Local and Tribal Government Capacity Building Program grant (Department of Health and Human Services Administration for Children and Families, Funding Opportunity Number HHS-2009-ACF-OCS-SN-0092).



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 22nd day of June, in the year of our Lord two thousand nine.

Chester J. Culver
CHESTER J. CULVER
GOVERNOR

ATTEST:

Michael A. Mauro
MICHAEL A. MAURO
SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER FIFTEEN

WHEREAS, more than 5,000 offenders are released to Iowa communities each year, affecting public safety, public health, economic and community well-being and family relationships; and

WHEREAS, based on historical trends, if no changes are made to existing practices, one can predict that fifteen percent of those individuals will be returned to Iowa's prisons as sentenced inmates for new offenses within one year of their release from prison, and one-third of them will be returned within three years of release; and

WHEREAS, offender re-entry initiatives involve collaborative partnerships amongst corrections, other state agencies and the community, to provide training and support for offenders as they resume their lives as law-abiding citizens; and

WHEREAS, over 9,000 offenders in Iowa's prisons today, with the exception of 630 inmates who are serving life sentences without the opportunity for parole, will eventually return to their respective communities; and

WHEREAS, research indicates that many factors complicate offenders' attempts to re-enter their respective communities including, but not limited to, securing stable and affordable housing and employment; and

WHEREAS, a majority of offenders have a history of substance abuse, yet only a small fraction of such offenders receive substance abuse treatment during and after incarceration; and

WHEREAS, educational and training programs that teach fundamental skills directly applicable to employment readiness contribute to the successful transition of offenders into society and to the reduction of recidivism; and

WHEREAS, it is essential that the State of Iowa continue with its efforts to foster the successful transition of offenders into their respective communities and to reduce the rates at which they return to prison; and

WHEREAS, the formal establishment of an advisory council whose members are comprised of representatives of state departments and agencies and whose efforts are aimed to increase the number of successful offender transitions is necessary and appropriate to facilitate the development and implementation of policies to improve reentry services.

NOW, THEREFORE, I, Chastor J. Culver, Governor of the State of Iowa, by the power vested in me by the laws and the constitution of the State of Iowa do hereby order the creation of the Ex-Offender Re-entry Coordinating Council.

1. Purpose. The Ex-Offender Re-entry Coordinating Council shall establish an integrated system for coordinating the planning and provision of offender transitional and re-entry services amongst and between state, local and nonprofit agencies in order to prepare inmates for their successful transitions into their respective communities upon their release from incarceration and to improve opportunities for the treatment, employment and housing of Iowa's

offender population while such persons are on probation, parole or post-release supervision status.

- II. Organization. The Ex-Offender Re-entry Coordinating Council shall be composed of twenty members and shall be co-chaired by the Directors of the Iowa Department of Corrections and Iowa Workforce Development. Members shall have an interest in knowledge about and an investment concerning the coordinating of services for released offenders. The voting membership of the Ex-Offender Re-entry Coordinating Council shall include one designee from each of the following:

- Iowa Board of Parole
- Iowa County Attorneys Association
- Iowa Department of Corrections
- Iowa Department of Education
- Iowa Department of Finance Authority
- Iowa Department of Human Services
- Iowa Department of Public Health
- Iowa Department of Public Safety
- Iowa Department of Veteran Affairs
- Iowa Department of Workforce Development
- Iowa House of Representatives
- Iowa Senate
- Iowa Judges Association
- Iowa Police Executive Forum
- Iowa State Public Defender
- Iowa Department of Correctional Services
- Court Administration
- Division of Criminal and Juvenile Justice Planning, Iowa Department of Human Rights
- Office of the Governor & Lt. Governor

In addition, representatives from the following select communities shall be appointed by the Governor:

- Community advocacy groups
- Faith-based organizations

The Iowa Department of Corrections shall provide staff support to the Ex-Offender Re-entry Coordinating Council, as needed, to enable its members to fulfill their responsibilities. The body shall hold quarterly meetings at a central location.

- III. Activities. The Ex-Offender Re-entry Coordinating Council's activities shall include, but not necessarily be limited to, the following:

1. Identify unreasonable barriers in each member's department or agency that may hinder the successful transition of offenders returning to their respective communities, and develop and implement policies, procedures and programs to overcome such barriers;
2. Identify methods to improve collaboration and coordination of offender transition services, including cross-training, information-sharing systems, policies, procedures and programs that measure offender re-entry management with well-defined, performance-based outcomes;
3. Identify legal, policy, structural, organizational and practical barriers to offenders' successful re-entry;
4. Provide recommendations regarding such reforms that will eliminate or reduce unreasonable barriers to offenders' successful re-entry, including, but not limited to, reforms that may offer employers greater flexibility and confidence in hiring ex-offenders;

5. Provide on-going coordination at the executive level of state government of offender re-entry initiatives across Iowa;
6. Ensure that federal, state and local resources are used most efficiently, to reduce duplicative offender re-entry efforts;
7. Maximize the effectiveness of existing resources;
8. Identify best practices that will aid offender re-integration and promote such practices at the State and local levels; and
9. Establish and monitor the measurements of success for offender re-entry initiatives.

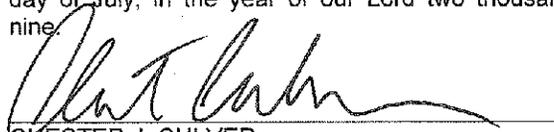
All executive departments and agencies shall cooperate with the Ex-Offender Re-entry Coordinating Council in the performance of its duties and responsibilities under this Order. The members may request, and executive departments and agencies shall provide upon such request, information and assistance as members may require in the performance of their duties and responsibilities under this Order.

IV. Report. The Ex-Offender Re-entry Coordinating Council shall prepare a comprehensive report on the status of the State's re-entry efforts, practices and policies, for review by the Governor, within one year following the date that the Ex-Offender Re-entry Coordinating Council first convenes. The report shall contain the recommendations of the Ex-Offender Re-entry Coordinating Council regarding its accomplishments, the effectiveness of agency coordination and communications, and its recommendations with respect to the performance measures. The report shall identify any unreasonable administrative or legal barriers that might be impeding the more effective operation of the Ex-Offender Re-entry Coordinating Council, and make recommendations for executive or legislative measures to improve offender transition and re-integration services. The comprehensive report shall also assess the following items:

1. Identify how the Governor and other executive departments and agencies may assist the Ex-Offender Re-entry Coordinating Council in overcoming any unreasonable barriers to the successful transition and reintegration of offenders returning to communities that it has identified; and
2. Identify how State laws and sentencing guidelines may be improved in order to contribute to the successful transition and reintegration of offenders in society and reduce recidivism.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 15th day of July, in the year of our Lord two thousand nine.


 CHESTER J. CULVER
 GOVERNOR

ATTEST:


 MICHAEL A. MAURO
 SECRETARY OF STATE