



Fiscal Services Division

ADMINISTRATIVE RULES — FISCAL IMPACT SUMMARIES

December 12, 2022

Iowa Code section 17A.4(4) requires the Legislative Services Agency (LSA) to analyze the fiscal impact of all administrative rules with an impact of \$100,000 or more and provide a summary of the impact to the Administrative Rules Review Committee (ARRC). Fiscal Impact Statements filed by State agencies can be found on our website at <https://www.legis.iowa.gov/publications/fiscal/adminRulesFiscalImpact>.

With each rule summary, the rulemaking type is indicated in parentheses following the ARC number. The acronyms have the following meanings: Notice of Intended Action (**NOIA**), Amended Notice of Intended Action (**ANOIA**), Notice of Termination (**NOT**), Adopted and Filed Emergency (**AFE**), Filed Emergency After Notice (**FEAN**), and Adopted and Filed (**AF**).

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Department of Human Services

ARC 6691C (NOIA)

Rule Summary Increases fiscal year (FY) 2023 reimbursement rates for Intermediate Care Facilities for Persons with an Intellectual Disability (ICF/ID) over the rates in effect in FY 2022. The rate increase is to be used for the wages and associated costs specific to wages, benefits, and required withholding of direct support professionals and frontline management. Adopts a new wage add-on factor for community-based ICF/ID facilities to be included in the rates effective July 1, 2022. The wage add-on factor is proposed to be added to the maximum allowable base rate.

State or Federal Law Implemented: Iowa Code sections 249A.12 and 249A.16 and 2022 Iowa Acts, House File 2578 (Health and Human Services Appropriations Act).

Fiscal Impact **Agency Response:** For the fiscal year beginning July 1, 2022, reimbursement rates for ICF/ID shall be increased over the rates in effect on June 30, 2022, within the \$1.3 million appropriated in HF 2578 for this purpose.

LSA Response: The LSA concurs.

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Department of Public Health

ARC 6647C (NOIA)

Rule Summary Clean up outdated certification agency language, since the National Environmental Health Association (NEHA) no longer certifies radon professionals. Include in rule the current national consensus radon measurement standards. Add measurement training requirements and training course approval for school district employees.

State or Federal Law Implemented: Iowa Code section 136B.4 and 2022 Iowa Acts, House File 1097 (Radon Testing and Mitigation in Public Schools Act).

Fiscal Impact **Agency Response:** This rule making has no fiscal impact to the State of Iowa.

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LSA Response: The LSA concurs. 2022 Iowa Acts, HF 2412, requires the board of directors of each public school district to establish a radon plan and schedule for short-term tests for radon gas to be performed at each attendance center under its control. School districts may choose to use district employees trained in radon testing. It is unknown how many public school personnel already have certification or would pursue certification.

This testing will have no fiscal impact to the State but will have a fiscal impact to local school districts. Initial measurement specialist certification for radon testing is \$275. Initial mitigation specialist certification for radon testing is \$175. Training for an individual to receive both certifications is \$400.

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State Public Defender

Rule Summary **ARC 6670C (NOIA)**
Implements a \$2-per-hour increase for private attorneys who accept court appointments to represent indigent clients. Updates the claim review process. Increases the attorney fee limitations for the number of hours that may be claimed for juvenile court review and other postdispositional court hearings from five hours to eight hours. Increases automobile expense payments to contract attorneys from 39 cents per mile to 50 cents per mile. Removes obsolete and outdated references.

State or Federal Law Implemented: Iowa Code chapters 13B and 815 and 2022 Iowa Acts, House File 2559.

Fiscal Impact **Agency Response:** Legislative enactment of the \$2-per-hour rate increase is estimated to increase annual costs to the Indigent Defense Fund by approximately \$1.0 million. The increase in the fee limitation on juvenile court review and other postdispositional court hearings is expected to increase annual costs to the Indigent Defense Fund by an unknown amount, but the amount is expected to be less than \$100,000 annually and less than \$500,000 over five years. The increase in the mileage rate is estimated to increase annual costs to the Indigent Defense Fund by between \$175,000 and \$200,000.

LSA Response: The LSA concurs. The HF 2559 (FY 2023 Justice System Appropriations Act) State Public Defender appropriation for FY 2023 included an increase of \$1.0 million to provide funding for the \$2-per-hour rate increase for private attorneys.

Rule Summary **ARC 6671C (NOIA)**
Eliminates outdated and obsolete references and updates other references. Removes rules related to the State Public Defender's payment of claims for foreign language interpreters. Clarifies and corrects minor inconsistencies and makes minor technical corrections to the rules.

State or Federal Law Implemented: Iowa Code chapters 13B and 815.

Fiscal Impact **Agency Response:** This rulemaking has no fiscal impact to the State of Iowa.

LSA Response: The LSA concurs in part. House File 707 (Court Interpreters Act) transferred payment responsibility to the Jury and Witness Fee Revolving Fund for interpreter claims in legal proceedings formerly paid by the Indigent Defense Fund. According to the **Fiscal Note** for HF 707, this change was estimated to shift \$500,000 in interpreter costs from the State Public Defender to the Jury and Witness Fee Revolving Fund. House File 861 (FY 2022 Justice System Appropriations Act) and HF 864 (FY 2022 Judicial Branch Appropriations Act) transferred \$500,000 from the Indigent

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Defense Fund to the Jury and Witness Fee Revolving Fund to account for this shift of interpreter costs beginning in FY 2022.

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Department of Revenue

Rule Summary **ARC 6698C (NOIA)**
Implements 2022 Iowa Acts, chapter 1002, section 51 (HF 2317 — Tax Modifications Act), which ends the availability of the Geothermal Heat Pump Tax Credit for installations occurring after December 31, 2023, and repeals the credit on January 1, 2034.

Also updates the Geothermal Heat Pump Tax Credit rates stated in rules in response to changes made to the federal tax credit in the Inflation Reduction Act of 2022. That federal legislation, in part, increased the rate used in the calculation of the federal Residential Energy Efficient Property Tax Credit for geothermal heat pumps from 26.0% to 30.0% of qualifying expenditures for installations in 2022, and from 22.0% to 30.0% of qualifying expenditures for installations in 2023. The Iowa Geothermal Heat Pump Tax Credit is equal to 20.0% of the federal credit for qualified geothermal heat pump installations. By operation of Iowa's automatic conformity to the federal Internal Revenue Code, the Iowa credit increases automatically when the corresponding federal tax credit is increased. Thus, the Iowa Geothermal Heat Pump Tax Credit has increased from 5.2% to 6.0% of qualifying expenditures for installations in 2022, and from 4.4% to 6.0% of qualifying expenditures for installations in 2023.

State or Federal Law Implemented: Iowa Code section 422.12N and 2022 Iowa Acts, chapter 1002, section 51.

Fiscal Impact **Agency Response:** The portion of this rulemaking that implements 2022 Iowa Acts, chapter 1002, has no projected fiscal impact beyond that of the legislation it is intended to implement. The fiscal note for 2022 Iowa Acts, House File 2317, stated that the repeal of the Iowa Geothermal Heat Pump Tax Credit on January 1, 2034, was not projected to have an identifiable fiscal impact.

The federal law change does have a fiscal impact through Iowa's automatic conformity to the Internal Revenue Code. The federal change is projected to decrease General Fund revenue by \$103,000 in FY 2023, \$143,000 in FY 2024, and \$52,000 in FY 2025.

LSA Response: The LSA concurs.

Rule Summary **ARC 6700C (NOIA)**
Amends existing rules that implement the Iowa income tax exclusion contained in division III of 2021 Iowa Acts, chapter 177 (SF 619 — Taxation and Other Provisions Act), by adding several additional State grant programs that the Department has determined meet the definition of "qualifying COVID-19 grant." On September 5, 2022, the Department of Revenue was notified by the Economic Development Authority that additional COVID-19 grant programs administered by the Authority may be "qualifying COVID-19 grants" for purposes of the income tax exclusion. This rule amendment adds four newly identified for-profit grants to the list eligible for the income tax exclusion contained in the Department's rules.

State or Federal Law Implemented: Iowa Code sections 422.7(62) and 422.35(30).

Fiscal Impact **Agency Response:** This proposed rulemaking has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement. The **Fiscal Note** for SF 619 estimated that the tax exclusion will result in a General Fund revenue reduction of \$9.2 million in fiscal year 2021 and \$1.0 million in fiscal year 2022.

LSA Response: The LSA concurs in part.

The **Fiscal Note** for SF 619 included the following text related to the COVID-19 grant exemption:

The exemption is expected to apply to 14 grant programs administered by the Economic Development Authority and/or the Iowa Finance Authority and five grant programs administered by the DALs. The Department of Revenue estimates that \$307.8 million in COVID-19 assistance grants has been distributed through these grant programs. Assumptions include:

- A total of \$114.9 million was distributed to tax-exempt entities, and a total of \$192.9 million was distributed to entities subject to the individual or corporate income tax.
- The average marginal income tax rate will be 5.3% for taxed entities.
- The timing of tax return or amended tax return filings will result in 90.0% of the tax reduction occurring in FY 2021 and 10.0% occurring in FY 2022.

While all qualifying grants are exempt from income tax under the provisions enacted as part of SF 619, the addition of four grant programs that the Department of Revenue was not aware of when preparing the fiscal analysis that was used by the LSA to develop the **Fiscal Note** for SF 619 will mean that the enacted COVID-19 grant income tax exemption will have a fiscal impact beyond what was projected during the 2021 Legislative Session.

Rule Summary

ARC 6704C (AF)

Replaces 701 IAC 26 on services subject to sales tax to make updates to several out-of-date elements and reorganize the rules into more subject-focused chapters. Makes the following three substantive changes to the chapter:

- Clarifies language relating to machine operators and situations in which a person may or may not be a machine operator.
- Reorganizes rules regarding storage of household goods, mini-storage, and warehousing of raw agricultural products and clarifies language relating to mini-storage.
- Replaces the current rule on “golf and country clubs and all commercial recreation” with an updated rule that defines “recreation” and indicates that all sales of recreation are subject to sales tax, thus making all commercial recreation services subject to sales tax. Under the current rule, commercial recreation services that are led by an instructor who has special training and who imparts guidance or knowledge to the participant at a level of knowledge or skill not known to an ordinary person engaging in the service are exempt.

Adopts new rules on a variety of new, digital-based services subject to sales tax pursuant to 2018 Iowa Acts, Senate File 2417 (Income and Sales Tax Modification Act). The Iowa Department of Revenue (IDR) provided guidance shortly after passage of Senate File 2417, and these rules reflect the IDR’s interpretation of those services.

State or Federal Law Implemented: Iowa Code chapter 423 and 2018 Iowa Acts, Senate File 2417.

Fiscal Impact

Agency Response: The IDR estimates the rulemaking to have a fiscal impact of \$2.43 million for General Fund sales tax revenue and \$0.38 million for local option sales tax (LOST) revenue in fiscal year 2023, assuming the rulemaking goes into effect in early January 2023. For a full fiscal year impact, these numbers increase to \$4.95 million for sales tax and \$0.78 million for LOST in fiscal year 2024 and increase gradually thereafter due to inflation. Additional information is available from the IDR upon request. The IDR does not anticipate any other items in this rulemaking to have a fiscal impact.

LSA Response: The LSA concurs in part. The estimate submitted by the IDR includes revenues that will be deposited in the Secure an Advanced Vision for Education (SAVE) Fund. The table below details the SAVE portion of the total General Fund impact:

Table 1 — Fiscal Impact of Rulemaking on Commercial Recreation Sales Tax (in millions)

	<u>General Fund</u>	<u>SAVE</u>	<u>LOST</u>
FY 2023	\$ 2.02	\$ 0.40	\$ 0.38
FY 2024	4.13	0.83	0.78
FY 2025	4.21	0.84	0.80
FY 2026	4.30	0.86	0.82
FY 2027	4.38	0.88	0.83
FY 2028	4.47	0.89	0.85

The additional provisions of this rulemaking that update and reorganize existing rules may create a fiscal impact if they alter any current procedures in regards to implementation of the sales or use tax. Regarding the portion of the rulemaking on digital-based services, the LSA does not have information available at this time to provide any updated fiscal estimate to the ***Fiscal Note*** for Senate File 2417.

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