



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2022

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
10	Wednesday, October 26, 2022	November 16, 2022
11	Wednesday, November 9, 2022	November 30, 2022
12	Friday, November 25, 2022	December 14, 2022

PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

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

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

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

CORRECTIONS DEPARTMENT[201]

Physician assistants, 45.2(1)“e,” 50.15, 50.16(5), 50.24(5)“a,” 51.13, 51.14(4), 51.20(5)“a” IAB 10/19/22 ARC 6607C	Via conference call Contact Michael Savala Email: michael.savala@iowa.gov	November 10, 2022 9 to 10 a.m. (If requested)
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NATURAL RESOURCE COMMISSION[571]

Wild turkey hunting—permitted weapons, 98.2(1)“a,” 98.12(1), 99.8(1) IAB 10/5/22 ARC 6578C	Via video/conference call Contact Chris Ensminger Email: chris.ensminger@dnr.iowa.gov	October 25, 2022 12 noon to 1 p.m.
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Deer hunting by residents—antlerless-deer-only seasons, deer depredation licenses, 106.1(6), 106.2(5), 106.4(5), 106.6(4), 106.7(5), 106.11(4) IAB 10/5/22 ARC 6579C	Via video/conference call Contact Chris Ensminger Email: chris.ensminger@dnr.iowa.gov	October 25, 2022 12 noon to 1 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Massage therapists—mandatory reporter training, 131.8(4), 133.3(2) IAB 10/19/22 ARC 6597C	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	November 8, 2022 8 to 9 a.m.
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REVENUE DEPARTMENT[701]

Services subject to sales tax, rescind ch 26; amend chs 203, 213 to 216, 219, 220, 225; adopt chs 211, 218 IAB 10/5/22 ARC 6577C	Room 1 NW Hoover State Office Bldg. Des Moines, Iowa	October 25, 2022 11 a.m. to 12 noon
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TRANSPORTATION DEPARTMENT[761]

Quotation process for governmental entities for public improvement for vertical infrastructure, amendments to ch 180 IAB 10/5/22 ARC 6576C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	October 28, 2022 9 a.m. (If requested)
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Railroads—definitions, submission of reports, processing agreements, adoption by reference of federal regulations, amendments to chs 800, 810, 821 IAB 10/5/22 ARC 6574C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	October 27, 2022 9 a.m. (If requested)
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TRANSPORTATION DEPARTMENT[761](cont'd)

Highway-railroad grade crossings, amendments to chs 811, 812, 820 IAB 10/5/22 ARC 6575C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	October 27, 2022 10:30 a.m. (If requested)
School transportation services provided by regional transit systems—contact information, adoption by reference of federal regulations, definition of “automobile,” driver physical fitness, 911.1(2), 911.2, 911.5(1), 911.6(7) IAB 10/5/22 ARC 6572C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	October 27, 2022 1 p.m. (If requested)
Federal transit assistance—state management plan, 922.1(2) IAB 10/5/22 ARC 6573C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	October 27, 2022 2:30 p.m. (If requested)
UTILITIES DIVISION[199]		
Gathering lines—renewable natural gas facilities, 10.1, 10.3(1) IAB 10/19/22 ARC 6595C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	December 16, 2022 1:30 to 3:30 p.m.
Equipment distribution program—purpose, application process, eligibility, 37.1, 37.4 IAB 10/19/22 ARC 6596C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	December 16, 2022 9 to 11 a.m.

The following list will be updated as changes occur.

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

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

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

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ARC 6602C

BANKING DIVISION[187]**Notice of Intended Action****Proposing rule making related to scope and application
and providing an opportunity for public comment**

The Iowa Division of Banking hereby proposes to amend Chapter 1, “Description of Organization,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 524.213.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 524.

Purpose and Summary

The Division completed its comprehensive review of all administrative rules pursuant to Iowa Code section 17A.7(2) in 2022 and identified rules 187—1.2(17A,524) and 187—1.3(17A,524) as in need of revision. Rule 187—1.2(17A,524) as currently written is confusing, and the proposed amendment to that rule, along with the amendment to rule 187—1.3(17A,524) and the addition of a chapter implementation sentence, is intended to clarify the scope and application of Chapter 1.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

Zak Hingst
Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309-1827
Email: zak.hingst@idob.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

BANKING DIVISION[187](cont'd)

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 187—1.2(17A,524) as follows:

187—1.2(17A,524) Scope and application. This chapter describes the office of the superintendent and identifies the established place at which, the employees from whom, and the methods whereby the public may obtain information from, make submittals on requests of, or obtain decisions from the superintendent on matters within the authority of the superintendent.

ITEM 2. Amend rule 187—1.3(17A,524) as follows:

187—1.3(17A,524) Division of banking.

1.3(1) Organization—division. The division of banking is a subdivision of the department of commerce and consists of the superintendent and those employees who discharge the duties and responsibilities imposed upon the superintendent by the laws of this state. The superintendent has general control, supervision and regulatory authority over all entities which the division is given authority to regulate pursuant to the Code of Iowa. The division consists of three separate bureaus: the bank bureau, the finance bureau, and the professional licensing and regulation bureau. The bank bureau has primary responsibility relating to the supervision, regulation, and chartering of state banks. The finance bureau has primary responsibilities relating to the supervision, regulation, and licensing of appraisal management companies, closing agents, debt management businesses, delayed deposit services businesses, industrial loan companies, money services businesses, mortgage bankers, mortgage brokers, mortgage loan originators, real estate appraisers, and regulated loan companies. The professional licensing and regulation bureau has primary responsibilities relating to the regulation and licensing of specified professions by providing administrative support to and coordinating the activities of the following licensing boards: the Iowa accountancy examining board, the architectural examining board, the engineering and land surveying examining board, the interior design examining board, the landscape architectural examining board, and the real estate commission.

1.3(1) 1.3(2) Organization—superintendent. The superintendent is the administrator of the division. The superintendent is appointed by the governor, by and with the approval of the senate, for a term of four years. The superintendent's office is located at 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309-1827. The superintendent is assisted by the following officials who are responsible to the superintendent:

a. to f. No change.

~~**1.3(2) Field organization.** Rescinded IAB 10/9/96, effective 11/13/96.~~

~~This rule is intended to implement Iowa Code sections 17A.3 and 524.208.~~

ITEM 3. Adopt the following **new** implementation sentence in **187—Chapter 1:**

These rules are intended to implement Iowa Code sections 17A.3 and 524.208.

ARC 6603C**BANKING DIVISION[187]****Notice of Intended Action****Proposing rule making related to state banks
and providing an opportunity for public comment**

The Iowa Division of Banking hereby proposes to amend Chapter 2, “Application Procedures,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 524.213.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 524.213, 524.312, 524.314, 524.1405, 524.1410, 524.1413, 524.1415, 524.1505, 524.1508 and 524.1509 and section 524.802A as enacted by 2022 Iowa Acts, Senate File 586, section 73.

Purpose and Summary

This proposed rule making addresses several issues identified during the Division’s most recent comprehensive review of administrative rules, completed in 2022 pursuant to Iowa Code section 17A.7(2), and makes several conforming changes based on amendments to Iowa Code chapter 524 that were adopted in 2022 Iowa Acts, Senate File 586.

The proposed rule making amends rule 187—2.2(17A,524), regarding the application for conversion from a national bank to a state bank, and rule 187—2.3(17A,524), regarding mergers, to make the use of the term “state bank” consistent throughout both rules. A proposed amendment to rule 187—2.5(17A,524) updates the name of an application to reflect the statutory language of a “change of location of the principal place of business” of a state bank and implements the new requirement, enacted by Senate File 586, section 36, for the Superintendent of Banking to approve or disapprove an application within 90 days. The proposed amendment to rule 187—2.7(17A,524) adds language regarding the manner in which the Superintendent must make a decision on applications to renew, amend, or restate the articles of incorporation of a state bank that mirrors similar language in the other application rules found in Chapter 2.

The Division also proposes to adopt a new rule establishing an application process for state banks that wish to engage in new or innovative electronic activities pursuant to new Iowa Code section 524.802A. This new Iowa Code section expressly authorizes the Superintendent to adopt administrative rules to implement the new provisions, and the proposed rule establishes a process for review by the bank’s board of directors, criteria for a formal application, a process for the Superintendent to approve or disapprove of applications, and other relevant factors for applicants to consider.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

BANKING DIVISION[187](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

Zak Hingst
Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309-1827
Email: zak.hingst@idob.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 187—2.2(17A,524) as follows:

187—2.2(17A,524) Conversion of national bank into state bank.

2.2(1) Application. A national bank desiring to become a ~~state-chartered~~ state bank should first meet with the superintendent to discuss the proposal. An application and supplementary forms may be obtained for submission to the superintendent.

2.2(2) Examination and investigation. The superintendent may conduct an examination or investigation of the national bank as deemed necessary.

2.2(3) Decision. The superintendent shall approve or deny the application within 90 days after the application has been accepted for processing. The decision by the superintendent shall be conveyed in writing to the applicant.

2.2(4) Corporate documents. If approval is granted, articles of conversion with a plan of conversion attached shall be delivered to the secretary of state for filing and recording.

2.2(5) Commencement of business as ~~state-chartered~~ state bank. The conversion shall be effective as of the date of filing of articles of conversion in the office of the secretary of state unless a later date is specified in the articles of conversion. The superintendent's Authorization To Do Business as a ~~state-chartered~~ state bank will be issued to be effective on the date of conversion.

2.2(6) Resulting ~~state-chartered~~ state bank. The resulting state bank shall submit the oath of directors, list of shareholders, and certificate of elections and appointments to the superintendent on forms to be provided by the superintendent. The oath of directors is to be signed prior to the first meeting of the board of directors following the effective date of the conversion. The list of shareholders is to be completed as of the effective date of conversion.

This rule is intended to implement Iowa Code sections 524.1410 and 524.1413 to 524.1415.

ITEM 2. Amend rule 187—2.3(17A,524) as follows:

187—2.3(17A,524) Merger or purchase and assumption.

BANKING DIVISION[187](cont'd)

2.3(1) Definition. For purposes of this rule, the term “merger” means a merger in which the resulting bank is a ~~state-chartered state~~ bank.

2.3(2) Application. State banks or national and state banks desiring to merge or a state bank desiring to purchase the assets and assume the liabilities of another bank should first meet with the superintendent to discuss the proposal. An application and supplementary forms may be obtained for submission to the superintendent.

2.3(3) State-chartered State bank as seller. In the case of a purchase and assumption, if the bank being acquired is a state bank, appropriate forms and instructions for the voluntary liquidation of the bank may be obtained from the superintendent.

2.3(4) Examination and investigation. The superintendent may conduct an examination or investigation as deemed necessary.

2.3(5) Decision. The superintendent shall approve or deny the application within 90 days after the purchase and assumption application has been accepted for processing and within 180 days after the merger application has been accepted for processing. The decision by the superintendent shall be conveyed in writing to the applicant. If the application is approved, the superintendent shall issue the appropriate authorizations.

~~**2.3(6) Cash out merger.** Rescinded IAB 10/10/18, effective 11/14/18.~~

This rule is intended to implement Iowa Code sections 524.1401 to 524.1405.

ITEM 3. Amend rule 187—2.5(17A,524) as follows:

187—2.5(17A,524) Change of location of principal place of business or bank office.

2.5(1) Application. A state bank desiring to relocate its principal place of business or a bank office shall submit to the superintendent an “Application to ~~Move Main Office or Bank Office,~~” Relocate the Principal Place of Business” or “Application to Relocate a Bank Office,” which is are available on the division’s website or upon request.

2.5(2) Investigation. The superintendent may conduct an investigation as deemed necessary.

2.5(3) Decision. The superintendent shall approve or deny the application within ~~180~~ 90 days after the application has been accepted for processing. The decision by the superintendent shall be conveyed in writing to the applicant. If the application is approved, the superintendent shall issue the appropriate authorizations for the conduct of business at the new location.

This rule is intended to implement Iowa Code section 524.312.

ITEM 4. Amend subrule 2.7(4) as follows:

2.7(4) Decision. ~~Rescinded IAB 10/10/18, effective 11/14/18.~~ The superintendent shall approve or deny the application within 90 days after the application has been accepted for processing. The decision by the superintendent shall be conveyed in writing to the applicant. If the application is approved, the renewed, amended, or restated articles of incorporation will be approved and forwarded to the secretary of state for filing and recording. Upon filing such articles, the secretary of state will return the original to the state bank and will also issue a certificate to the state bank indicating the date the filing was effective. Thereafter, the state bank will operate in accordance with its renewed, amended, or restated articles of incorporation.

ITEM 5. Adopt the following new rule 187—2.18(17A,524):

187—2.18(17A,524) New or innovative electronic activities.

2.18(1) Scope. Iowa Code section 524.802A as enacted by 2022 Iowa Acts, Senate File 586, authorizes a state bank to engage in new or innovative electronic activities that are part of the business of banking. When considering a proposal to engage in new or innovative electronic activities, the superintendent will consider whether the activity is expressly authorized for state banks under Iowa Code chapter 524, whether the activity is the functional equivalent or a logical extension of any activity authorized for state banks, whether the state bank has the expertise necessary to understand and manage the activity and the associated risks, and whether the activity presents similar risks to those state banks already assume.

BANKING DIVISION[187](cont'd)

2.18(2) Board responsibilities. The board of directors of a state bank considering engaging in a new or innovative electronic activity shall first evaluate the risks associated with the proposed new or innovative electronic activity and ensure that the state bank conducts the proposed new or innovative electronic activities in compliance with Iowa Code section 524.802A(3) as enacted by 2022 Iowa Acts, Senate File 586.

2.18(3) Application. A state bank desiring to engage in new or innovative electronic activities should first meet with the superintendent to discuss the proposed electronic activities. After meeting with the superintendent, a state bank proposing to engage in new or innovative electronic activities shall submit a formal proposal to the superintendent that shall, at a minimum, contain the following information:

a. A description of the proposed new or innovative electronic activities, including how the proposed electronic activities align with the strategy and business objectives of the state bank.

b. A description of any state or federal laws and regulations expected to apply to the proposed electronic activities. Examples: compliance (terms, conditions, disclosures), Bank Secrecy Act, federal securities laws.

c. A description of the state bank's corporate governance process that will oversee the proposed electronic activities, including ongoing monitoring to identify and handle any problems or incidents that may arise.

d. A description of the resources and management information systems necessary to oversee the electronic activities.

e. Due diligence materials, including risk assessments (e.g., operational risk, liquidity risk, strategic risk, compliance risk) and information on third-party relationships.

f. A description of any other licenses or approvals required from any regulatory authority to engage in the proposed new or innovative electronic activities.

g. A description of the capital position of the state bank in relation to the risks associated with the proposed new or innovative electronic activities.

h. A description of the state bank's exit strategy for the proposed new or innovative electronic activity if the activity proves unsuccessful.

2.18(4) Investigation. The superintendent may investigate as deemed necessary.

2.18(5) Decision. The superintendent shall approve or deny the application, and the decision by the superintendent shall be conveyed in writing to the applicant.

2.18(6) Other relevant factors. The following provisions apply to a state bank seeking approval to engage in new or innovative electronic activities pursuant to Iowa Code section 524.802A as enacted by 2022 Iowa Acts, Senate File 586:

a. The state bank shall contact its primary federal regulator to determine any federal legal requirements that may apply to the proposed activity and the permissibility of the activity under applicable federal law.

b. Upon approval to engage in a new or electronic activity, a state bank that shares any electronic space, including a co-branded website, with a bank subsidiary, affiliate, or any other third party, must take reasonable steps to clearly, conspicuously, and understandably distinguish between the products and services offered by the state bank and those offered by the state bank's subsidiary, affiliate, or any other third party.

This rule is intended to implement Iowa Code section 524.802A as enacted by 2022 Iowa Acts, Senate File 586.

ARC 6604C**BANKING DIVISION[187]****Notice of Intended Action****Proposing rule making related to the general definition of “bank”
and providing an opportunity for public comment**

The Iowa Division of Banking hereby proposes to amend Chapter 8, “General Banking Powers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 524.213.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 524.103 as amended by 2022 Iowa Acts, Senate File 586.

Purpose and Summary

This proposed rule making updates the definition of the term “bank” in rule 187—8.9(524) to reflect the updated definition of the term “bank” in Iowa Code section 524.103 as amended by 2022 Iowa Acts, Senate File 586, section 6.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

Zak Hingst
Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309-1827
Email: zak.hingst@idob.state.ia.us

Public Hearing

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

BANKING DIVISION[187](cont'd)

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 187—8.9(524) as follows:

187—8.9(524) General definition of bank. It is the superintendent's intent that the term "bank" used in Iowa Code section ~~524.103(8)~~ 524.103 means a corporation organized under Iowa Code chapter 524, ~~or a corporation organized under 12 U.S.C. §21, a corporation organized under 12 U.S.C. §1464, or an out-of-state bank as defined in Iowa Code section 524.103.~~ The general definition of "bank" as set forth in Iowa Code section ~~524.103(8)~~ 524.103 does not include a ~~federal savings association,~~ state credit union, or federal credit union.

This rule is intended to implement Iowa Code section ~~524.103(8)~~ 524.103.

ARC 6605C

BANKING DIVISION[187]

Notice of Intended Action

**Proposing rule making related to legal lending limits
and providing an opportunity for public comment**

The Iowa Division of Banking hereby proposes to amend Chapter 9, "Investment and Lending Powers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 524.213.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 524.904 as amended by 2022 Iowa Acts, Senate File 586, sections 85 through 88.

Purpose and Summary

This proposed rule making is intended to update language to reflect changes made to the statutory legal lending limit. The existing language refers to an extra borrowing privilege for loan or lease amounts secured by certain collateral, and this extra borrowing privilege was based on analogous privileges codified in Iowa Code section 524.904. These statutory provisions were amended by 2022 Iowa Acts, Senate File 586, to remove extra borrowing privileges for loan or lease amounts secured by the types of collateral identified in the current rule language. Therefore, the Division proposes to amend paragraph 9.3(3)"a" to accurately reflect the current legal lending limits.

Fiscal Impact

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

Jobs Impact

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

BANKING DIVISION[187](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 187—Chapter 12.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

Zak Hingst
Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309-1827
Email: zak.hingst@idob.state.ia.us

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend paragraph **9.3(3)“a”** as follows:

a. If the obligations acquired carry full recourse endorsements, guaranty, or an agreement to repurchase of the lessor or servicer negotiating the sale of the leases, then the endorser, guarantor, or repurchaser shall also be deemed to be a customer of the bank. This customer’s obligation would be limited to ~~35~~ 15 percent of aggregate capital of the state bank ~~if the amounts exceeding 15 percent of aggregate capital consist of obligations as endorser of negotiable chattel paper negotiated by endorsement with recourse, or as unconditional guarantor of nonnegotiable chattel paper, or as transferor of chattel paper endorsed without recourse subject to a repurchase agreement.~~

ARC 6598C**COLLEGE STUDENT AID COMMISSION[283]****Notice of Intended Action****Proposing rule making related to health care award program
and providing an opportunity for public comment**

The College Student Aid Commission hereby proposes to amend Chapter 26, “Health Care Loan Repayment Program,” Iowa Administrative Code.

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 261.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

This proposed rule making implements amendments enacted in 2022 Iowa Acts, Senate File 2383. Senate File 2383 changes the Health Care Loan Repayment Program to the Health Care Award Program, removing the requirement for applicants to have federal student loan debt. The legislation also allows a part-time nurse educator to qualify for an award if the individual is also employed as a registered nurse or advanced registered nurse practitioner. In addition, this rule making prioritizes awards to Iowa residents or members of the Iowa National Guard who are in their final year of study, in an attempt to incentivize newly trained individuals to become employed in the identified occupations in service commitment areas.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

Mark Wiederspan
Executive Director
Iowa College Student Aid Commission
475 S.W. Fifth Street, Suite D
Des Moines, Iowa 50309-4608
Phone: 515.725.3420
Fax: 515.725.3401
Email: mark.wiederspan@iowa.gov or administrative rules website at rules.iowa.gov

Public Hearing

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **283—Chapter 26**, title, as follows:

~~HEALTH CARE LOAN REPAYMENT AWARD PROGRAM~~

ITEM 2. Amend rule 283—26.1(261) as follows:

283—26.1(261) Health care loan repayment award program. The health care loan repayment award program is a state-supported and state-administered program established to ~~repay the qualified student loans of~~ provide financial awards to nurse educators teaching at eligible Iowa colleges and universities, as well as applicants who agree to practice as registered nurses, advanced registered nurse practitioners, or physician assistants in service commitment areas for five consecutive years, and who meet the requirements of these rules.

ITEM 3. Amend rule **283—26.2(261)**, definitions of “Advanced registered nurse practitioner,” “Physician assistant,” “Registered nurse” and “Service commitment area,” as follows:

“*Advanced registered nurse practitioner*” means an individual who graduated from an accredited graduate or postgraduate advanced practice educational program, is licensed by the board of nursing as a registered nurse, is licensed by the board of nursing as an advanced registered nurse practitioner, and is employed as an advanced registered nurse practitioner ~~in an eligible service commitment area.~~

“*Physician assistant*” means an individual who graduated with a master’s degree, holds a practitioner’s license to practice as a physician assistant pursuant to Iowa Code chapter 148C, and is employed as a physician assistant ~~in an eligible service commitment area.~~

“*Registered nurse*” means a nurse who is licensed by the board of nursing as a registered nurse and is employed as a registered nurse ~~in an eligible service commitment area.~~

“*Service commitment area*” means a city in Iowa with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. Locations and distances between cities will be consistently measured and verified by calculating the shortest travel distance on paved roads. After an eligible applicant signs an agreement to practice in a service commitment area, subsequent population increases will not impact that applicant’s continued eligibility for the program, to the extent allowed in rule 283—26.3(261).

ITEM 4. Rescind the definition of “Qualified student loan” in rule **283—26.2(261)**.

ITEM 5. Amend rule 283—26.3(261) as follows:

283—26.3(261) Eligibility requirements.

26.3(1) An eligible applicant must be:

a. A student in the final year of a degree program leading to a license to practice as an advanced registered nurse practitioner, nurse educator, physician assistant, or registered nurse. who signs an agreement to practice in a service commitment area for five consecutive years; or

b. A licensed advanced registered nurse practitioner, physician assistant, or registered nurse who signs an agreement to practice in a service commitment area for five consecutive years; or

c. A nurse educator who signs an agreement to teach full-time during the fall and spring semesters, or the equivalent, for five consecutive years; or

d. A nurse educator who teaches at least part-time during the fall and spring semesters, or the equivalent. The individual must also be employed as an advanced registered nurse practitioner or registered nurse in Iowa, and the total hours worked between these occupations must equate to full-time

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

employment. An advanced registered nurse practitioner or registered nurse who signs an agreement to teach at least part-time as a nurse educator is not required to be employed in a service commitment area but is required to work at least part-time as a nurse educator for five consecutive years.

26.3(2) An eligible applicant must annually complete and file an application for the program by the deadline established by the commission. If funds remain available after the application deadline, the commission will continue to accept applications.

26.3(3) An eligible applicant must annually complete and return to the commission an affidavit of practice verifying full-time employment, as defined by the employer, in a service commitment area during the entire year as an advanced registered nurse practitioner, physician assistant, or registered nurse, or full-time employment, as defined by the employer, as a nurse educator. A nurse educator who teaches part-time during the fall and spring semesters, or the equivalent, and is also employed as a registered nurse or advanced registered nurse practitioner in Iowa must annually complete and return an affidavit of practice verifying that the total hours worked equates to full-time employment.

ITEM 6. Amend rule 283—26.4(261) as follows:

283—26.4(261) Awarding of funds.

26.4(1) Selection criteria. All completed applications received on or before the published deadline will be considered for funding. To the extent possible, an equal number of new advanced registered nurse practitioners, nurse educators, physician assistants, and registered nurses will be offered awards based on the availability of appropriated funds. In the event that funding is insufficient to award all eligible applicants within an occupation category, criteria for selection of eligible applicants within each occupation category will be prioritized as follows:

~~a. Renewal status. Recipients of awards through the registered nurse and nurse educator loan forgiveness program during the 2018 state fiscal year will be eligible for funding under the health care loan repayment program if the eligible applicants meet the eligibility criteria of the health care loan repayment program. Under this provision, no recipient will receive more than five consecutive awards between the registered nurse and nurse educator loan forgiveness program and the health care loan repayment program; The priority status of the applicant in the first year funding is received will be retained for renewal in priority determinations in future years as long as the applicant continues to meet the criteria in rule 283—26.3(261). Applicants within this category are prioritized as follows:~~

~~(1) Eligible applicants who are Iowa residents and eligible applicants who are members of the Iowa national guard, if requested by the adjutant general;~~

~~(2) Date of application;~~

~~b. Iowa residency status Students in the final year of a degree program leading to a license to practice in a specified occupation under this chapter who are Iowa residents or who are members of the Iowa national guard, if requested by the adjutant general; advanced registered nurse practitioners and registered nurses who agree to begin practice as nurse educators on at least a part-time basis and who are Iowa residents or members of the Iowa national guard, if requested by the adjutant general. Applicants within this category are prioritized by date of application;~~

~~c. Members Iowa residents or members of the Iowa national guard, if requested by the adjutant general, who are licensed to practice in a specified occupation under this chapter and who agree to work in a service commitment area but who are not employed in a service commitment area at the time of application. Applicants within this category are prioritized by date of application;~~

~~(1) Members of the Iowa national guard are exempt from the service commitment area requirement, and~~

~~(2) Members of the Iowa national guard must have satisfactorily completed required guard training and must maintain satisfactory performance of guard duty;~~

~~d. Date of application. The most recent graduates of a degree program leading to a license to practice in a specified occupation under this chapter or leading to the qualification to be a nurse educator, with the most recent academic year graduates given priority, who are Iowa residents or members of the Iowa national guard, if requested by the adjutant general. Applicants within this category are prioritized by date of application;~~

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

e. Students in the final year of a degree program leading to a license to practice in a specified occupation under this chapter who are neither Iowa residents nor members of the Iowa national guard requested by the adjutant general; advanced registered nurse practitioners and registered nurses who agree to begin practice as nurse educators on at least a part-time basis and who are neither Iowa residents nor members of the Iowa national guard requested by the adjutant general. Applicants within this category are prioritized by date of application;

f. Individuals who are neither Iowa residents nor members of the Iowa national guard requested by the adjutant general but who are licensed to practice in a specified occupation under this chapter, and who agree to work in a service commitment area but are not employed in a service commitment area at the time of application. Applicants within this category are prioritized by date of application;

g. The most recent graduates of a degree program leading to a license to practice in a specified occupation under this chapter or leading to the qualification to be a nurse educator, who are neither Iowa residents nor members of the Iowa national guard requested by the adjutant general, with the most recent academic year graduates given priority. Applicants within this category are prioritized by date of application.

26.4(2) Applicants who are members of the Iowa national guard requested by the adjutant general. Applicants who are members of the Iowa national guard, if requested by the adjutant general, are subject to the following provisions:

a. Members of the Iowa national guard are exempt from the service commitment area requirement, and

b. Members of the Iowa national guard must have satisfactorily completed required guard training and must maintain satisfactory performance of guard duty.

26.4(2) 26.4(3) Annual award. The maximum annual award shall be the lesser of: \$6,000.

a. \$6,000, or

b. Twenty percent of the eligible applicant's total outstanding qualified student loan.

26.4(3) 26.4(4) Extent of repayment award. Eligible applicants may receive loan repayment an award for no more than five consecutive years. Eligible applicants who fail to receive loan repayment awards in consecutive years will not be considered for subsequent years of loan repayment awards.

26.4(4) 26.4(5) Disbursement of loan repayment funds.

a. Loan repayment awards Awards will be disbursed upon completion of the year for which the award was approved and upon certification from the employer that the advanced registered nurse practitioner, nurse educator, physician assistant, or registered nurse was employed full-time, as defined by the employer, during the entire year and completed the year in good standing.

b. Loan repayment awards Awards will be distributed to the eligible applicant's student loan holder and applied directly to qualified student loans directly to the eligible applicant.

ITEM 7. Amend rule 283—26.5(261) as follows:

283—26.5(261) Loan repayment Award cancellation.

26.5(1) An eligible applicant who has been designated for a loan repayment an award shall notify the commission within 30 days following termination or cessation of full-time practice in a service commitment area as an advanced registered nurse practitioner, physician assistant, or registered nurse; or termination or cessation of full-time employment as a nurse educator; or combined full-time employment as a nurse educator and registered nurse or nurse educator and advanced registered nurse practitioner.

26.5(2) No change.

ITEM 8. Amend rule 283—26.6(261) as follows:

283—26.6(261) Restrictions. An advanced registered nurse practitioner, nurse educator, physician assistant, or registered nurse who is in default on a qualified student loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan repayment benefits. Eligibility may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapters

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

~~4 and 5.~~ A recipient of an award under Iowa Code section 261.114 or 261.115 shall not be eligible for an award under this chapter.

ITEM 9. Adopt the following **new** rule 283—26.7(261) as follows:

283—26.7(261) Transition provisions. Recipients of awards through the health care loan repayment program during the 2022 state fiscal year will be eligible for funding under the health care award program if the eligible applicants meet the eligibility criteria of the health care award program. Under this provision, no recipient will receive more than five consecutive awards between the health care loan repayment program and the health care award program. Under this provision, recipients can elect to continue to have the award applied directly to previously verified outstanding federal student loans.

ARC 6607C

CORRECTIONS DEPARTMENT[201]

Notice of Intended Action

Proposing rule making related to physician assistants and providing an opportunity for public comment

The Corrections Department hereby proposes to amend Chapter 45, “Parole,” Chapter 50, “Jail Facilities,” and Chapter 51, “Temporary Holding Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 147.77 as enacted by 2022 Iowa Acts, House File 803, and section 904.108.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.77 as enacted by 2022 Iowa Acts, House File 803.

Purpose and Summary

This proposed rule making implements amendments enacted by 2022 Iowa Acts, House File 803. House File 803 directs the Department to add physician assistants to lists of health care workers who may perform various duties that are within their scope of practice.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 201—Chapter 7.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

CORRECTIONS DEPARTMENT[201](cont'd)

Michael Savala
Department of Corrections
Jessie Parker Building
510 East 12th Street
Des Moines, Iowa 50319
Email: michael.savala@iowa.gov

Public Hearing

If requested, a public hearing to hear requested oral presentations will be held as follows:

November 10, 2022
9 to 10 a.m.

Via conference call

Persons who wish to participate in the conference call should contact Michael Savala before 4:30 p.m. on November 8, 2022, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing. The public hearing will be canceled without further notice if no oral presentation is requested by November 8, 2022.

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **45.2(1)“e”** as follows:

e. Substance abuse. The parolee shall not use, purchase, or possess alcoholic beverages and shall submit to alcohol tests and drug tests when directed by the parolee's supervising officer. The parolee shall not enter taverns or liquor stores or other establishments where the primary activity is the sale of alcoholic beverages. The parolee will not use, ingest, inject, huff, possess or smoke any illegal or synthetic substances. The parolee shall not use, purchase, possess or transfer any drugs unless they are prescribed by a physician or physician assistant.

ITEM 2. Amend rule 201—50.15(356,356A) as follows:

201—50.15(356,356A) Medical services. The jail administrator shall establish a written policy and procedure to ensure that prisoners have the opportunity to receive necessary medical attention for the prisoners' objectively serious medical and dental needs which are known to the jail staff. A serious medical need is one that has been diagnosed by a physician or physician assistant as requiring treatment or is one that is so obvious that even a lay person would easily recognize the necessity for a physician's or physician assistant's attention. The plan shall include a procedure for emergency care. Responsibility for the costs of medical services and products remains that of the prisoner. However, no prisoner will be denied necessary medical services, dental service, medicine or prostheses because of a lack of ability to pay. Medical and dental prostheses shall be provided only for the serious medical needs of the prisoner, as determined by a licensed health care professional. Cosmetic or elective procedures need not be provided.

50.15(1) Medical resources. Each jail shall have a designated licensed physician, licensed osteopathic physician, physician assistant or medical resource, such as a hospital or clinic staffed

CORRECTIONS DEPARTMENT[201](cont'd)

by licensed physicians, ~~or~~ licensed osteopathic physicians or physician assistants, designated for the medical supervision, care and treatment of prisoners as deemed necessary and appropriate. Medical resources shall be available on a 24-hour basis.

50.15(2) to 50.15(6) No change.

50.15(7) *Medication procedures.*

a. to c. No change.

d. Prescription medication, as ordered by a licensed physician, licensed osteopathic physician, physician assistant or licensed dentist, shall be provided in accordance with the directions of the prescribing physician, licensed osteopathic physician, physician assistant or dentist. Prisoners with medication from a personal physician, osteopathic physician, physician assistant or dentist may be evaluated by a physician, osteopathic physician, physician assistant or dentist selected by the jail administrator to determine if the present medication is appropriate.

50.15(8) No change.

50.15(9) *Medication storage.*

a. and b. No change.

c. Expired drugs or drugs not in unit dose packaging, whose administration had been discontinued by the attending physician or physician assistant, shall be destroyed by the jail administrator or designee in the presence of a witness. A record of drug destruction shall be made in each prisoner's medical record. The record shall include the name, the strength and the quantity of the drug destroyed, and the record shall be signed by the jail administrator or designee and by the witness.

d. and e. No change.

ITEM 3. Amend subrule 50.16(5) as follows:

50.16(5) *Medical diets.* Special diets as prescribed by a physician or physician assistant shall be followed and documented. The physician or physician assistant who prescribes the special diet shall specify a date on which the diet will be reviewed for renewal or discontinuation. Unless specified by the prescribing physician or physician assistant, a certified dietitian shall develop the menu.

ITEM 4. Amend subparagraph **50.24(5)“a”(10)** as follows:

(10) Special diets as prescribed by a physician or physician assistant shall be followed and documented.

ITEM 5. Amend rule 201—51.13(356,356A) as follows:

201—51.13(356,356A) Medical services. The facility administrator shall establish a written policy and procedure to ensure that detainees have the opportunity to receive necessary medical attention for the detainee's objectively serious medical and dental needs which are known to the facility staff. A serious medical need is one that has been diagnosed by a physician or physician assistant as requiring treatment, or one that is so obvious that even a lay person would easily recognize the necessity for a physician's or physician assistant's attention. The plan shall include a procedure for emergency services day or night and a procedure for regular medical attention. Responsibility for the costs of medical services remains that of the detainee. However, no detainee will be denied necessary medical services, dental service, or medicine because of a lack of ability to pay. Medical and dental prostheses shall be provided only for the serious medical needs of the detainee, as determined by a licensed health care professional. Cosmetic or elective procedures need not be provided.

51.13(1) *Medical resources.* Each facility shall have a designated licensed physician, licensed osteopathic physician, physician assistant or medical resource, such as a hospital or clinic staffed by licensed physicians, physician assistants or licensed osteopathic physicians, designated for the medical supervision, care and treatment of detainees as deemed necessary and appropriate. Medical resources shall be available on a 24-hour basis.

51.13(2) to 51.13(6) No change.

51.13(7) *Medication procedures.*

a. to c. No change.

CORRECTIONS DEPARTMENT[201](cont'd)

d. Prescription medication, as ordered by a licensed physician, licensed osteopathic physician, physician assistant or licensed dentist, shall be provided in accordance with the directions of the prescribing physician, licensed osteopathic physician, physician assistant or dentist. Detainees with medication from a personal physician, osteopathic physician, physician assistant or dentist may be evaluated by a physician, osteopathic physician, physician assistant or dentist selected by the facility administrator to determine if the present medication is appropriate.

51.13(8) No change.

51.13(9) *Medication storage.*

a. and *b.* No change.

c. Expired drugs or drugs not in unit dose packaging, whose administration had been discontinued by the attending physician or physician assistant, shall be destroyed by the facility administrator or designee in the presence of a witness. A record of drug destruction shall be made in each detainee's medical record. The record shall include the name, the strength and the quantity of the drug destroyed, and the record shall be signed by the facility administrator or designee and by the witness.

d. and *e.* No change.

ITEM 6. Amend subrule 51.14(4) as follows:

51.14(4) *Medical diets.* Special diets as prescribed by a physician or physician assistant shall be followed and documented.

ITEM 7. Amend subparagraph **51.20(5)“a”(10)** as follows:

(10) Special diets as prescribed by a physician or physician assistant shall be followed and documented.

ARC 6594C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rule making related to STEM BEST and targeted small business certification programs and providing an opportunity for public comment

The Economic Development Authority hereby proposes to amend Chapter 15, “STEM BEST Appropriation,” and Chapter 52, “Iowa Targeted Small Business Certification Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 15.106A and 2022 Iowa Acts, House Files 2564 and 803.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House Files 2564 and 803.

Purpose and Summary

The following corrective and clarifying amendments are proposed to rules relating to appropriations to the Authority and programs administered by the Authority:

- Clarify references in Chapter 15 to appropriations for the STEM BEST Program in 2021 Iowa Acts, House File 871, and 2022 Iowa Acts, House File 2564.
- Add a reference to physician assistants to subrule 52.2(7) regarding targeted small business certification as required by 2022 Iowa Acts, House File 803.

Fiscal Impact

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 261—15.1(89GA, HF871) as follows:

261—15.1(89GA, HF871, HF2564) Purpose. The authority is directed to adopt rules to establish criteria for the distribution of funds appropriated in ~~2021 Iowa Acts, House File 871, section 3, subsection 11,~~ to the authority for the STEM BEST program.

ITEM 2. Amend rule 261—15.2(89GA, HF871), parenthetical implementation statute, as follows:

261—15.2(89GA, HF871, HF2564) Definitions.

ITEM 3. Amend rule 261—15.3(89GA, HF871), parenthetical implementation statute, as follows:

261—15.3(89GA, HF871, HF2564) Eligible uses of funds.

ITEM 4. Amend **261—Chapter 15**, implementation sentence, as follows:

These rules are intended to implement 2021 Iowa Acts, House File 871, section 3(11), and 2022 Iowa Acts, House File 2564, section 3(12).

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 5. Amend paragraph **52.2(7)“a”** as follows:

a. Person with a disability. In order to be considered a person with a disability for the purpose of the TSB program, the person must qualify and receive certification as having a disability from a licensed medical physician or physician assistant or must have been found eligible for vocational rehabilitation services by the department of education, division of vocational rehabilitation services, or by the department for the blind.

ARC 6592C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

**Proposing rule making related to endow Iowa tax credits
and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to amend Chapter 47, “Endow Iowa Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 15E.305.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15E.305 as amended by 2022 Iowa Acts, House File 2317, section 48.

Purpose and Summary

The Authority administers the Endow Iowa tax credit pursuant to Iowa Code sections 15E.301 to 15E.303 and 15E.305. The program offers a tax credit of up to 25 percent of an endowment gift to a qualified community foundation.

The proposed amendments represent a comprehensive update of Chapter 47. Changes include the following:

1. Implement a change from 2022 Iowa Acts, House File 2317, section 48, to the maximum amount of tax credit that an individual taxpayer may claim. The maximum was previously 5 percent of the aggregate amount of tax credits available each year. For tax years beginning on or after January 1, 2023, the maximum will be \$100,000.
2. Eliminate a tax credit waitlist for applications received on or after July 1, 2023.
3. Add a requirement that a donor submit a tax credit application within 12 months of a qualifying donation.
4. Rescind rule 261—47.5(15E) regarding reporting requirements because it is inconsistent with the Iowa Code.
5. Make other corrective and clarifying changes.

Fiscal Impact

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

Jobs Impact

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 261—47.2(15E) as follows:

261—47.2(15E) Definitions.

~~“Act” means Iowa Code sections 15E.301 to 15E.306.~~

“Authority” means the economic development authority.

“Community affiliate organization” means a group of five or more community leaders or advocates organized for the purpose of increasing philanthropic activity in an identified community or geographic area in the state with the intention of establishing a community affiliate endowment fund.

“Endow Iowa qualified community foundation” means a community foundation organized or operating in this state that substantially complies with the national standards for U.S. community foundations established by the National Council on Foundations as determined by the authority in collaboration with the Iowa Council of Foundations.

“Endowment gift” means an irrevocable contribution to a permanent endowment held by an endow Iowa qualified community foundation.

“Permanent endowment fund” means a fund held in an endow Iowa qualifying community foundation to provide benefit to charitable causes in the state of Iowa. Endowed funds are intended to exist in perpetuity, and to implement an annual spend rate not to exceed 5 percent.

“Tax credit” means the amount a taxpayer may claim against the taxes imposed in Iowa Code chapter 422, ~~divisions~~ subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section ~~533.24~~ 533.329.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 2. Amend rule 261—47.3(15E) as follows:

261—47.3(15E) Authorization of tax credits to taxpayers. The authority shall authorize tax credits to qualified taxpayers who provide an endowment gift to an endow Iowa qualified community foundation or a community affiliate organization affiliated with an endow Iowa qualified community foundation for a permanent endowment fund within the state of Iowa in accordance with the following provisions:

47.3(1) Approved tax credits shall be allowed against taxes imposed in Iowa Code chapter 422, ~~divisions subchapters II, III, and V,~~ and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section ~~533.24~~ 533.329.

47.3(2) ~~Beginning January 1, 2010, approved tax~~ Tax credits will be equal to 25 percent of a taxpayer's gift to a permanent endowment held in an endow Iowa qualified community foundation. The amount of the endowment gift for which the endow Iowa tax credit is claimed shall not be deductible in determining taxable income for state income tax purposes.

47.3(3) The aggregate amount of tax credits available under this rule ~~annually is limited according to Iowa Code section 15E.305, subsection 2~~ \$6 million. ~~The aggregate amount is determined by taking a base authorization amount specified in Iowa Code section 15E.305, subsection 2, paragraph "a," and adding an additional amount to be determined annually by calculating a certain percentage of the state's gambling revenues, as provided in Iowa Code section 99F.11, subsection 3, paragraph "d," subparagraph (3), for the prior fiscal year. For calendar year 2011 and for all subsequent calendar years, the annual base authorization amount of available tax credits is \$3.5 million. The additional amount varies each year according to the amount of gambling revenues collected in the prior year. For 2012, the aggregate amount of available tax credits is \$4,642,945. The~~ For tax credits issued on or before December 31, 2022, ~~the maximum amount of tax credit that may be granted to an individual taxpayer may claim~~ is limited to 5 percent of the aggregate amount available each year. For 2012, ~~the maximum amount of tax credit available to a single taxpayer is \$232,147.25~~ tax credits issued on or after January 1, 2023, ~~the maximum amount of tax credit that may be granted to an individual taxpayer is limited to \$100,000.~~ If the authority receives applications for tax credits in excess of the amount available, the applications shall be prioritized by the date the authority received the applications. ~~If Applications received on or before June 30, 2023, will be placed on a waitlist for a subsequent year's allocation of tax credits if the number of applications exceeds the amount of annual tax credits available, the authority shall establish a wait list for the next year's allocation of tax credits and applications. Applications placed on the waitlist shall first be funded in the order listed on the wait list waitlist. Applications received on or after July 1, 2023, in excess of the amount of tax credits available will not be placed on the waitlist and will be denied by the authority. A taxpayer shall submit an application to the authority for the tax credit no later than 12 months from the date of the donation which qualifies the taxpayer for the tax credit.~~

47.3(4) ~~Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever occurs first. To receive the tax credit, a donor shall file a claim with the department of revenue in accordance with any applicable administrative rules adopted by the department.~~

47.3(5) A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

47.3(6) A tax credit shall not be transferable to any other taxpayer.

ITEM 3. Rescind rule **261—47.5(15E)**.

ITEM 4. Amend **261—Chapter 47**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~15E.301 to 15E.306 as amended by 2011 Iowa Acts, Senate File 302~~ 15E.301 to 15E.303 and 15E.305 as amended by 2022 Iowa Acts, House File 2317.

ARC 6593C**ECONOMIC DEVELOPMENT AUTHORITY[261]****Notice of Intended Action****Proposing rule making related to brownfield and grayfield redevelopment tax credits
and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to amend Chapter 65, “Brownfield and Grayfield Redevelopment,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 15.106A and 15.293B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 15.291 to 15.295.

Purpose and Summary

2022 Iowa Acts, House File 2317, amends Iowa Code section 15.293A relating to the Redevelopment Tax Credit Program for Brownfields and Grayfields. The legislation reduces the refundability of the tax credits by 5 percentage points each year for five years, beginning in tax years beginning on or after January 1, 2023. Additionally, tax credits under the program that are refundable shall not be transferable.

This proposed rule making amends Chapter 65 to reflect the changes made to the Iowa Code section and remove information relating to the tax credit claims process that is addressed in rules promulgated by the Iowa Department of Revenue (IDR).

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 65.6(4) as follows:

65.6(4) Application forms for the brownfield redevelopment program and the redevelopment tax credits program for brownfields and grayfields are available ~~upon request from Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. Additional information is available on the authority’s Internet site at www.iowaeconomicdevelopment.com website.~~

ITEM 2. Amend subrule 65.11(3) as follows:

65.11(3) *Tax credit certificate.*

a. Issuance. The authority shall issue a redevelopment tax credit certificate upon completion of the project and submittal of proof of completion by the qualified investor. The tax credit certificate shall contain the qualified investor’s name, address, and tax identification number;; the amount of the credit; the name of the qualifying investor; whether the taxpayer has satisfied the requirements for the credit to be refundable; any other information required by the department of revenue; and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

b. Acceptance. Claims. ~~The tax credit certificate, unless rescinded by the board, shall be accepted by the Iowa department of revenue as payment for taxes imposed pursuant to Iowa Code chapter 422, divisions II, III, and V, and to Iowa Code chapter 432, and for the moneys and credits tax imposed in Iowa Code section 533.329, subject to any conditions or restrictions placed by the board upon the face of the tax credit certificate and subject to the limitations of this rule, for a portion of a taxpayer’s equity investment in a qualifying redevelopment project. To claim a tax credit under this rule, a qualified investor shall file a claim with the department of revenue pursuant to the department’s applicable rules. The qualified investor must include one or more tax credit certificates with the qualified investor’s tax return. A tax credit certificate shall not be used or included with a return filed for a taxable year beginning prior to the tax year listed on the certificate. The tax credit certificate or certificates included with the qualified investor’s tax return shall be issued in the qualified investor’s name, expire on or after the last day of the taxable year for which the qualified investor is claiming the tax credit, and show a tax credit amount equal to or greater than the tax credit claimed on the qualified investor’s tax return.~~

c. Transfer. Tax credit certificates issued under this rule may be transferred to any person or entity pursuant to the department of revenue’s applicable rules, except a tax credit certificate that is refundable pursuant to Iowa Code section 15.293A(1)“c”(2) as amended by 2022 Iowa Acts, House File 2317, shall not be transferable. ~~Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the Iowa department of revenue, including a statement with the transferee’s name, tax identification number, address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the Iowa department of revenue.~~

d. Replacement certificate. ~~Within 30 days of receiving the transferred tax credit certificate and the transferee’s statement, the Iowa department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

required for the original tax credit certificate and must have the same expiration date that appeared in the transferred tax credit certificate.

~~*e.*—*Claiming a transferred tax credit.* A tax credit shall not be claimed by a transferee until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration paid or received for the transfer of the tax credit shall not be included or deducted as income under Iowa Code chapter 422, divisions II, III, and V, under Iowa Code chapter 432, or against the moneys and credits tax imposed in Iowa Code section 533.329.~~

ITEM 3. Amend subrule 65.11(4) as follows:

65.11(4) *Amount of tax credit. Tax credit amount and limitations.*

~~*a.*—*Pro rata share.* The qualified investor may claim the amount based upon the pro rata share of the qualified investor's earnings from the partnership, limited liability company, S corporation, estate, or trust. Except as provided in paragraph 65.11(4)“b,” any tax credit in excess of the qualified investor's liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the qualified investor receives the tax credit.~~

~~*b. a.* *Refundability.* A tax credit in excess of the taxpayer's liability for the tax year is refundable if all of the following conditions are met: only to the extent indicated in Iowa Code section 15.293A(1)“c”(2) as amended by 2022 Iowa Acts, House File 2317.~~

~~(1) The taxpayer is an investor making application for tax credits provided in this rule and is an entity organized under Chapter 504 and qualifying under Section 501(c)(3) of the Internal Revenue Code as an organization exempt from federal income tax under Section 501(a) of the Internal Revenue Code.~~

~~(2) The taxpayer establishes during the application process described in this chapter that the requirement in subparagraph 65.11(4)“b”(1) is satisfied. The authority, when issuing a certificate to a taxpayer that meets the requirements in paragraph 65.11(4)“b,” will indicate on the certificate that such requirements have been satisfied. A certificate indicating that it is refundable pursuant to paragraph 65.11(4)“b” shall not also be transferred to another taxpayer unless all the requirements of paragraph 65.11(4)“b” have been met.~~

~~*e. b.* *Percentage.* The amount of the tax credit shall equal one of the following:~~

~~(1) Twelve percent of the taxpayer's qualifying investment in a grayfield site.~~

~~(2) Fifteen percent of the taxpayer's qualifying investment in a grayfield site if the qualifying redevelopment project meets the requirements of green development as defined in 261—65.2(15).~~

~~(3) Twenty-four percent of the taxpayer's qualifying investment in a brownfield site.~~

~~(4) Thirty percent of the taxpayer's qualifying investment in a brownfield site if the qualifying redevelopment project meets the requirements of green development as defined in 261—65.2(15).~~

~~*d. c.* *Maximum credit per project.* The maximum amount of a tax credit for a qualifying investment in any one qualifying redevelopment project shall not exceed 10 percent of the maximum amount of tax credits available in any one fiscal year pursuant to paragraph 65.11(4)“e.” 65.11(4)“d.”~~

~~*e. d.* *Maximum credit total.* For the fiscal year beginning July 1, 2021, and for each subsequent fiscal year, the maximum amount of tax credits allocated to the program by the authority shall be an amount determined by the board but not in excess of the amount established pursuant to Iowa Code section 15.119 as amended by 2021 Iowa Acts, Senate File 619. Tax credits awarded pursuant to~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

paragraph ~~65.11(8) “b”~~ 65.11(7) “b” shall not be counted against the allocation determined by the board pursuant to this paragraph.

ITEM 4. Rescind subrule **65.11(5)**.

ITEM 5. Renumber subrules **65.11(6)** to **65.11(10)** as **65.11(5)** to **65.11(9)**.

ITEM 6. Amend **261—Chapter 65**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 15.291 to 15.295 and 2021 Iowa Acts, Senate File 619.

ARC 6600C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Proposing rule making related to the exception for the operation of pizza dough rollers and providing an opportunity for public comment

The Labor Commissioner hereby proposes to amend Chapter 32, “Child Labor,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 92.21.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 92.8(10) as amended by 2022 Iowa Acts, Senate File 2190.

Purpose and Summary

This proposed rule making implements a required rule revision because of 2022 Iowa Acts, Senate File 2190, which exempts certain pizza dough rollers from being defined as “power-driven bakery machines.”

Fiscal Impact

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

Jobs Impact

The statute and rule may increase the availability of jobs for employees under the age of 18.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 1.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commissioner no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

LABOR SERVICES DIVISION[875](cont'd)

Lanny Zieman
 Division of Labor Services
 150 Des Moines Street
 Des Moines, Iowa 50309
 Email: lanny.zieman@iwd.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend subrule 32.8(10) as follows:

32.8(10) *“Occupations involved in the operation of certain power-driven bakery machines”* means the occupations of operating, assisting to operate or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machines; or cake cutting band saw and the occupations of setting up or adjusting a cookie or cracker machine. However, this definition does not apply to the operation of pizza dough rollers that are a type of dough sheeter that have been constructed with safeguards contained in the basic design so as to prevent fingers, hands, or clothing from being caught in the in-running point of the rollers, that have gears that are completely enclosed, and that have microswitches that disengage the machinery if the backs or sides of the rollers are removed, only when all the safeguards detailed in Iowa Code section 92.8(10) are present on the machinery, are optional, and have not been overridden.

This subrule is intended to implement Iowa Code section 92.8(10).

ARC 6599C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

**Proposing rule making related to physician assistants
and providing an opportunity for public comment**

The Labor Commissioner hereby proposes to amend Chapter 155, “Asbestos Removal and Encapsulation,” Chapter 169, “General Requirements for Athletic Events,” Chapter 173, “Professional Boxing,” Chapter 174, “Elimination Tournaments,” Chapter 176, “Professional Kickboxing,” and Chapter 177, “Mixed Martial Arts,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 88B.3 and 90A.7.

LABOR SERVICES DIVISION[875](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.77 as enacted by 2022 Iowa Acts, House File 803.

Purpose and Summary

2022 Iowa Acts, House File 803, allows physician assistants to perform various duties that are within their scope of practice but which statute or rule previously only allowed physicians to accomplish. House File 803 also directs agencies to amend their rules to reflect the statutory changes allowing physician assistants to perform certain tasks that previously were only accomplished by physicians. The purpose of this proposed rule making is to modify the Division of Labor Services' rules to be consistent with these statutory changes.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 1.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commissioner no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

Lanny Zieman
Division of Labor Services
150 Des Moines Street
Des Moines, Iowa 50309
Email: lanny.zieman@iwd.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

LABOR SERVICES DIVISION[875](cont'd)

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

155.6(1) Application form. Except as noted in this subrule, the applicant must complete and submit the entire form provided by the division with the necessary attachments. Respirator fit tests and medical examinations must have occurred within the past 12 months. Only worker and contractor/supervisor license applicants must submit the respiratory protection and physician's or physician assistant's certification forms. Photocopies of the forms shall not be accepted.

ITEM 2. Amend subparagraph **155.6(11)“a”(2)** as follows:

(2) A copy of a physician's or physician assistant's statement indicating that, consistent with 29 CFR 1910.134, a licensed physician or physician assistant has examined the individual within the past 12 months and approved the individual to work while wearing a respirator;

ITEM 3. Amend subparagraph **169.4(1)“b”(5)** as follows:

(5) A copy of the medical license of the ringside physician or physician assistant;

ITEM 4. Amend subparagraph **169.4(1)“b”(10)** as follows:

(10) The date, time, and location of the ringside physician's or physician assistant's examination of the contestants;

ITEM 5. Amend subrule 169.5(16) as follows:

169.5(16) Submit to the ringside physician or physician assistant no later than at the time of the physicals test results showing that each contestant scheduled for the event tested negative for the human immunodeficiency, hepatitis B, and hepatitis C viruses within the one-year period prior to the event. The contestant shall not participate and the physician or physician assistant shall notify the promoter that the contestant is prohibited from participating for medical reasons if any of the following occurs:

a. to e. No change.

ITEM 6. Amend rule 875—173.4(90A) as follows:

875—173.4(90A) Injury. If a contestant claims to be injured during the bout, the referee shall stop the bout and request the attending physician or physician assistant to make an examination. If the physician or physician assistant decides that the contestant has been injured as the result of a foul, the physician or physician assistant shall advise the referee of the injury. If the physician or physician assistant is of the opinion that the injured contestant may be able to continue, the physician or physician assistant shall order a five-minute intermission, after which the physician or physician assistant shall make another examination and again advise the referee of the injured contestant's condition. It shall be the duty of the promoter to have an approved physician or physician assistant in attendance during the entire duration of all bouts.

ITEM 7. Amend rule 875—173.8(90A) as follows:

875—173.8(90A) Persons allowed in the ring. No person other than the contestants and the referee shall enter the ring during the bout, excepting the seconds between the rounds or the attending physician or physician assistant if asked by the referee to examine an injury to a contestant.

ITEM 8. Amend rule 875—173.19(90A) as follows:

875—173.19(90A) Weighing of contestants. Contestants shall be weighed and examined on the day of the scheduled match by the attending ring physician or physician assistant, at a time and place to be determined by the commissioner. Preliminary boxers may be allowed to weigh in and be examined not later than one hour before the scheduled time of the first match on the card. All weigh-ins will be conducted with the boxer stripped. Accurate scales shall be furnished by the promoter.

ITEM 9. Amend rule 875—173.45(90A) as follows:

875—173.45(90A) Attending ring physician or physician assistant. When a boxer has been injured seriously, knocked out or technically knocked out, the referee shall immediately summon the attending

LABOR SERVICES DIVISION[875](cont'd)

ring physician or physician assistant to aid the stricken boxer. Managers, handlers and seconds shall not attend to the stricken boxer, except at the request of the physician or physician assistant.

ITEM 10. Amend rule 875—173.47(90A) as follows:

875—173.47(90A) Timekeeper. The timekeeper shall provide a stopwatch and shall maintain an accurate time of all bouts. The timekeeper shall keep an exact record of time taken out at the request of a referee for an examination of a contestant by the physician or physician assistant, replacing a glove or adjusting any equipment during a round. The timekeeper shall provide a whistle and shall sound the whistle ten seconds before the start of each round of boxing bouts. The timekeeper shall be impartial and shall not signal interested parties at any time during a bout.

ITEM 11. Amend rule 875—174.6(90A) as follows:

875—174.6(90A) Suspension. A contestant who suffers a knockout or where the referee stops a fight on a technical knockout (TKO) shall not be permitted to box in the state for a period of 30 days. Before being permitted to fight again, the contestant shall be examined by a physician or physician assistant approved by the commissioner.

ITEM 12. Amend subrule 176.4(1) as follows:

176.4(1) Officials. The designation of officials, referees, physicians, physician assistants, timekeepers, judges, kick counters, scorekeepers, contestants, seconds, and managers is subject to the approval of the commissioner or designee.

ITEM 13. Amend subrule 177.4(1) as follows:

177.4(1) Officials. Officials shall consist of three judges, two referees, the physician or physician assistant, and the timekeeper.

ITEM 14. Amend subrule 177.4(3) as follows:

177.4(3) Timekeeper. The timekeeper shall keep an exact record of time taken out at the request of a referee for an examination of a contestant by the physician or physician assistant, replacing a glove or adjusting any equipment during a round. The timekeeper shall notify contestants at the beginning and end of each round. The timekeeper shall be impartial and shall not signal interested parties at any time during a match.

ITEM 15. Amend subrule 177.4(8) as follows:

177.4(8) Persons allowed in the cage. No person other than the two contestants and the referee shall enter the cage during the match. However, the physician or physician assistant may enter the cage to examine a contestant upon the request of the referee.

ITEM 16. Amend paragraph **177.4(10)“d”** as follows:

d. A contestant is exempt from ~~177.4(10)(a)(1)~~ subparagraphs 177.4(10)“a”(1) and (2) while interacting with the contestant’s opponent during a round. However, if the round is stopped by the physician or physician assistant or referee for a time out, ~~177.4(10)(a)(1)~~ subparagraphs 177.4(10)“a”(1) and (2) shall apply to a contestant.

ITEM 17. Amend subrule 177.5(13) as follows:

177.5(13) Examination of contestants. On the day of the event, at a time and place to be approved by the commissioner, the ringside physician or physician assistant shall conduct a rigorous physical examination to determine the contestant’s fitness to participate in an MMA match. A contestant deemed not fit by the physician or physician assistant shall not participate in the event.

ITEM 18. Amend subrule 177.6(7) as follows:

177.6(7) Injury. If a contestant claims to be injured or when a contestant has been injured seriously or knocked out, the referee shall immediately stop the fight and summon the attending ring physician or physician assistant to make an examination of the stricken fighter. If the physician or physician assistant decides that the contestant has been injured, the physician or physician assistant shall advise the referee of the severity of the injury. If the physician or physician assistant is of the opinion the injured contestant

LABOR SERVICES DIVISION[875](cont'd)

may be able to continue, the physician or physician assistant shall order a five-minute intermission, after which the physician or physician assistant shall make another examination and again advise the referee of the injured contestant's condition. Managers, handlers and seconds shall not attend to the stricken fighter, except at the request of the physician or physician assistant.

ARC 6597C

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

**Proposing rule making related to mandatory reporter training
and providing an opportunity for public comment**

The Board of Massage Therapy hereby proposes to amend Chapter 131, "Licensure of Massage Therapists," and Chapter 133, "Continuing Education for Massage Therapists," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 152C.3 and 2022 Iowa Acts, House File 2168.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 152C.3, 232.69 and 235B.16 and 2022 Iowa Acts, House File 2168.

Purpose and Summary

This proposed rule making amends the Board's rules regarding mandatory reporter training in response to 2022 Iowa Acts, House File 2168. House File 2168 provides that massage therapists who treat children or dependent adults must complete mandatory reporter training, as opposed to only those therapists who work in certain settings, and further provides that mandatory reporter training shall count toward a licensed massage therapist's continuing education requirements. This proposed rule making updates the Board's rules regarding mandatory reporter training to reflect these changes. Although the Board's rules already allow massage therapists to count mandatory reporter training toward their continuing education hours, the proposed amendments update the rules to align with the specific language of House File 2168.

Fiscal Impact

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

Jobs Impact

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

Waivers

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Janelle Larson
Professional Licensure Division
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.4401
Fax: 515.281.3121
Email: janelle.larson@idph.iowa.gov

Public Hearing

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

November 8, 2022
8 to 9 a.m.

Fifth Floor Conference Room 526
Lucas State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Rescind subrule 131.8(4) and adopt the following new subrule in lieu thereof:

131.8(4) Mandatory reporter training.

a. If a licensee examines, attends, counsels, or treats children in the scope of the licensee's professional practice or employment responsibilities, the licensee shall complete training relating to the identification and reporting of child abuse every three years pursuant to Iowa Code section 232.69(3) "b." The licensee shall indicate on the renewal application completion of such training.

b. If a licensee examines, attends, counsels, or treats dependent adults in the scope of the licensee's professional practice or employment responsibilities, the licensee shall complete training relating to the identification and reporting of dependent adult abuse every three years pursuant to Iowa Code section 235B.16(5) "b." The licensee shall indicate on the renewal application completion of such training.

c. The course(s) shall be the curriculum provided by the department of health and human services.

d. The licensee shall maintain written documentation for three years after completing mandatory training, including program date(s), duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States; or

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

of time in which to fulfill the requirements due to a physical or mental disability or illness as provided by rule 645—4.14(272C).

f. The board may select licensees for audit of compliance with the requirements of this subrule.

ITEM 2. Amend subrule 133.3(2) as follows:

133.3(2) *Specific criteria.* A licensee shall obtain a minimum of 16 hours of continuing education credit every two years. A minimum of 8 hours of the 16 hours must be hands-on training. A maximum of 8 hours of the 16 hours may be independent study. Licensees may obtain continuing education hours of credit by:

a. to h. No change.

i. Completing programs which enhance a supplemental or complementary skill set directly related to promoting the public health while providing massage therapy. Content areas include, but are not limited to, CPR, first aid, ~~mandatory reporter training~~, contraindication training, sanitation, and geriatric care.

j. Completing mandatory reporter training pursuant to Iowa Code sections 232.69 and 235B.16. One hour of credit will be awarded for each hour of completed mandatory reporter training.

k. Passing a board-approved national examination administered by the Federation of State Massage Therapy Boards or the National Certification Board for Therapeutic Massage Therapy and Bodywork within the biennial continuing education compliance period. A copy of the applicant's official notification may be used by the board as verification.

ARC 6601C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to the property assessment appeal board and providing an opportunity for public comment**

The Property Assessment Appeal Board hereby proposes to amend Chapter 126, "Property Assessment Appeal Board," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.4, 421.1A(4)“f” and 421.1A(4)“g.”

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 441.37A and 2017 Iowa Acts, House File 478.

Purpose and Summary

The Board proposes the following amendments to its rules:

Item 1 rescinds rule 701—71.21(421,17A). This rule is no longer needed.

Items 2 through 12 remove references to appeals filed prior to 2018 and references to content in rule 701—71.21(421,17A).

Item 2 adds a definition for “written consideration.”

Item 3 amends the rule to remove any reference to assessment years 2018 and prior since these appeals have largely been adjudicated. The amendment also clarifies what is to be included in the board of review's answer to a notice of appeal.

Item 4 amends the rule to permit parties, upon agreement, to serve one another via email.

Item 5 amends the rule to identify where a public access terminal is available for the public based on changes to the Hoover State Office Building and the Board's office. The amendment also clarifies which documents the Board's staff may electronically file on behalf of a party.

REVENUE DEPARTMENT[701](cont'd)

Item 6 amends the rule to include a requirement for filing a motion to dismiss for lack of jurisdiction within 90 days of filing the notice of appeal.

Item 7 amends the rule establishing a threshold for required filing of hearing scheduling and discovery plans from \$2 million to \$3 million.

Item 8 amends the Board's discovery rules by limiting the number of discovery requests that may be served in cases involving property assessed for less than \$1 million.

Item 9 amends language regarding waiving 30-day notice of a Board hearing and permits video proceedings before the Board. The amendment identifies that participants in a hearing before the Board may now elect to participate via video conference. The amendment also defines "ex parte" communications and notifies parties that ex parte communication with Board members is prohibited.

Item 10 amends the rule regarding reopening the record and reconsiderations by specifying and clarifying the requirements for each filing.

Item 11 amends the rule to clarify service requirements for petitions for judicial review and to require that a party seeking judicial review shall bear the cost of producing the transcript of a Board hearing, if a transcript is requested.

Item 12 amends the rule to include provision for records retention following guidelines established by the State Records Commission.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

Jessica Braunschweig-Norris
Property Assessment Appeal Board
Hoover State Office Building
P.O. Box 10486
Des Moines, Iowa 50306
Phone: 515.725.0338
Email: jessica.braunschweig-norris@iowa.gov

Public Hearing

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

REVENUE DEPARTMENT[701](cont'd)

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Rescind and reserve rule **701—71.21(421,17A)**.

ITEM 2. Amend rule 701—126.1(421,441) as follows:

701—126.1(421,441) Applicability and definitions.

126.1(1) *Applicability and scope.* The rules set forth in this chapter govern the proceedings for all cases ~~filed on or after January 1, 2015~~, in which the property assessment appeal board (board) has jurisdiction to hear appeals from the action of a local board of review.

126.1(2) *Definitions.* For the purpose of these rules, the following definitions shall apply:

“*Appellant*” means the party filing the appeal with the property assessment appeal board.

“*Board*” means the property assessment appeal board as created by Iowa Code section 421.1A and governed by Iowa Code chapter 17A and section 441.37A.

“*Department*” means the Iowa department of revenue.

“*Electronic filing*” means the electronic transmission of a document to the electronic filing system together with the production and transmission of a notice of electronic filing.

“*Electronic filing system*” means the system established by the board for the filing of papers and service of the same to opposing parties.

“*Electronic record*” means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means.

“*Electronic service*” means the electronic transmission of a notification to the registered users who are entitled to receive notice of the filing.

“*Local board of review*” means the board of review as defined by Iowa Code section 441.31.

“*Nonelectronic filing*” means a process by which a paper document or other nonelectronic item is filed with the board.

“*Notice of electronic filing*” means an ~~e-mail~~ email notification generated by the electronic filing system when a document is electronically filed.

“*Party*” means each person or entity named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

“*PDF*” means an electronic document filed in a portable document format which is readable by the free Adobe® Acrobat® Reader.

“*Presiding officer*” means the chairperson, member or members of the property assessment appeal board who preside over an appeal of proceedings before the board.

“*Public access terminal*” means a computer located at the board’s office where the public may view, print, and electronically file documents.

“*Registered user*” means an individual who can electronically file documents and electronically view and download files through the use of a username and password.

“*Remote access*” means a registered user’s ability to electronically search, view, copy, or download electronic documents in an electronic record without the need to physically visit the board’s office.

“*Secretary*” means the secretary for the property assessment appeal board.

“*Signature*” means a registered user’s username and password accompanied by one of the following:

1. “Digitized signature” means an embeddable image of a person’s handwritten signature;
2. “Electronic signature” means an electronic symbol (“/s/” or “/registered user’s name/”) executed or adopted by a person with the intent to sign; or
3. “Nonelectronic signature” means a handwritten signature applied to an original document.

REVENUE DEPARTMENT[701](cont'd)

“Written consideration” means the board’s consideration of an appeal without a hearing.

126.1(3) to 126.1(5) No change.

ITEM 3. Amend rule 701—126.2(421,441) as follows:

701—126.2(421,441) Appeal and answer.

126.2(1) to 126.2(3) No change.

126.2(4) *Scope of review.*

a. Grounds for appeal. The appellant may appeal the action of the board of review relating to protests of assessment, valuation, or the application of an equalization order. The board shall determine anew all questions arising before the local board of review which relate to the liability of the property to assessment or the amount thereof.

~~(1) For assessment years prior to January 1, 2018, no new grounds in addition to those set out in the protest to the local board of review can be pleaded but additional evidence to sustain those grounds may be introduced.~~

(2) For assessment years beginning on or after January 1, 2018, new New grounds in addition to those set out in the protest to the local board of review may be pleaded, and additional evidence to sustain those grounds may be introduced. The board may order the appellant to clarify the grounds on which the appellant seeks relief.

b. Burden of proof. There shall be no presumption as to the correctness of the valuation of the assessment appealed from.

~~(1) For assessment years prior to January 1, 2018, the burden of proof is on the appellant; however, when the appellant offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the party seeking to uphold the valuation.~~

(2) For assessment years beginning on or after January 1, 2018, the The burden of proof is on the appellant; however, when the appellant offers competent evidence that the market value of the property is different than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold the valuation.

c. The appeal is a contested case.

126.2(5) No change.

126.2(6) *Answer by local board of review.* Using the form provided by the board or a conforming document, the local board of review’s attorney or representative shall file an answer within 30 days after service of the notice of appeal, unless the time period is shortened or extended by the board. The answer shall include: a statement setting forth the local board of review’s position on the appeal and the

a. The subject property’s current assessed value;

b. A statement regarding the timeliness of the protest to the local board of review and the timeliness of the appeal to the board;

c. How the local board of review will participate in the hearing; and

d. If the local board of review is represented by an attorney or designated representative, the attorney or designated representative’s name, mailing address, email address, and telephone number.

126.2(7) *Docketing.* Appeals shall be assigned ~~consecutive~~ docket numbers. Electronic records consisting of the case name and the corresponding docket number assigned to the case shall be maintained by the board, as well as all filings made in the appeal.

126.2(8) and 126.2(9) No change.

ITEM 4. Amend rule 701—126.3(421,441) as follows:

701—126.3(421,441) Nonelectronic service on parties and filing with the board.

126.3(1) No change.

126.3(2) *Service and filing of paper documents.* After the appeal has been filed, all motions, pleadings, briefs, and other papers shall be served upon each of the parties of record contemporaneously with their filing with the board.

REVENUE DEPARTMENT[701](cont'd)

a. Service on parties to the appeal. All documents are deemed served at the time they are delivered in person to the opposing party; delivered to an established courier service for immediate delivery; ~~or~~ mailed by first-class mail, so long as there is proof of mailing; or emailed to the opposing party per mutual agreement.

b. and c. No change.

126.3(3) to 126.3(6) No change.

ITEM 5. Amend rule 701—126.4(421,441) as follows:

701—126.4(421,441) Electronic filing system.

126.4(1) to 126.4(5) No change.

126.4(6) *Filing and service using electronic filing.*

a. and b. No change.

c. E-mail Email or fax. The ~~e-mailing~~ emailing or faxing of a document to the board will not generate a notice of electronic filing and does not constitute electronic filing of the document unless otherwise ~~ordered~~ authorized by the board.

d. Public access terminal. ~~The board shall maintain a public access terminal at the board's office.~~ A public access terminal is available at the reception desk on the first floor of the Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319.

e. to g. No change.

126.4(7) *Filing by the board on behalf of a party.*

a. and b. No change.

c. Only the following motions or requests may be filed by board staff on behalf of a party:

(1) ~~Motion for telephone hearing~~ Request to participate in a hearing in person, by telephone, or by video;

~~(2) Motion to appear in person at hearing;~~

~~(3) (2)~~ Motion for hearing;

~~(4) (3)~~ Motion for continuance;

~~(5) (4)~~ Motion to withdraw appeal.

d. Upon filing of the motion or request, board staff will provide a courtesy copy of the filing to the party.

ITEM 6. Amend rule 701—126.5(421,441) as follows:

701—126.5(421,441) Motions and settlements.

126.5(1) No change.

126.5(2) *Motions.* No technical form for motions is required. All prehearing motions shall be in writing, shall be filed with the board and shall contain the reasons and grounds supporting the motion. The board shall act upon such motions as justice may require. Motions based on matters which do not appear of record shall be supported by affidavit. Any party may file a written response to a motion no later than ~~10~~ ten days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. The presiding officer may schedule oral argument on any motion.

a. Filing of motions. Motions pertaining to the hearing, except motions ~~for summary judgment,~~ discussed in paragraph 126.5(2) "b," must be filed and served at least ~~10~~ ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by the board or presiding officer.

b. Motions for summary judgment and motions to dismiss for lack of jurisdiction.

(1) Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 1.981 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this chapter or any other provision of law governing the procedure in contested cases.

(2) Motions for summary judgment and motions to dismiss for lack of jurisdiction must be filed and served no later than 90 days after service of the notice of appeal, unless good cause is shown for a

REVENUE DEPARTMENT[701](cont'd)

later filing. Good cause may include, but is not limited to, information the moving party obtains through discovery. Any party resisting the motion shall file and serve a resistance within 20 days, unless otherwise ordered by the board or presiding officer, from the date a copy of the motion was served. ~~The time fixed for hearing or nonoral submission shall be not less than 30 days after the filing of the motion, unless a shorter time is ordered by the presiding officer.~~ The board may request oral argument on the motion or may issue a ruling without argument. A summary judgment order rendered on all issues in a contested case or order on motion to dismiss for lack of jurisdiction is subject to ~~rehearing~~ reconsideration pursuant to subrule 126.9(2).

c. Motions to withdraw. An appellant may withdraw the appeal ~~prior to the hearing~~. Such a withdrawal of an appeal must be in writing and signed by the appellant or the appellant's designated representative. Unless otherwise provided, withdrawal shall be with prejudice and the appellant shall not be able to refile the appeal. Within 20 days of the board's granting of a withdrawal of appeal, the appellant may make a motion to reopen the file and rescind the withdrawal based upon fraud, duress, undue influence, or mutual mistake.

d. Motions for refund. ~~For assessment years beginning on or after January 1, 2018, if~~ If the board reduces an assessment following a contested case hearing, the appellant shall be notified in the board's final agency action of the appellant's right to elect to be refunded for taxes already paid by filing a motion with the board. Such a motion shall be filed within ~~10~~ ten days of the board's final agency action. If the appellant does not timely file a motion for refund, any change in taxes resulting from the assessment reduction shall be credited toward future tax payments.

126.5(3) No change.

ITEM 7. Amend rule 701—126.6(421,441) as follows:

701—126.6(421,441) Hearing scheduling and discovery plan.

126.6(1) When required. For appeals involving properties ~~classified commercial, industrial, or multiresidential~~ and assessed at ~~\$2~~ \$3 million or more, the parties shall confer and file a hearing scheduling and discovery plan within 60 days of the notice provided in subrule 126.2(5). In any other appeal, the parties may jointly file a hearing scheduling and discovery plan or the board may, on its own motion or the motion of any party, require parties to file a hearing scheduling and discovery plan. The dates established in a hearing scheduling and discovery plan under this rule shall supersede any dates set forth in any other rule in this chapter.

126.6(2) to 126.6(4) No change.

ITEM 8. Amend rule 701—126.7(421,441) as follows:

701—126.7(421,441) Discovery and evidence.

126.7(1) Discovery procedure. The scope of discovery described in Iowa Rule of Civil Procedure 1.503 shall apply to contested case proceedings. When considering a question of relevancy, the board shall consider the provisions of Iowa Code chapter 441, 701—Chapter 71, and other applicable law. The following discovery procedures available in the Iowa Rules of Civil Procedure are available to the parties in a contested case proceeding: depositions upon oral examination or written questions; written interrogatories; production of documents, electronically stored information, and things; entry upon land for inspection and other purposes; and requests for admission. The time frames for discovery in specific Iowa Rules of Civil Procedure govern those specific procedures, unless lengthened or shortened by the board.

a. No change.

b. Subject to the limitations in paragraph 126.7(1)“h,” Iowa Rule of Civil Procedure 1.509 shall apply to any interrogatories propounded in an appeal.

c. Subject to the limitations in paragraph 126.7(1)“h,” Iowa Rule of Civil Procedure 1.512 shall apply to any requests for production of documents, electronically stored information, and things; and entry upon land for inspection and other purposes in an appeal.

d. to *g.* No change.

REVENUE DEPARTMENT[701](cont'd)

h. In addition to the limits on discovery requests in Iowa Rule of Civil Procedure 1.509 and 1.512, the following limits shall apply to appeals of property assessed for less than \$1 million:

(1) A party shall not serve on any other party more than 15 interrogatories, including all discrete subparts.

(2) A party shall not serve on any other party more than ten requests for production of documents, electronically stored information, and things.

A party to the appeal may file a motion with the board requesting leave to serve additional discovery requests. The motion shall set forth the proposed interrogatories or requests for production of documents and the reasons establishing good cause for their use.

126.7(2) to 126.7(4) No change.

ITEM 9. Amend rule 701—126.8(421,441) as follows:

701—126.8(421,441) Hearings before the board.

126.8(1) No change.

126.8(2) *Notice of hearing.* Unless otherwise designated by the board, the hearing shall be held in the hearing room of the board. All hearings are open to the public. If ~~Unless subject to a hearing scheduling and discovery plan, if~~ a hearing is requested, the board shall serve a notice of hearing to the parties at least 30 days prior to the hearing. The parties may jointly waive the 30-day notice by following the provisions of subrule 126.8(3). The notice of hearing shall contain the following information:

a. to j. No change.

126.8(3) *Waiver of 30-day notice.* The parties to the appeal may jointly waive the 30-day written notice requirement for a hearing in Iowa Code section 441.37A by submitting a mutually agreed upon hearing date approved by the board. ~~The waiver must be signed by the parties or their designated representatives and filed with the board. By waiving notice, the parties acknowledge they are ready to proceed with the hearing. The parties will be contacted when a hearing date is available but notice for said date may be less than 30 days. The parties will have the right to accept or reject the hearing date.~~

126.8(4) No change.

126.8(5) *Telephone and video proceedings.* The board or presiding officer may conduct a telephone or video conference in which all parties have an opportunity to participate to resolve preliminary procedural motions. Other proceedings, including contested case hearings, may be held by telephone or video. The board will determine the location of the parties and witnesses for telephone and video hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when the location is chosen.

126.8(6) *Hearing procedures.* A party to the appeal may request a hearing, or the appeal may proceed without a hearing as a written consideration. The local board of review may be present and participate at such hearing. Hearings may be conducted by the board or by one or more of its members.

a. to e. No change.

126.8(7) to 126.8(9) No change.

126.8(10) *Ex parte communications with board members.* Written, oral or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate. Ex parte communications between a person or party and any board members in connection with any issue of fact or law in the contested case proceeding is prohibited except as permitted by Iowa Code section 17A.17. All of the provisions of Iowa Code section 17A.17 apply to proceedings before the board.

126.8(10) 126.8(11) *Disqualification of board member.* A board member or members must, on their own motion or on a motion from a party in the proceeding, withdraw from participating in an appeal if there are circumstances that warrant disqualification.

a. No change.

b. Motion for disqualification.

(1) If a party asserts disqualification on any appropriate ground, including those listed in paragraph 126.8(10)“a,” 126.8(11)“a,” the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.11. The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of

REVENUE DEPARTMENT[701](cont'd)

evidence of bias or other grounds for disqualification, the party may move for disqualification, but must establish the grounds by the introduction of evidence into the record.

(2) If a majority of the board determines that disqualification is appropriate, the board member shall withdraw. If a majority of the board determines that withdrawal is not required, the board shall enter an order to that effect. ~~A party asserting disqualification may seek an interlocutory appeal and a stay as provided under 701—Chapter 7.~~

c. and d. No change.

ITEM 10. Amend rule 701—126.9(421,441) as follows:

701—126.9(421,441) Posthearing motions.

126.9(1) Motion to reopen records. The board or presiding officer, on the board's or presiding officer's own motion or on the motion of a party, may reopen the record for the reception of further evidence. A motion to reopen the record may be made anytime prior to the issuance of a final decision. A motion to reopen the record filed after issuance of the final decision will not be considered. In ruling on a motion to reopen the record from a party filed prior to issuance of the final decision, the board may consider:

- a. Whether the information sought to be admitted is material;
- b. The timeliness of the motion;
- c. Whether the information sought to be admitted was available as of the date for hearing or written consideration and whether there is good cause for failing to present it;
- d. The prejudice on the other party;
- e. Any and all other factors deemed relevant by the board.

126.9(2) Rehearing and reconsideration.

a. Application for rehearing or reconsideration. Any party to a case may file an application for rehearing or reconsideration of the final decision. The application for rehearing or reconsideration shall be filed within 20 days after the final decision in the case is issued. The board's consideration of the application shall be limited to the admitted exhibits and testimony offered at the hearing. No new evidence will be accepted or considered.

b. Contents of application. Applications for rehearing or reconsideration shall specify the findings of fact and conclusions of law claimed to be erroneous, with a brief statement of the alleged grounds of error and the relief sought. If a claim of error of fact is asserted, the application should clearly specify the factual error and cite to admitted exhibits or testimony in support of the claim. If a claim of error of law is asserted, the application should clearly specify the legal error and cite statutes, case law, administrative rules, or other sources of law in support of the claim. Any application for rehearing or reconsideration asserting that evidence has arisen since the final order was issued as a ground for rehearing or reconsideration shall present the evidence by affidavit that includes an explanation of the competence of the person to sponsor the evidence and a brief description of the evidence sought to be included.

c. Notice to other parties. ~~A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein.~~ The applicant shall serve a copy of the application on all parties to the contested case in accordance with rules 701—126.3(421,441) and 701—126.4(421,441). If the application does not contain a certificate of service, the board shall serve copies on all parties.

d. Requirements for objections Resistance to applications for rehearing or reconsideration. ~~An answer or objection~~ A resistance to an application for rehearing or reconsideration must be filed within 14 ~~ten~~ days of the date the application was filed with the board, unless otherwise ordered by the board.

e. Disposition. Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

ITEM 11. Amend rule 701—126.10(17A,441) as follows:

701—126.10(17A,441) Judicial review.

REVENUE DEPARTMENT[701](cont'd)

126.10(1) Appeals of board decisions. A party may seek judicial review of a decision rendered by the board. The filing of the petition does not itself stay execution or enforcement of the board’s final decision. The board may grant a stay on appropriate terms or other temporary remedies during the pendency of judicial review.

~~a. For assessment years prior to January 1, 2018, a party may seek judicial review by filing a written notice of appeal with the clerk of the district court where the property is located within 20 days after the board’s final agency action is postmarked to the appellant or the final agency action is filed in the board’s electronic filing system. Iowa Code chapter 17A applies to judicial review of the board’s final decision.~~

~~b. a. For assessment years beginning on or after January 1, 2018, a party may seek judicial review of a decision rendered by the board by filing a petition for judicial review with the clerk of the district court where the property is located within 30 days after the board’s action pursuant to Iowa Code chapter 17A. Within ten days of filing for judicial review, the party seeking judicial review must serve notice on the board and notice on all parties to the contested case proceeding pursuant to Iowa Code chapter 17A.~~

~~b. The party or parties seeking judicial review shall bear the costs of preparing the transcription of the board hearing, if a transcription is required by the reviewing court.~~

126.10(2) No change.

ITEM 12. Amend rule 701—126.11(22,421) as follows:

701—126.11(22,421) Records access.

126.11(1) to 126.11(7) No change.

126.11(8) Retention of board records. The board will follow the records retention schedule for administrative case files established by the state records commission.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Jeff Plagge, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for October is 5.00%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective October 11, 2022, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TREASURER OF STATE(cont'd)

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .50%
180-364 days	Minimum .60%
One year to 397 days	Minimum .70%
More than 397 days	Minimum .75%

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

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

USURY

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

November 1, 2021 — November 30, 2021	3.25%
December 1, 2021 — December 31, 2021	3.50%
January 1, 2022 — January 31, 2022	3.50%
February 1, 2022 — February 28, 2022	3.50%
March 1, 2022 — March 31, 2022	3.75%
April 1, 2022 — April 30, 2022	4.00%
May 1, 2022 — May 31, 2022	4.25%
June 1, 2022 — June 30, 2022	4.75%
July 1, 2022 — July 31, 2022	5.00%
August 1, 2022 — August 31, 2022	5.25%
September 1, 2022 — September 30, 2022	5.00%
October 1, 2022 — October 31, 2022	5.00%
November 1, 2022 — November 30, 2022	5.50%

ARC 6595C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rule making related to gathering lines and providing an opportunity for public comment

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 476.2.

UTILITIES DIVISION[199](cont'd)

State or Federal Law Implemented

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

Purpose and Summary

This proposed rule making requires companies proposing to construct renewable natural gas (RNG) facilities that render natural gas from landfills and animal operations (such as dairies) and that interconnect with intrastate or interstate natural gas pipeline systems to obtain a permit from the Board for construction of gathering lines associated with the project. The proposed amendments define “gathering line” as a natural gas pipeline that transports gas from an anaerobic digester, or similar facility, to a gas treatment center or natural gas transmission line. The Board is proposing the amendments based on the number of companies proposing to construct RNG facilities and because the federal Pipeline and Hazardous Material Safety Administration (PHMSA) is requiring the Board to inspect the gathering lines under the Board’s agency contract with PHMSA. The proposed amendments allow the Board to ensure that gathering lines are constructed in compliance with federal and Board regulations.

The Board issued an order on September 19, 2022, commencing this rule making. The order is available for viewing in the Board’s electric filing system, efs.iowa.gov, under Docket No. RMU-2022-0010.

Fiscal Impact

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

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Public Hearing

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

December 16, 2022
1:30 to 3:30 p.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

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

UTILITIES DIVISION[199](cont'd)

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 10.1(2) as follows:

10.1(2) *When a permit is required.* A pipeline permit shall be required for any pipeline which ~~will~~:
a. Will operate at a pressure in excess of 150 pounds per square inch gauge (psig) or which, regardless of operating pressure, is a transmission line as defined in ASME B31.8 or 49 CFR 192.3. Using the factors set out in rule 199—10.14(479), the board shall determine whether a pipeline is a transmission line and requires a permit.

b. Is a gathering line as defined in subrule 10.1(3).

ITEM 2. Adopt the following **new** definition of “Gathering line” in subrule **10.1(3)**:

“*Gathering line*” means a natural gas pipeline that transports gas from an anaerobic digester, or similar facility, to a gas treatment facility or natural gas transmission line.

ITEM 3. Reletter paragraph **10.3(1)“l”** as **10.3(1)“m.”**

ITEM 4. Adopt the following **new** paragraph **10.3(1)“l”**:

l. Exhibit L. A petition for a permit for a gathering line as defined in subrule 10.1(3) shall include information showing compliance with 49 CFR 192.9.

ARC 6596C

UTILITIES DIVISION[199]

Notice of Intended Action

**Proposing rule making related to equipment distribution program
and providing an opportunity for public comment**

The Utilities Board hereby proposes to amend Chapter 37, “Equipment Distribution Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 477C.

Purpose and Summary

The Board is conducting a comprehensive review of its administrative rules in accordance with Iowa Code section 17A.7(2). Prior to submission of this Notice of Intended Action, the Board shared a draft version with stakeholders and invited comments. The Board considered the stakeholder comments in preparing the proposed amendments. The Board initiated this proposed rule making to identify and update provisions in Chapter 37 that are outdated, inconsistent, or incompatible with statutes and other rules. The Board is proposing amendments to update income eligibility figures, to update the equipment application process and the eligibility requirements, and to make other nonsubstantive changes.

UTILITIES DIVISION[199](cont'd)

The Board issued an order commencing this rule making on September 20, 2022. The order is available for viewing in the Board's electronic filing system, efs.iowa.gov, under Docket No. RMU-2022-0037.

Fiscal Impact

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

Jobs Impact

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

Waivers

No waiver provision is included in the proposed amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in this chapter.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

IT Support
Iowa Utilities Board
Phone: 515.725.7300
Email: ITSupport@iub.iowa.gov

Public Hearing

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

December 16, 2022
9 to 11 a.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 199—37.1(477C) as follows:

199—37.1(477C) Purpose. This chapter describes the board's program established pursuant to Iowa Code section 477C.4 to secure, finance, and distribute telecommunications devices ~~for the deaf~~. The

UTILITIES DIVISION[199](cont'd)

board's equipment distribution program serves eligible individuals who are deaf or ~~hard-of-hearing~~ hard-of-hearing or who have difficulty with speech.

The equipment distribution program will be limited by revenue considerations and annual budget amounts set by the board, with the advice of the dual party relay council established in Iowa Code section 477C.5. Before submitting a proposed annual budget to the board, the board's equipment distribution program project manager shall provide the council with the proposed budget for the council's review and discussion at a council meeting. The project manager will advise the board of any council recommendations regarding the proposed budget. When the budgeted amounts for a period are committed or expended, no further vouchers for equipment will be issued until the next period when the board budgets additional amounts.

ITEM 2. Amend rule 199—37.4(477C), introductory paragraph, as follows:

199—37.4(477C) Application process and eligibility. Applications will be processed in queue as determined by the program administrator. No person will be entitled to equipment at a particular time merely because that person meets the eligibility requirements. Additional vouchers will not be issued during a period if unpaid vouchers are outstanding for the remaining funds budgeted for the period. To be eligible to receive a voucher for equipment under the program, a person must satisfy the following requirements. By signing the application form or otherwise averring to the accuracy of the information contained in the application, an applicant or the applicant's power of attorney certifies that the information provided therein is true.

ITEM 3. Amend subrules 37.4(6) to 37.4(8) as follows:

37.4(6) An applicant's gross annual family income must be equal to or less than ~~\$65,000~~ \$76,000 for a family of two. Family sizes above or below two will increase or decrease that amount in ~~\$9,000~~ \$10,000 increments per family member change.

37.4(7) The applicant will be limited to a voucher for one type of equipment or equipment package. ~~If there are individuals in the same household who have different communication impairments that require different types of equipment, the individuals may make a joint request or separate requests to the program administrator. The program administrator may grant those portions of the requests that satisfy the eligibility requirements in this rule.~~

37.4(8) Reapplication. Prior voucher recipients may reapply through the program to replace existing equipment or to obtain new equipment, as appropriate. Reapplication will be limited by a ~~five-year~~ three-year waiting period. The reapplication period may be shortened by the board's equipment distribution program project manager in an individual case for good cause shown. At the time of reapplication for equipment, it is not necessary for the applicant's need for the equipment to be reverified by an appropriate professional. The program administrator shall verify that the applicant reapplying for equipment previously qualified for and continues to qualify for a voucher.

ARC 6606C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Notice of Intended Action

**Proposing rule making related to unemployment insurance
and providing an opportunity for public comment**

The Director of the Workforce Development Department hereby proposes to amend Chapter 23, "Employer's Contribution and Charges," Chapter 24, "Claims and Benefits," and Chapter 26, "Contested Case Proceedings," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 96.11.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 96 as amended by 2022 Iowa Acts, House File 2355.

Purpose and Summary

These proposed rule changes align with the changes illustrated in 2022 Iowa Acts, House File 2355. In particular, the proposed changes prevent employers from being charged for an overpayment in certain situations, update guidelines for voluntary shared work, update the maximum number of benefit weeks, define “misconduct” in relation to unemployment benefits eligibility, update salary guidelines for unemployed job seekers, and provide for claimant appeals to bypass the employment appeal board.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

Jeffrey Koncsol
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: jeffrey.koncsol@iwd.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

ITEM 1. Adopt the following **new** subrule 23.44(4):

23.44(4) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund, and this credit shall include both contributory and reimbursable employers. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits unless the department determines that an employer's failure to respond timely or adequately was due to insufficient notification from the department, in which case the employer's account shall not be charged for the overpayment.

ITEM 2. Amend subparagraph **24.2(1)“c”(5)** as follows:

(5) Group “7” claimants are workers who are employed on a reduced workweek with an employer who is under voluntary shared work contract approved by the department. This group pertains ~~only~~ to those individuals who worked ~~full-time~~ full- or part-time and will again work ~~full-time~~ full- or part-time if the individuals' employment, although temporarily suspended, has not been terminated. Once the contract expires, claimants in this group are reviewed for placement in group “3,” “4,” “5,” or “6.”

ITEM 3. Amend subrule 24.29(1) as follows:

24.29(1) Whenever an employer at a factory, establishment, or other premises goes out of business at which the individual was last employed and is laid off, the individual's account is credited with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period, which may increase the maximum benefit amount up to ~~39~~ 26 times the weekly benefit amount or one-half of the total base period wages, whichever is less. This rule also applies retroactively for monetary redetermination purposes during the current benefit year of the individual who is temporarily laid off with the expectation of returning to work once the temporary or seasonal factors have been eliminated and is prevented from returning to work because of the going out of business of the employer within the same benefit year of the individual. This rule also applies to an individual who works in temporary employment between the layoff from the business closing employer and the ~~Claim for Benefits~~ claim for benefits. For the purposes of this rule, temporary employment means employment of a duration not to exceed four weeks.

ITEM 4. Rescind paragraph **24.32(1)“a”** and adopt the following **new** paragraph in lieu thereof:

a. For the purposes of this rule, “misconduct” is defined as a deliberate act or omission by an employee that constitutes a material breach of the duties and obligations arising out of the employee's contract of employment. Misconduct is limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Misconduct by an individual includes but is not limited to all of the following:

(1) Material falsification of the individual's employment application.

(2) Knowing violation of a reasonable and uniformly enforced rule of an employer.

(3) Intentional damage of an employer's property.

(4) Consumption of alcohol, illegal or nonprescribed prescription drugs, or an impairing substance in a manner not directed by the manufacturer, or a combination of such substances, on the employer's premises in violation of the employer's employment policies.

(5) Reporting to work under the influence of alcohol, illegal or nonprescribed prescription drugs, or an impairing substance in an off-label manner, or a combination of such substances, on the employer's premises in violation of the employer's employment policies, unless the individual is compelled to work by the employer outside of scheduled or on-call working hours.

(6) Conduct that substantially and unjustifiably endangers the personal safety of coworkers or the general public.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

(7) Incarceration for an act for which one could reasonably expect to be incarcerated that results in missing work.

(8) Incarceration as a result of a misdemeanor or felony conviction by a court of competent jurisdiction.

(9) Excessive unexcused tardiness or absenteeism.

(10) Falsification of any work-related report, task, or job that could expose the employer or coworkers to legal liability or sanction for violation of health or safety laws.

(11) Failure to maintain any license, registration, or certification that is reasonably required by the employer or by law, or that is a functional requirement to perform the individual's regular job duties, unless the failure is not within the control of the individual.

(12) Conduct that is libelous or slanderous toward an employer or an employee of the employer if such conduct is not protected under state or federal law.

(13) Theft of an employer's or coworker's funds or property.

(14) Intentional misrepresentation of time worked or work carried out that results in the individual receiving unearned wages or unearned benefits.

ITEM 5. Amend subparagraph **24.46(5)“c”(1)** as follows:

(1) If the individual's prospects for obtaining work within a reasonably short period are “good,” the individual is required to actively seek, apply for or accept, suitable work in which, all other considerations being reasonably equal, the gross average weekly wage equals or exceeds ~~65~~ 60 percent of the individual's average weekly wage from the highest earnings quarter of the individual's base period.

ITEM 6. Amend rule 871—24.58(96), introductory paragraph, as follows:

871—24.58(96) Voluntary shared work. The voluntary shared work program provides that employers facing a temporary shortfall may reduce the work hours of employees in an affected unit and those employees will receive a portion of their regular unemployment insurance benefits. The program is designed to reduce unemployment and stabilize the workforce by allowing certain employees to collect unemployment insurance benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages. The reduction in work hours for employees is based on a work week comprised of 40 or fewer hours, and not a work week exceeding 40 hours. Additional information may be obtained by contacting the voluntary shared work coordinator. The employer may apply to participate in the program by completing a shared work plan application, which must be approved by the department. The employer shall submit the plan to the department 30 days prior to the proposed implementation date. The employer will administer the program in cooperation with the department. Participating employees will complete the employee information form and claim for benefits and return them to the employer, who will submit them to the department. Administrative penalties in force during the duration of the plan will make an employee ineligible for the program. Child support obligations will be deducted and unemployment insurance overpayments will be offset as they are for regular unemployment insurance benefits.

ITEM 7. Rescind subrule 24.58(4) and adopt the following **new** subrule in lieu thereof:

24.58(4) Approval of a plan may be denied or revoked at the discretion of the department if the plan and its actual operation do not meet all the requirements stated in Iowa Code section 96.40. Reasons for denial or revocation of a plan include, but are not limited to:

- a. The provision of false or misleading information to the department;
- b. Unequal treatment of any employee in the affected unit;
- c. A reduction in fringe benefits resulting from participation in the program;
- d. An employer, while participating in the shared work unemployment compensation program, laying off any employee, whether the employee is employed within an affected unit or not; or
- e. Failure by the employer to monitor and administer the program.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

ITEM 8. Amend paragraph **24.58(7)“a”** as follows:

a. For each week that a voluntary shared work employer has an active plan, the voluntary shared work employer shall submit a certification of hours worked by employees covered by an employer's approved work share plan in the form or manner directed by the department for each employee covered by the employer's approved work share plan. This includes a part-time employee provided that the employee meets all other requirements.

ITEM 9. Rescind rule 871—26.2(17A,96) and adopt the following **new** rule in lieu thereof:

871—26.2(17A,96) Definitions. Terms defined in the Iowa employment security law and the Iowa administrative procedure Act and which are used in these rules shall have the same meaning as provided by such laws. In addition, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

“Contested case” means a proceeding defined in Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case in 17A.10A. It specifically includes any appeal from a determination of a representative of the department or any appeal or request for a hearing by an employer or employing unit from an experience rating, charge determination or other decision affecting its liability. Except as provided in subrule 26.17(5), a final decision of the employment appeal board of the department of inspections and appeals shall constitute final agency action. A presiding officer's decision shall be the final decision of the department if there is no appeal therefrom to the employment appeal board of the department of inspections and appeals or if the appeal is made directly to the district court in lieu of filing an appeal with the employment appeal board of the department of inspections and appeals.

“Party” means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

“Presiding officer” means an administrative law judge employed by the department of workforce development.

ITEM 10. Amend subrule 26.13(7) as follows:

26.13(7) If the subpoena is granted over objection, the aggrieved party may, in accordance with Iowa Code section 17A.13(1), petition the district court for review of the action before proceeding further. The aggrieved party must promptly notify the presiding officer that a petition for judicial review of the subpoena order will be filed immediately so the contested case may be postponed until the court has issued its ruling. Nothing herein shall preclude an aggrieved party from including the granting or denial of a subpoena as grounds for appeal of the presiding officer's decision in the contested case to the employment appeal board of the department of inspections and appeals or directly to the district court.

ITEM 11. Adopt the following **new** subrule 26.17(6):

26.17(6) In a claimant benefit contested case, final agency action shall be a presiding officer's decision, if the claimant fails to appeal the decision to the employment appeal board within 15 days, or the decision of the employment appeal board, if the claimant appealed the decision to that tribunal.

a. Once final agency action has been established, the claimant has 30 days to file a petition for judicial review with the district court.

b. Any party in interest may file with the presiding officer a written application for rehearing within 20 days after the issuance of the decision. A request for rehearing is deemed denied unless the presiding officer grants the rehearing request within 20 days after its filing.

c. Any party in interest may file a petition for judicial review within 30 days after the denial of the request for rehearing.