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CHAPTER 5
DEFERRED COMPENSATION PROGRAM
[Prior to 5/1/91, Executive Council[420]]

361—5.1(509A) Administration. The executive council authorized the director of the department of administrative services or designee to administer the deferred compensation program for employees of the state of Iowa. The rules for administering the program are as provided for in 11—Chapter 64.

This rule is intended to implement Iowa Code section 509A.12.

[Filed 6/27/75]

[Filed emergency 8/13/86—published 9/10/86, effective 8/15/86]

[Filed emergency 4/9/91—published 5/1/91, effective 4/9/91]

CHAPTER 6
HEALTH MAINTENANCE ORGANIZATIONS
[Prior to 5/1/91, Executive Council[420]]

361—6.1(509A) Administration. The executive council authorizes the director of the department of administrative services or designee to administer the health maintenance organization program for employees of the state of Iowa. The rules for administering the program are as provided for in 11—Chapter 64.

This rule is intended to implement Iowa Code section 509A.6.

[Filed 3/21/85, Notice 1/30/85—published 4/10/85, effective 5/15/85]¹

[Filed emergency 7/11/85—published 7/31/85, effective 7/11/85]

[Filed emergency 8/13/86—published 9/10/86, effective 8/15/86]

[Filed emergency 4/9/91—published 5/1/91, effective 4/9/91]

¹ Effective date of 420—Ch 6 delayed 70 days by the Administrative Rules Review Committee. Delay lifted by committee on 6/12/85.

CHAPTER 7
DISASTER CONTINGENCY FUND
[Prior to 5/1/91, Executive Council[420] Ch 15]

361—7.1(29C) Purpose. The purpose of these rules is to enumerate policies, responsibilities, and procedures adopted by the executive council of the state of Iowa in order to provide guidance for administering the state disaster contingency fund.

361—7.2(29C) Definitions.

“*Act*” means Iowa Code chapter 29C.

“*Administrator, disaster services division*” is the individual appointed by the governor to coordinate state assistance in a disaster or an emergency.

“*Disaster*” means man-made catastrophes and natural occurrences such as fire, flood, earthquake, tornado, windstorm, which threaten the public peace, health, and safety of the people or which damage and destroy public or private property.

“*Disaster area*” means an area in which the governor determines natural disasters or potential disasters will cause immediate financial inability to meet the continuing requirements of local government on the part of government subdivisions therein.

“*Governmental subdivisions of the state*” means any political subdivision of this state.

“*Normal expenditures*” are expenditures or obligations required for usual and recurring costs in connection with firefighting, snow removal, street, road, and bridge maintenance, insect control, and other expectable public safety, maintenance, or operating measures.

“*Over and above normal expenditures*” are those necessary for disaster relief purposes which have not been regularly incurred or budgeted, but must be met from normally budgeted funds, including those established for emergency disaster relief, or by reapportionment of funds budgeted for other purposes.

361—7.3(29C) Policy. It is the policy of the state of Iowa to maintain an organization and procedures for providing supplemental assistance by the state to governmental subdivisions in the achievement of improved disaster readiness and to recover from the effects of a disaster.

361—7.4(29C) Program responsibilities.

7.4(1) Governor. The governor may declare a disaster area in accordance with Iowa Code section 29C.6, designate adequate staff support, and provide for a budget and allocate funds to administer the Act.

7.4(2) Executive council actions. The executive council will:

a. Decide if aid is justified by the application and showing, and if so, the amount of the loan(s) to be made.

b. Rescinded IAB 5/1/91, effective 4/9/91.

c. Develop and publish the form and procedures for applying for disaster loans and issue rules describing the administration of the state disaster contingency fund.

d. Designate and instruct appropriate state departments and agencies to assist the director, office of disaster services, in the administration of the state disaster contingency fund by loan or use of personnel equipment and facilities.

7.4(3) Administrator, disaster services division. The administrator will:

a. Prepare and maintain current rules for issuance by the executive council, providing for the administration of the state disaster contingency fund.

b. Inspect or coordinate the inspection of disaster areas and recommend concerning declaration of disaster areas to the governor. Recommend concerning disaster loans and grants to the executive council.

c. Coordinate, as necessary, actions by other departments and agencies necessary to the administration of the state disaster contingency fund.

d. Report each fiscal year to the governor and the executive council on activities in connection with administration of the state disaster contingency fund including, but not limited to: A description of each disaster of a magnitude sufficient to warrant recommendations concerning applications for loans to

the governor and executive council. Such description to include the kind and scope of the disaster and the disposition of government subdivision applications for loans, and total of loan and grant approvals for the fiscal year.

7.4(4) Department of management actions. The department of management will execute loans and grants in the amounts, and as scheduled, to government subdivisions as approved by the executive council and maintain appropriate accounts.

7.4(5) State auditor actions. The auditor will audit the accounts of government subdivisions to ensure that loans and grants have been applied in accordance with determined eligibility and will make an audit report to the executive council.

7.4(6) Government subdivisions actions. In order to conform to the provisions of the state disaster assistance Act, governmental subdivisions will:

- a. Make every effort to avert and recover from the disaster with their own resources.
- b. If necessary, file an application for a disaster loan.
- c. Maintain detailed accounts of disaster expense.
- d. Initiate action to implement annual emergency levy as authorized by Iowa Code sections 24.6 and 384.8, in order to expedite repayment of loan.

361—7.5(29C) Eligibility for state disaster loans and grants.

7.5(1) Loans. To be eligible for disaster loans, a governmental subdivision must have potential or actual expenditures for disaster caused local government expenses amounting to at least \$6 for each person (pop. last U.S. census or official school district census) in the governmental subdivision. Disaster loans can be applied to the following or similar examples of eligible local government items of work: flood fighting, rescue, debris clearance, safety, health and sanitation measures. Also repair or replacement (without improvement of the original facility) of roads, streets, bridges, dikes, levees, and drainage facilities, public utilities and buildings and equipment.

The loan, without interest, may be repaid by the maximum annual emergency levy as authorized by Iowa Code sections 24.6 and 384.8. The loan shall be repaid within 20 years.

7.5(2) Grants. At the discretion of the executive council 50 percent of the eligible loan amount may be provided in the form of a grant. The grant shall not exceed \$50,000 and shall not be provided for the purpose of snow removal and other expenses resulting from a blizzard.

361—7.6(29C) Forms.

7.6(1) Form SDA-1 “Certified True Copy of Resolution of Governing Body”

7.6(2) Form SDA-2 “Certificate by Applying Official”

7.6(3) Form SDA-3 “Application for Supplemental State Disaster Aid”

7.6(4) Form SDA-4 “Report and Recommendation of the Administrator, Disaster Services Division”.

361—7.7(29C) Procedures.

7.7(1) Action by the governor. After considering information furnished by the government subdivisions involved, the recommendation and findings of the administrator, disaster services division, the governor will decide whether a disaster is to be declared and make the necessary announcement.

7.7(2) Action to be initiated by governmental subdivisions.

a. Upon the declaration of a disaster by the governor of an area including a governmental subdivision which, in the opinion of appropriate authorities, constitutes or may constitute a disaster justifying supplemental state financial assistance, under the state disaster Act, a request for such assistance will be directed to the executive council through the administrator, disaster services division.

b. The initial request for a loan shall be in the form of a letter briefly describing the disaster, or impending disaster, including a statement of expenditures, over and above normal, by the governmental subdivision concerned, for meeting the disaster or for mitigating the impact of an impending disaster.

The provision of a part of the loan in the form of a grant will be at the discretion of the executive council and does not require an additional or separate application.

c. The letter request will be accompanied by Form SDA-1, "Certified True Copy of Resolution of Governing Body" which will constitute evidence of the authority of the requesting public official to represent the governmental subdivision concerned, Form SDA-2, "Certification of Requesting Public Official" and Form SDA-3, "Application for Supplemental State Disaster Aid".

d. Cooperation with and assistance to investigative officials. Governmental subdivision officials, and records, will be made available to the investigative official representing the administrator, disaster services division, for interview and examination.

7.7(3) Action by administrator, disaster services division.

a. The administrator, upon receipt of an initial request for assistance supported by Form SDA-1, Form SDA-2, and Form SDA-3, will advise the governor and the secretary of the executive council of such request and will furnish copies of all accompanying documents.

b. Following the declaration of a disaster area by the governor, the administrator will designate an investigative official who will be directed to proceed to the site of the disaster area and conduct interviews and investigation as provided in the administrator's instructions.

c. The administrator, following a report by the investigative official, will submit a recommendation to the executive council as to eligibility and entitlement of the requesting governmental subdivision on Form SDA-4.

7.7(4) Action by the executive council.

a. After the governor has declared a disaster area, the executive council will consider the information furnished by the governmental subdivisions requesting loans, the report and recommendation of the administrator, disaster services division, and decide which of the governmental subdivisions are eligible, and if so, the amount and terms reflecting approved eligibility.

b. The aggregate total of the loans and grants shall not exceed \$1 million during a fiscal year.

7.7(5) Actions by the department of management. Upon a determination of eligibility and entitlement, the department of management will be directed to make the necessary funds available to the requesting governmental subdivision for application in accordance with the provisions of the Act and other provisions of the law.

7.7(6) Actions by the state auditor. Upon granting of a loan and grant in accordance with the provisions of the Act, as implemented by this rule, the auditor of the state will be directed to review the manner of application of the proceeds of the loan and grant, in accordance with the provisions of the Act, and the manner of repayment of such loan in accordance with the provisions of the Act and other provisions of the law.

These rules are intended to implement Iowa Code section 29C.20.

[Filed emergency 9/17/79—published 10/17/79, effective 9/17/79]

[Filed emergency 8/19/80—published 9/17/80, effective 8/19/80]

[Filed emergency 4/9/91—published 5/1/91, effective 4/9/91]

CHAPTER 8
EXECUTIVE BRANCH LOBBYIST REGISTRATION

361—8.1(74GA,ch1228) Registration. Any person lobbying before the office of the governor or any state agency shall file a lobbyist registration statement with the council or the agency before which the person intends to engage in lobbying activities.

8.1(1) The registration statement shall be filed on or up to 30 days before the day the person's lobbying activities begin.

8.1(2) Registration forms are available upon request from the secretary to the council.

361—8.2(74GA,ch1228) Copies to council. Copies of registration statements filed with the governor's office or a state agency shall be forwarded to the council.

361—8.3(74GA,ch1228) Cancellation of registration. A person's registration as a lobbyist on behalf of a particular employer, client, or cause may be canceled, if the person's lobbying activities for that employer, client, or cause cease.

8.3(1) Cancellation of registration forms are available upon request from the secretary to the council.

8.3(2) Cancellation of registration forms shall be filed at the office in which the lobbyist registration statement was filed. Copies of the forms filed with the governor's office or a state agency shall be forwarded to the council.

361—8.4(74GA,ch1228) Lobbyist client reporting. A client of a registered lobbyist shall file a report with the council indicating all salaries, fees, and retainers paid to the lobbyist for lobbying activities.

8.4(1) Such reports shall be filed twice yearly, on January 31 and July 31, and shall include information relating to all salaries, fees, and retainers paid to the lobbyist in the preceding six months.

8.4(2) A cumulative total of such expenditures for the preceding calendar year shall be included in the January 31 report.

Lobbyist client reporting forms are available upon request from the secretary to the council.

These rules are intended to implement 1992 Iowa Acts, chapter 1228, sections 18 and 20.

[Filed emergency 12/4/92—published 12/23/92, effective 1/1/93]

CHAPTER 9
EXECUTIVE BRANCH PERSONAL FINANCIAL DISCLOSURE STATEMENT

361—9.1(74GA,ch1228) Time of filing. An official required to file a statement of personal financial disclosure shall file such statement on or before April 30 of each year. The statement shall include information disclosing the official's sources of income and significant financial interests for the preceding calendar year. (For example: The initial statement required in 1992 Iowa Acts, chapter 1228, section 17, shall include information relating to the calendar year 1993 and shall be due on April 30, 1994.)

This rule is intended to implement 1992 Iowa Acts, chapter 1228, section 17.

[Filed emergency 12/4/92—published 12/23/92, effective 1/1/93]

CHAPTER 10
EXECUTIVE BRANCH ETHICS COMPLAINT PROCEDURE

361—10.1(74GA,ch1228) Council authority. The council has authority to receive, review, and investigate complaints filed by any person alleging a violation of Iowa Code chapter 68B as amended by 1992 Iowa Acts, chapter 1228, by an official, state employee or lobbyist before the executive branch.

361—10.2(74GA,ch1228) Form and content. The complaint shall be in writing and signed by the complainant. The complaint shall include the following:

1. The name, address, and telephone number of the complainant.
2. A statement of the facts believed to be true that form the basis of the complaint, including the sources of the information and approximate dates of the acts alleged.
3. A certification by the complainant under penalty of perjury that the facts stated to be true are true to the best of the complainant's knowledge.

A complaint form may be obtained upon request from the office of the secretary to the council.

361—10.3(74GA,ch1228) Place and time of filing. The complaint may be delivered personally or by mail to the Office of the Secretary, Executive Council, Capitol Building, Des Moines, Iowa 50319. The complaint shall be filed within three years of the occurrence of the conduct providing the basis of the complaint.

361—10.4(17A,22,74GA,ch1228) Confidentiality.

10.4(1) A complaint shall be kept confidential by the council unless the complainant or the person against whom a complaint has been filed discloses the existence of a complaint. Upon disclosure by the complainant or alleged violator, the council shall confirm the existence of the complaint and preliminary investigation. The council also may make public the complaint and any documents issued to the complainant and the alleged violator.

10.4(2) Unless otherwise provided in these rules or by law, all records and proceedings relating to an ethics complaint filed under these provisions shall be public.

361—10.5(74GA,ch1228) Formal sufficiency and validity. The council shall, within 20 days of receipt of a complaint, review the complaint to determine whether it meets the requirements for formal sufficiency and validity. A complaint determined to be deficient as to form shall be returned to the complainant with a statement of the nature of the deficiency. If a complaint is determined to be formally sufficient, the council shall make a determination as to its validity. To be valid, a complaint must allege all of the following:

1. Facts, which if true, establish a violation of a provision of Iowa Code chapter 68B as amended by 1992 Iowa Acts, chapter 1228, for which penalties or other remedies are provided;
2. The conduct providing the basis of the complaint occurred within three years of the filing of the complaint;
3. The party against whom the complaint has been filed is subject to the jurisdiction of the council.

361—10.6(74GA,ch1228) Determination of validity.

10.6(1) Dismissal. A complaint determined to be not valid shall be dismissed. Notice of the dismissal stating the reason(s) for the dismissal shall be provided to the complainant and the alleged violator.

10.6(2) Appointment of special counsel. If a complaint is determined to be valid, the council shall request the chief justice of the supreme court to appoint special counsel to investigate the allegations of the complaint to determine whether probable cause exists to believe that a violation has occurred and whether an evidentiary hearing should be held. The special counsel may subpoena witnesses, books, papers, records or other real evidence during the course of the investigation which may assist in determining whether a violation of Iowa Code chapter 68B as amended by 1992 Iowa Acts, chapter 1228, has occurred.

10.6(3) Report to council. Upon completion of the investigation, the special counsel shall prepare a written report to the council stating whether there is probable cause to proceed with an evidentiary hearing on the matter.

361—10.7(74GA,ch1228) Order for hearing. The council shall order an evidentiary hearing to be held following a determination of probable cause.

361—10.8(17A,74GA,ch1228) Notice of hearing.

10.8(1) Service. A written notice of the hearing with a statement of the charges shall be served personally or delivered by registered mail to the last known address of the alleged violator at least 30 days prior to the date of the hearing. "Registered mail" means that form of postal delivery, under postal regulations in effect at the time of service, which ensures that a mailing receipt and a record of delivery are obtained. "Registered mail" does not mean that form of postal delivery which provides only for protection against loss or damage, and does not ensure that a receipt of delivery is obtained.

10.8(2) Contents of notice. The notice of hearing shall include:

1. The date, time, and place of hearing.
2. A short and plain statement of charges which alleges a violation of Iowa Code chapter 68B as amended by 1992 Iowa Acts, chapter 1228.
3. A statement of the council's legal authority and jurisdiction.
4. A reference to the statutes and rules involved.
5. A statement that the alleged violator has a right to appear at the hearing and be heard.
6. A statement that the alleged violator may be represented by legal counsel at the hearing.
7. A statement requiring the alleged violator to submit an answer within 20 days after receipt of the notice of the hearing.

361—10.9(17A,74GA,ch1228) Answer. The answer to the notice of hearing shall include:

1. The name, address, and telephone number of the alleged violator.
2. Specific statements in response to the allegations in the statement of charges which shall be in the form of admissions, denials, explanations or statements of mitigating circumstances.
3. Any additional facts or information which are relevant to the statement of charges.

361—10.10(74GA,ch1228) Extensions of time. Upon request and mutual agreement of both parties, an alternate date may be set for hearing. Such a request may be made no later than seven days prior to the date set for hearing.

10.10(1) Requests by either party for an extension of time within seven days of the date set for hearing shall be granted only upon a showing of extraordinary, extenuating, or emergency circumstances.

10.10(2) If a request for an extension of time is made after three months from the date of the filing of the complaint, the request may be granted by the council only if the party charged with the violation consents.

361—10.11(17A,74GA,ch1228) Informal settlement. Settlement negotiations may be initiated by the council or either party after a statement of charges is filed.

10.11(1) The council may designate the independent special counsel appointed by the chief justice of the supreme court to negotiate a settlement on behalf of the council.

10.11(2) The council shall not be involved in the negotiations until a written settlement signed by the alleged violator is submitted to the council for approval. A negotiated settlement shall be binding on the alleged violator only upon approval by a majority of the members of the council.

10.11(3) The terms of any negotiated settlement shall be publicly recorded.

361—10.12(74GA,ch1228) Timeliness of hearings. Every effort shall be made to have a complaint heard within three months of the date the complaint is filed with the council. If a complaint is filed or initiated less than 90 days prior to the election for state office for which the person named in the

complaint is the incumbent officeholder, the hearing shall be set at the earliest available date so as to allow the issues to be resolved before the election.

361—10.13(17A,74GA,ch1228) Hearing and evidence.

10.13(1) The hearing shall be conducted by an administrative law judge of the department of inspections and appeals in the manner provided in Iowa Code section 17A.12 and rules 481—10.20(17A), 481—10.22(17A) to 10.24(10A,17A), Iowa Administrative Code.

10.13(2) Evidence shall be admitted as provided in Iowa Code section 17A.14 and rule 481—10.21(17A), Iowa Administrative Code. A finding that a violation has occurred must be supported by a preponderance of clear and convincing evidence.

10.13(3) The independent special counsel shall prosecute the complaint on behalf of the council.

361—10.14(74GA,ch1228) Notification of decision. A proposed decision and order shall be issued by the administrative law judge within 30 days of the conclusion of the hearing on the complaint. The proposed decision and order shall be mailed by registered mail to all parties to the complaint and the complainant. Copies shall be provided to the members of the council.

361—10.15(17A,74GA,ch1228) Appeal. The proposed decision and order of the administrative law judge becomes the final decision of the council unless appealed by any party to the complaint within 15 days of its issuance. An appeal of a proposed decision and order shall be filed in writing and delivered personally or mailed to the Secretary, Executive Council, State Capitol, Des Moines, Iowa 50319.

10.15(1) The council, on its own motion, may review a proposed decision and order by serving notice to the parties within 15 days of its issuance. The record on appeal shall be the entire record made before the administrative law judge.

10.15(2) Oral argument on appeal is discretionary with the council and may be granted if requested by any party to the appeal or required by the council on its own motion. The final decision of the council shall be mailed to all parties by registered mail.

361—10.16(17A,74GA,ch1228) Motion for rehearing. Within 20 days after issuance of a final decision, any party may file an application for rehearing. An application for rehearing shall be delivered personally or mailed to the Secretary, Executive Council, State Capitol, Des Moines, Iowa 50319.

10.16(1) The application shall state the specific grounds for rehearing and the relief sought. Copies of the application shall be timely mailed to all other parties.

10.16(2) The application shall be deemed denied if not granted within 20 days after delivered personally or mailed to the secretary of the council.

10.16(3) Upon rehearing, the council shall consider facts not presented in the original proceeding if:

- a. Such facts arose after the original proceeding concluded;
- b. The party offering such evidence could not reasonably have provided such evidence at the original proceedings; or
- c. The party offering the additional evidence was misled by any party as to the necessity for offering such evidence at the original proceeding.

The decision made upon rehearing may incorporate by reference all parts of the decision made upon the conclusion of the original proceeding.

361—10.17(17A,74GA,ch1228) Judicial review. Judicial review of the council's decision may be sought as provided in Iowa Code section 17A.19.

361—10.18(17A,74GA,ch1228) Decision and order. Any proposed or final decision on a complaint filed pursuant to these provisions shall be in writing and shall include:

1. A concise statement of the facts which support the findings of fact.
2. Conclusions of law which shall be supported by cited authority or reasoned opinion.
3. The decision or order which sets forth the action to be taken or the disposition of the case.

361—10.19(74GA,ch1228) Disciplinary action. If the party charged has engaged in an act or practice which violates Iowa Code chapter 68B as amended by 1992 Iowa Acts, chapter 1228, the decision and order shall include a recommendation to the agency in which party is an official, employee or lobbyist of the appropriate action to take with respect to the party.

These rules are intended to implement 1992 Iowa Acts, chapter 1228, sections 14, 15 and 16.

[Filed emergency 12/4/92—published 12/23/92, effective 1/1/93]

CHAPTER 11
INHERITANCE TAX PAYMENTS
[Prior to 5/1/91, see Executive Council[420]]

361—11.1(450) Authority of executive council. Iowa Code section 450.6 authorizes the executive council to allow a beneficiary, heir, surviving joint tenant or other transferee who transfers real property or tangible personal property to the state of Iowa or its political subdivisions to receive a tax credit against inheritance tax liability to the extent of the value of the property transferred, provided the property is used for public purposes. If the transfer is to be made to a political subdivision, the governing body thereof must approve the transfer prior to a request for approval by the council. The council is not required to approve the tax credit for such transfers, but can do so in the exercise of reasonable discretion.

361—11.2(450) Decedent's gross estate. Transfers to be eligible for the tax credit must consist of property that is included in the decedent's gross estate for Iowa inheritance tax purposes.

361—11.3(450) Value of property. The value of the property for payment of the tax and the tax credit is the same as its value established for inheritance tax purposes. If the value of the property transferred exceeds the tax liability, the excess value shall not be refunded.

361—11.4(450) Prior tax payment. If the inheritance tax has been paid and the payment is not excessive and, therefore, not subject to refund under Iowa Code subsection 450.94(3), the council will not approve, as a tax credit, any property transfer as a substitute for the prior tax payment.

361—11.5(450) Real property and tangible personal property. The tax credit is applicable for transfers of real property or of tangible personal property located in Iowa. Transfers of intangible property or of property located outside of Iowa will never qualify for the tax credit.

11.5(1) Real property. The executive council will not approve a credit for a transfer of a joint interest in real property or for property which is encumbered by liens. However, the council may approve a credit for an interest in real property which is less than full legal and equitable title if the interest is an easement for public access, a conservation or preservation easement, dedication for preserves or for other public use, or other similar interest which by virtue of the location and nature of the property is of significant, unique value to the public or to the environment. Property encumbered by liens of creditors will not qualify for the tax credit. Proposals to transfer a partial interest will not qualify for the tax credit.

EXAMPLE: A and B inherit a remainder interest in land from an estate. C is the life tenant. Any request for tax credit for a proposal which would only transfer the remainder interest or only transfer a life estate will not be approved by the council. If A, B, and C propose to transfer their entire interests, such transfers would become eligible for the tax credit.

EXAMPLE: D inherits land from an estate. The land is encumbered by a mortgage lien. D proposes to transfer the land to a school district, which has accepted the transfer, and requests a tax credit. Since the land is encumbered with a mortgage lien, the council will not approve the tax credit.

EXAMPLE: E and F inherit land from an estate as tenants in common. E proposes to transfer E's interest to the state. Because the proposal is to transfer a partial interest, the council will not approve the tax credit.

11.5(2) Tangible personal property. Tangible personal property is tangible property which can be touched or handled. It is corporeal and is contrasted with intangible property. Intangible property includes but is not limited to cash, choses in action, copyrights, patents, stocks, bonds, trademarks, or annuities. *Ramco, Inc. v. Director, Department of Revenue*, 248 N.W.2d 122 (Iowa 1976).

361—11.6(450) Type, use, and purpose of transfers. The transferred property for which tax credit will be claimed should be useful to the public generally. Thus, for example, transfers of real property to be dedicated and used as a park or wildlife area will generally be approved by the council for the tax credit. In addition, at the time of the transfer, the governmental entity receiving the property should intend to

own and use it for a public purpose for an indefinite period of time. The council will not approve a tax credit if the property transferred is to be sold or otherwise transferred again. However, mere retention of authority to dispose of or transfer property does not preclude the council from granting the credit if the donee has rules or policies to ensure that the property may only be transferred to a similar entity or affiliated organization for a similar purpose or sold in a reasonable manner with the proceeds pledged to the same purpose as the original gift. The property transferred should have real significance to the public and should be permanently used for the public's benefit. Personal property transferred should have significant historical or cultural value or be transferred and used in association with any real property transferred for which the council will approve the tax credit.

EXAMPLE: G, a beneficiary of an estate, proposes to transfer land to a city which has accepted the transfer, and upon which the city will build a recreational facility. Provided all other criteria are met, the council will generally approve the tax credit with respect to such transfer.

EXAMPLE: H, a surviving joint tenant, proposes to transfer property held in joint tenancy, consisting of ten acres of land, to a county which has accepted the transfer. The county intends to sell the land and use the proceeds to purchase other property that will be used for a public purpose. Since the county will not use the transferred property for an indefinite period of time, the council will not approve the tax credit.

EXAMPLE: I, an heir, proposes to transfer assets received from an estate. These transfers will be a pickup truck to a county, a computer to a school district, a carpet to a city community center, a portrait of someone to hang on a courthouse wall, decedent's clothing to a county hospital, and some silver and gold coins to a drainage district. All political subdivisions have accepted these transfers. The personal property does not have significant historical value. The council will not approve the tax credit for any of these transfers as they do not constitute personal property of significant historical value or the transferred property will not be used by the political subdivisions for an indefinite period of time.

361—11.7(450) Political subdivisions. A political subdivision of the state of Iowa is a geographic or territorial portion of the state in which local governmental functions are performed. An agency or instrumentality of a political subdivision is part of the political subdivision. 1976 Op. Att'y Gen. 823.

361—11.8(450) Eligible taxes. The tax credit provisions in Iowa Code section 450.6 are applicable to the Iowa inheritance tax imposed by Iowa Code chapter 450. The taxes imposed by Iowa Code chapter 450A (generation skipping tax) and by Iowa Code chapter 451 (Iowa estate tax) will not be eligible for the tax credit for property transfers.

361—11.9(450) Partial payment. If the value of the property to be transferred is less than the inheritance tax liability of the beneficiary, heir, surviving joint tenant or other transferee who proposes such transfer and if the council approves the transfer, the remaining portion of the liability shall be paid to the department of revenue before the tax credit will be granted.

361—11.10(450) Timeliness of application. An application for approval of a proposed transfer shall be filed with the council within eight months of the death of the decedent, unless, for good cause, the council extends the period for filing such application. In no case will such extension be granted beyond the due date for the filing of the inheritance tax return and due date for payment of the tax or, if applicable, an extended date obtained pursuant to department of revenue rule 701—86.2(13), Iowa Administrative Code.

361—11.11(450) Notice of donee agencies. Any state agency which is the transferee of the property in question shall receive notice of any pending application on the agenda of the executive council.

361—11.12(450) Scope of rules. These rules do not foreclose any transfers of property of any kind to the state or its political subdivisions. These rules are only concerned with whether such transfers will qualify for the tax credit authorized by Iowa Code section 450.6. The council's intent is to demonstrate that its discretion to approve the tax credit will not be broadly exercised.

361—11.13(450) Forms. The application to pay inheritance tax by a transfer of property and the certifications required by these rules shall be made on forms prescribed by the executive council. The following forms are hereby adopted.

APPLICATION TO PAY INHERITANCE TAX
BY TRANSFER OF PROPERTY FOR PUBLIC PURPOSES

TO: _____, the governing body of
_____, a political subdivi-
sion of the State of Iowa.

As required by Iowa Code § 450.6, the undersigned submit(s) the following application to pay inheritance tax by a transfer of property for public purposes, subject to the approval of the Iowa Executive Council.

1. Name(s) of applicant(s) _____

2. Estate in which the tax is to be paid _____

3. Property to be transferred _____

4. Public purpose _____

Under penalty of perjury, I (we) affirm the foregoing application has been examined by me (us), and is to the best of my (our) knowledge and belief true and correct.

Date _____

Applicant(s) Address

Certification of the Local Governing Body

I, _____ hereby certify that I am the
_____ of _____ and at a meeting held
on the _____ day of _____, 20_____, the _____ of
_____ did (accept)(reject) the offer of the applicant(s) to transfer the above
described property for the purpose stated in the application, subject to the approval of the Iowa
Executive Council.

(Seal)

APPLICATION TO PAY INHERITANCE TAX
BY TRANSFER OF PROPERTY FOR PUBLIC PURPOSES

TO: THE HONORABLE EXECUTIVE COUNCIL OF IOWA

Pursuant to the provisions of Iowa Code § 450.6, the undersigned submit(s) the following application to pay inheritance tax by a transfer of property for public purposes.

- 1. Name(s) of applicant(s) _____

- 2. Estate in which the tax is to be paid _____
- 3. Amount of tax due \$ _____
- 4. Property to be transferred _____

- 5. To be transferred to _____
- 6. Public purpose _____

- 7. \$ _____ is the value of the property to be transferred.
See attached certification of the Department of Revenue or
see attached independent appraisal.
- 8. Form No. 1, if applicable showing acceptance of the political subdivision is attached.
- 9. This application is for (full)(partial) payment of the inheritance tax.

Under penalty of perjury, I (we) affirm the foregoing application has been examined by me (us), and is to the best of my (our) knowledge and belief true and correct.

Date _____

Applicant(s) Address

CERTIFICATION OF THE DEPARTMENT OF REVENUE
AS TO VALUE OF PROPERTY AND INHERITANCE TAX DUE

TO: THE HONORABLE EXECUTIVE COUNCIL OF IOWA

As required by Iowa Code § 450.6, the Department of Revenue certifies the following information for the purpose of paying an inheritance tax obligation by a transfer of property:

- 1. The value of the following described property _____

in the estate of _____ for inheritance tax purposes is \$ _____ .

- 2. The inheritance tax obligation of _____

 is \$ _____. If the property transfer is less than the tax obligation, the balance of the tax due (has been)(has not been) paid.

IOWA DEPARTMENT OF REVENUE

by _____

Title

CERTIFICATION OF ACCEPTANCE OR REJECTION OF A
TRANSFER OF PROPERTY IN PAYMENT OF INHERITANCE TAX

TO: DIRECTOR, IOWA DEPARTMENT OF REVENUE

On the _____ day of _____, 19_____, the
Executive Council, (accepted) (rejected) the offer of _____

heir(s) or beneficiary(ies) of the estate of _____
_____ County

Probate No. _____, Department of Revenue No. _____,
to pay the inheritance in the amount of \$ _____
by the transfer of the following described property:

to _____
for the following public purpose _____

You are directed to give _____
_____ beneficiary(ies) or heir(s) in this
estate, credit against the inheritance tax obligation in the amount of \$ _____.

Date _____

Secretary, Iowa Executive Council

These rules are intended to implement Iowa Code sections 17A.3 and 450.6.
[Filed 6/19/90, Notice 12/27/89—published 7/11/90, effective 8/15/90]
[Filed emergency 4/9/91—published 5/1/91, effective 4/9/91]

CHAPTER 12
DISBURSEMENT OF MONEY FROM CIVIL
REPARATIONS TRUST FUND

361—12.1(668A) Eligibility. Money in the civil reparations trust fund may be disbursed upon application for indigent civil litigation programs or insurance assistance programs.

361—12.2(668A) Notice of funds. The executive council shall provide notice of availability of money in the fund in the following ways:

12.2(1) *Iowa Administrative Bulletin.* The executive council shall publish notice of the balance in the fund in the Iowa Administrative Bulletin semiannually in January and July of each year and within 30 days of the deposit of any amount into the fund exceeding \$10,000. If the deposit of an amount exceeding \$10,000 would cause notice within 30 days of the deposit to be published in January or July, no additional publication is required.

12.2(2) *First-class mail.* The executive council shall maintain a mailing list of those persons who wish to receive notice of the balance in the fund. Notice shall be sent semiannually in January and July of each year and within 30 days of the deposit of any amount into the fund exceeding \$10,000 by first-class mail to all persons on the mailing list. If the deposit of an amount exceeding \$10,000 would cause notice within 30 days of the deposit to be mailed in January or July, no additional mailing is required. Any person may be added to the mailing list on request.

In the event that there is no money in the fund in January or July, no notice will be published or mailed.

361—12.3(668A) Applications. The executive council shall accept applications for money from the fund for a period of 30 days after notice has been published in the Iowa Administrative Bulletin or sent by first-class mail. Applications will be not be accepted in advance of this time period.

12.3(1) *Forms.* Application forms are available in the office of the state treasurer.

12.3(2) *Filing.* Applications shall be filed with the office of the state treasurer.

12.3(3) *Timeliness.* An application is timely if it is postmarked on the thirtieth day after the date of publication in the Iowa Administrative Bulletin or on the thirtieth day after the date affixed to the notice sent by first-class mail, whichever is later. The executive council may accept applications submitted after this deadline only for good cause upon motion in writing.

361—12.4(668A) Criteria. In determining whether to grant an application for money from the fund, the executive council shall consider the following factors:

1. The purpose for which the money will be utilized;
2. The number of people who will be served by the money;
3. The availability to the applicant of alternative sources of money;
4. The degree to which the applicant complied with legal restrictions on the use of the money under any prior applications.

361—12.5(668A) Disposition of applications. The executive council shall determine the disposition of all pending applications and notify all applicants of the decision by first-class mail. Notice of disposition shall be sent to all applicants on the same date.

361—12.6(668A) Motion for reconsideration. Any applicant who is aggrieved or adversely affected by the disposition of the applicant's application must file a motion for reconsideration in the office of the state treasurer within 15 days of the date affixed to the notice of disposition. The motion is deemed filed when received and date-stamped by the treasurer.

361—12.7(668A) Grounds. The motion for reconsideration must delineate the specific grounds for reconsideration. An applicant may request a contested case hearing; however, any request for a contested case hearing must specifically delineate the facts in dispute to be contested and determined at the hearing.

361—12.8(668A) Procedure. The executive council shall rule on any pending motion for reconsideration, including a request for a contested case hearing. In the event that a request for a contested case hearing is granted, the proceeding shall be conducted as provided in 361 IAC 10.8(17A,68B) et seq. The burden of proof by a preponderance of the evidence shall be on the requester to establish grounds for reconsideration. The decision of the executive council shall be defended by the office of the attorney general.

361—12.9(668A) Disbursement of money. No money will be disbursed from the fund after disposition of all applications until the time period for filing a motion for reconsideration has expired. After the time period for filing a motion for reconsideration has expired but while a motion for reconsideration by any applicant is pending, the executive council in its discretion may disburse money from the fund to applicants who have not filed a motion for reconsideration. Money may be disbursed to applicants while a motion for reconsideration is pending only to the extent that resolution of any pending motion could not affect the disbursement of money to other applicants.

361—12.10(668A) Administrative costs. The costs of administering this fund, including any costs associated with the conduct of any contested case proceeding challenging the disbursement of money from the fund and costs for postage and copying, shall be billed to the fund after approval by the executive council.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapters 7D and 668A.

[Filed 1/10/00, Notice 10/20/99—published 1/26/00, effective 3/1/00]