



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXII
February 23, 2000

NUMBER 17
Pages 1305 to 1336

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other "materials deemed fitting and proper by the Administrative Rules Review Committee" include summaries of Public Hearings, Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers' Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)"a"]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

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Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly.

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Hoover State Office Building, Level A
Des Moines, IA 50319
Telephone: (515)242-5120**

Schedule for Rule Making 2000

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 24 '99	Jan. 12 '00	Feb. 1 '00	Feb. 16 '00	Feb. 18 '00	Mar. 8 '00	Apr. 12 '00	July 10 '00
Jan. 7	Jan. 26	Feb. 15	Mar. 1	Mar. 3	Mar. 22	Apr. 26	July 24
Jan. 21	Feb. 9	Feb. 29	Mar. 15	Mar. 17	Apr. 5	May 10	Aug. 7
Feb. 4	Feb. 23	Mar. 14	Mar. 29	Mar. 31	Apr. 19	May 24	Aug. 21
Feb. 18	Mar. 8	Mar. 28	Apr. 12	Apr. 14	May 3	June 7	Sept. 4
Mar. 3	Mar. 22	Apr. 11	Apr. 26	Apr. 28	May 17	June 21	Sept. 18
Mar. 17	Apr. 5	Apr. 25	May 10	May 12	May 31	July 5	Oct. 2
Mar. 31	Apr. 19	May 9	May 24	May 26	June 14	July 19	Oct. 16
Apr. 14	May 3	May 23	June 7	June 9	June 28	Aug. 2	Oct. 30
Apr. 28	May 17	June 6	June 21	June 23	July 12	Aug. 16	Nov. 13
May 12	May 31	June 20	July 5	July 7	July 26	Aug. 30	Nov. 27
May 26	June 14	July 4	July 19	July 21	Aug. 9	Sept. 13	Dec. 11
June 9	June 28	July 18	Aug. 2	Aug. 4	Aug. 23	Sept. 27	Dec. 25
June 23	July 12	Aug. 1	Aug. 16	Aug. 18	Sept. 6	Oct. 11	Jan. 8 '01
July 7	July 26	Aug. 15	Aug. 30	Sept. 1	Sept. 20	Oct. 25	Jan. 22 '01
July 21	Aug. 9	Aug. 29	Sept. 13	Sept. 15	Oct. 4	Nov. 8	Feb. 5 '01
Aug. 4	Aug. 23	Sept. 12	Sept. 27	Sept. 29	Oct. 18	Nov. 22	Feb. 19 '01
Aug. 18	Sept. 6	Sept. 26	Oct. 11	Oct. 13	Nov. 1	Dec. 6	Mar. 5 '01
Sept. 1	Sept. 20	Oct. 10	Oct. 25	Oct. 27	Nov. 15	Dec. 20	Mar. 19 '01
Sept. 15	Oct. 4	Oct. 24	Nov. 8	Nov. 10	Nov. 29	Jan. 3 '01	Apr. 2 '01
Sept. 29	Oct. 18	Nov. 7	Nov. 22	Nov. 24	Dec. 13	Jan. 17 '01	Apr. 16 '01
Oct. 13	Nov. 1	Nov. 21	Dec. 6	Dec. 8	Dec. 27	Jan. 31 '01	Apr. 30 '01
Oct. 27	Nov. 15	Dec. 5	Dec. 20	Dec. 22	Jan. 10 '01	Feb. 14 '01	May 14 '01
Nov. 10	Nov. 29	Dec. 19	Jan. 3 '01	Jan. 5 '01	Jan. 24 '01	Feb. 28 '01	May 28 '01
Nov. 24	Dec. 13	Jan. 2 '01	Jan. 17 '01	Jan. 19 '01	Feb. 7 '01	Mar. 14 '01	June 11 '01
Dec. 8	Dec. 27	Jan. 16 '01	Jan. 31 '01	Feb. 2 '01	Feb. 21 '01	Mar. 28 '01	June 25 '01
Dec. 22	Jan. 10 '01	Jan. 30 '01	Feb. 14 '01	Feb. 16 '01	Mar. 7 '01	Apr. 11 '01	July 9 '01
Jan. 5 '01	Jan. 24 '01	Feb. 13 '01	Feb. 28 '01	Mar. 2 '01	Mar. 21 '01	Apr. 25 '01	July 23 '01

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
19	Friday, March 3, 2000	March 22, 2000
20	Friday, March 17, 2000	April 5, 2000
21	Friday, March 31, 2000	April 19, 2000

PLEASE NOTE:

Rules will not be accepted after 12 o'clock noon on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

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

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. Bates, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses Interleaf 6 to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the processing of rule-making documents, we request a 3.5" High Density (not Double Density) IBM PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, 1st Floor, Lucas State Office Building or included with the documents submitted to the Governor's Administrative Rules Coordinator.

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kbates@legis.state.ia.us

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies by the Governor's office, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

IOWA ADMINISTRATIVE RULES and IOWA COURT RULES on CD-ROM 1999 WINTER EDITION

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Guide to Rule Making, June 1995 Edition, available upon request to the Iowa Administrative Code Division,
Lucas State Office Building, First Floor, Des Moines, Iowa 50319.

The Administrative Rules Review Committee will hold a special meeting on Friday, March 10, 2000, at 9 a.m. in Room 118, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

Bulletin

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Rural revitalization program; apple grading; pilot lamb and wool management education project;
 multiflora rose eradication program for cost reimbursement; contracts for dairy inspection services;
 production and sale of eggs, rescind chs 10, 11, 15, 21, 70 and 75, Filed ARC 9682A 2/9/00
 Infectious and contagious diseases—pseudorabies, 64.153(6), 64.156(2)“f,” 64.157(2)“c”(5), Filed ARC 9683A 2/9/00

ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]“umbrella”
 Waivers from rules, ch 19, Notice ARC 9621A Terminated ARC 9695A 2/23/00

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Division[193]
 COMMERCE DEPARTMENT[181]“umbrella”
 Registration, 2.1, 2.1(1), 2.1(2), 2.2, 2.2(3), 2.3, Filed ARC 9638A 2/9/00

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]“umbrella”
 Uniform waiver and variance rules, ch 12, Notice ARC 9652A 2/9/00

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]“umbrella”
 Uniform rules for waivers, ch 5, Notice ARC 9658A 2/9/00

CREDIT UNION DIVISION[189]

COMMERCE DEPARTMENT[181]“umbrella”
 Uniform waiver and variance rules, ch 26, Notice ARC 9653A 2/9/00

DENTAL EXAMINERS BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”
 Definition of “practice of dental hygiene,” 1.1, Filed ARC 9661A 2/9/00
 Change of board address, 5.5, 6.3(1), 9.1, 9.3(3), 9.5, 9.6(2), 25.4(3), 25.10, 31.3, 51.13(4),
 51.13(5), Filed Emergency ARC 9659A 2/9/00
 Dental hygienists—monitoring of nitrous oxide inhalation analgesia, 10.3(1), 29.6(4), 29.6(5), Filed ARC 9660A 2/9/00

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Housing fund—percentage of HOME allocation reserved for rental housing activities, 25.8(3), Notice ARC 9684A 2/9/00
 Self-employment loan program, 51.3(3), 51.3(7), 51.3(8)“e”(3), Filed ARC 9685A 2/9/00

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”
 Declaratory orders, ch 3, Filed ARC 9667A 2/9/00
 Agency procedure for rule making, ch 4, Filed ARC 9668A 2/9/00
 Uniform waiver and variance rules, ch 6, Notice ARC 9674A 2/9/00
 Complaints, investigations, contested case hearings, ch 11, Filed ARC 9669A 2/9/00
 State and federal background checks for initial licensure applicants, 14.1(1), 14.1(2), Notice ARC 9672A 2/9/00
 Alternative preparation license, 14.10, 14.33, Notice ARC 9666A 2/9/00
 Substitute teaching—two-year exchange license, 14.17(3), Notice ARC 9670A 2/9/00
 Staff development units for occupational and postsecondary licensure renewal,
 16.3(3), 16.5(1)“b”(3), Notice ARC 9673A 2/9/00
 Renewal of licenses, 17.5, 17.7, 17.9, 17.11, Filed ARC 9671A 2/9/00

EDUCATION DEPARTMENT[281]

Uniform waiver rules, ch 4, Notice ARC 9641A 2/9/00
 Educational programs and services for pupils in juvenile homes, ch 63, Filed ARC 9640A 2/9/00

ELDER AFFAIRS DEPARTMENT[321]Care review committees, ch 9, Notice ARC 9696A 2/23/00**ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Waivers or variances from administrative rules, ch 13, Notice ARC 9676A 2/9/00**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]**Uniform waiver rules, ch 15, Notice ARC 9693A 2/23/00**GENERAL SERVICES DEPARTMENT[401]**Uniform waiver and variance rules, ch 20, Notice ARC 9665A 2/9/00**HUMAN SERVICES DEPARTMENT[441]**

Accreditation of providers of services to persons with mental illness,

mental retardation, and developmental disabilities, ch 24, Notice ARC 9643A 2/9/00

Pilot workfare program for able-bodied adults without dependents, 65.27, 65.27(2), 65.28(14)"b"(8),

65.28(18), 65.28(18)"a"(3), 65.28(18)"c"(3), 65.28(19), Filed ARC 9637A 2/9/00Amount, duration and scope of medical and remedial services, 78.10(2)"a"(6), 78.20, Notice ARC 9691A 2/23/00Reimbursement rate for facilities providing ventilator care for Medicaid clients, 79.1(9)"b," Notice ARC 9644A 2/9/00HAWK-I program, 86.2(2)"a"(1)"2," 86.8(1), 86.8(7), Filed Emergency After Notice ARC 9692A 2/23/00**INSPECTIONS AND APPEALS DEPARTMENT[481]**Uniform waiver and variance rules, ch 6, Notice ARC 9625A Terminated ARC 9701A 2/23/00Clinical privileges for hospital medical staff, 51.5(3), Notice ARC 9655A 2/9/00Obstetric and neonatal services—reference sources for policies and procedures, 51.32(2), Notice ARC 9656A 2/9/00Freedom of choice of physician and pharmacy, 57.19(1)"b"(5), 58.51, Notice ARC 9657A 2/9/00**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

Licensing of car rental companies and employees, ch 10 division I, 10.1 to 10.50,

division II, 10.51 to 10.60, Filed ARC 9646A 2/9/00**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Recording and reporting occupational injuries and illnesses, 4.4(2), 4.19"3," Filed ARC 9680A 2/9/00Persons prohibited from discriminating, 9.4, Filed ARC 9679A 2/9/00

Employment agency licensing, 38.1, 38.2(1) to 38.2(5), 38.2(7), 38.3 to 38.5, 38.6(1) to 38.6(6), 38.7, 38.8(1),

38.8(2)"c," 38.8(3), 38.8(3)"b," 38.8(4), 38.9, 38.10, Filed Emergency After Notice ARC 9678A 2/9/00**LOTTERY DIVISION[705]**

REVENUE AND FINANCE DEPARTMENT[701]"umbrella"

Waiver or variance of rules, 1.30, Notice ARC 9650A 2/9/00**NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Uniform waiver and variance rules, ch 15, Notice ARC 9675A 2/9/00**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]**

Restructuring of insurance board and transfer of assets and liabilities of insurance fund;

remedial claims, ch 10, ch 11 title, 11.1(2), 11.1(4), 11.2, 11.3, Filed ARC 9654A 2/9/00**PUBLIC HEALTH DEPARTMENT[641]**

Emergency medical services provider education/training/certification; EMS—service program authorization, ch 131,

ch 132 title, 132.1, 132.2(4), 132.3 to 132.6, 132.7(6), 132.8(1), 132.10(16), 132.11 to 132.13, Filed ARC 9651A 2/9/00

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

- Waivers or variances from rules; definition of "certified bleeder"; trial period for evaluation of proposed new gambling games, 1.8, 10.6(1)"g," 26.18, Filed ARC 9648A 2/9/00
- General, 5.15(9), 7.9(4)"e," 7.9(6)"j," 7.9(12)"b"(1), 7.9(14)"a"(3) and (4), 7.9(14)"b," 7.13(7), 9.2(1)"g," "h," and "k," 10.1, 10.2(1)"n," 10.2(6)"a"(1), 10.2(6)"b"(4), (15), and (16), 10.2(7)"f," 10.2(17), 10.4(2)"i"(4), 10.5(1)"x," 10.5(9)"a," 10.5(10)"b," 13.2(5)"b"(5), 13.19(5), 24.29(11), 25.11(2), 25.14(3), Filed ARC 9649A 2/9/00
- Trifecta wagering approval for fields of six or fewer; grounds for denial, suspension, or revocation of occupation license; labor organization registration, 8.2(13)"g," 13.10(8), 13.14, Notice ARC 9647A 2/9/00

REVENUE AND FINANCE DEPARTMENT[701]

- Electronic submission of sales tax permit applications; withholding agent identification number applications, 13.2, 46.3(1), Notice ARC 9689A 2/23/00
- Individual, corporation, and franchise taxes, 40.3"1," "4," and "9," 52.1, 52.5(2), 54.7(4), 54.7(7), 54.7(8), 54.9, 58.5(2), 59.29, Filed ARC 9697A 2/23/00
- Federal offset for Iowa income tax obligations, 150.17, Notice ARC 9698A 2/23/00

SCHOOL BUDGET REVIEW COMMITTEE[289]

EDUCATION DEPARTMENT[281]"umbrella"

- Uniform waiver rules, ch 8, Notice ARC 9642A 2/9/00

SECRETARY OF STATE[721]

- Implementation of local option taxes after an election, 21.800(3)"b"(2), 21.803(4), Filed ARC 9699A 2/23/00

SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

- Cost sharing on grade stabilization structures; summer construction incentive dates, 10.41, 10.41(9), 10.60(2), Filed ARC 9681A 2/9/00

TRANSPORTATION DEPARTMENT[761]

- Junked vehicle, 400.23, Notice ARC 9690A 2/23/00
- Discretionary issuance of licenses—field of vision standards, 604.13(4), Notice ARC 9694A 2/23/00
- General aviation airport infrastructure program, ch 717, Filed ARC 9645A 2/9/00

TREASURER OF STATE[781]

- LIFT—value-added agriculture linked investment loan program, 4.11, Filed Emergency ARC 9639A 2/9/00
- Waiver of administrative rules, ch 19, Notice ARC 9677A 2/9/00

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

- Rule waivers, 1.3, 2.2(17), Notice ARC 9664A 2/9/00
- Natural gas supply and cost review, 19.11, 19.11(1), 19.11(3) to 19.11(5), Filed ARC 9662A 2/9/00
- Annual reports, 23.2(8), Notice ARC 9700A 2/23/00
- Equipment distribution program, 37.2(1)"b," 37.2(3), 37.3(1), 37.3(5), 37.3(6), 37.3(8), 37.4, 37.5(1), Notice ARC 9663A 2/9/00

WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

- Workforce development board, 1.1(2), 1.4 to 1.6, Notice ARC 9687A 2/9/00
- Requests for waiver of rules, 2.4, Filed ARC 9686A 2/9/00
- Iowa workforce investment act program, ch 7, Notice ARC 9688A 2/9/00

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 2003.

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Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319

CITATION of Administrative Rules

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

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

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

To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Housing fund, 25.8(3) IAB 2/9/00 ARC 9684A	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	February 29, 2000 1:30 p.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Uniform waiver and variance rules, ch 6 IAB 2/9/00 ARC 9674A	Conference Room 2 South—2nd Floor Grimes State Office Bldg. Des Moines, Iowa	March 16, 2000 11 a.m.
Initial applicants—state and federal background checks, 14.1 IAB 2/9/00 ARC 9672A	Conference Room 3 North—3rd Floor Grimes State Office Bldg. Des Moines, Iowa	March 14, 2000 3 p.m.
Alternative preparation license, 14.10, 14.33 IAB 2/9/00 ARC 9666A	Conference Room 3 North—3rd Floor Grimes State Office Bldg. Des Moines, Iowa	March 14, 2000 1 p.m.
Substitute teaching—two-year exchange license, 14.17(3) IAB 2/9/00 ARC 9670A	Conference Room 2 South—2nd Floor Grimes State Office Bldg. Des Moines, Iowa	March 16, 2000 9 a.m.
Staff development units for licensure renewal, 16.3(3), 16.5(1) IAB 2/9/00 ARC 9673A	Conference Room 2 South—2nd Floor Grimes State Office Bldg. Des Moines, Iowa	March 16, 2000 10 a.m.

EDUCATION DEPARTMENT[281]

Uniform waiver rules, ch 4 IAB 2/9/00 ARC 9641A	State Board Room Grimes State Office Bldg. Des Moines, Iowa	February 29, 2000 1 p.m.
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ELDER AFFAIRS DEPARTMENT[321]

Care review committees, amendments to ch 9 IAB 2/23/00 ARC 9696A	North Conference Room—3rd Floor Clemens Bldg. 200 Tenth St. Des Moines, Iowa	March 14, 2000 10 a.m.
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HUMAN SERVICES DEPARTMENT[441]

Accreditation of providers of services to persons with mental illness, mental retardation, and developmental disabilities, ch 24 IAB 2/9/00 ARC 9643A	Conference Room—6th Floor Iowa Bldg., Suite 600 411 3rd St. SE Cedar Rapids, Iowa	March 3, 2000 10 a.m.
	Administrative Conference Room 417 E. Kanesville Blvd. Council Bluffs, Iowa	March 1, 2000 10 a.m.

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

Large Conference Room Bicentennial Bldg.—5th Floor 428 Western Davenport, Iowa	March 1, 2000 10 a.m.
Conference Room 102 City View Plaza 1200 University Des Moines, Iowa	March 2, 2000 10 a.m.
Liberty Room Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	March 1, 2000 10 am.
Conference Room 3 120 E. Main Ottumwa, Iowa	March 1, 2000 10 a.m.
Fifth Floor 520 Nebraska St. Sioux City, Iowa	March 1, 2000 10 a.m.
Conference Room 420 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	March 1, 2000 10 a.m.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Freedom of choice of physician and pharmacy, 57.19(1), 58.51 IAB 2/9/00 ARC 9657A	Director's Conference Room Second Floor Lucas State Office Bldg. Des Moines, Iowa	February 29, 2000 9 a.m.
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LOTTERY DIVISION[705]

Waiver or variance of rules, 1.30 IAB 2/9/00 ARC 9650A	2015 Grand Ave. Des Moines, Iowa	February 29, 2000 2 p.m.
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NURSING BOARD[655]

Examinations, 2.10 IAB 1/12/00 ARC 9607A	Ballroom Kirkwood Civic Center Hotel 4th and Walnut Des Moines, Iowa	March 1, 2000 7 p.m.
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PUBLIC HEALTH DEPARTMENT[641]

Radiation, amendments to chs 38 to 42, 45, 46 IAB 1/26/00 ARC 9629A	Conference Room—5th Floor South Side 1 Lucas State Office Bldg. Des Moines, Iowa	February 29, 2000 8:30 a.m.
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RACING AND GAMING COMMISSION[491]

Trifecta wagering; grounds for denial; suspension or revocation of license; labor organization registration, 8.2(13), 13.10(8), 13.14 IAB 2/9/00 ARC 9647A	Suite B 717 E. Court Ave. Des Moines, Iowa	February 29, 2000 9 a.m.
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SCHOOL BUDGET REVIEW COMMITTEE[289]

Uniform waiver rules, ch 8 IAB 2/9/00 ARC 9642A	State Board Room Grimes State Office Bldg. Des Moines, Iowa	February 29, 2000 2 p.m.
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TRANSPORTATION DEPARTMENT[761]

Junked vehicles, 400.23 IAB 2/23/00 ARC 9690A	Conference Room—Lower Level Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	March 16, 2000 10 a.m. (If requested)
Licenses—field of vision test, 604.13(4) IAB 2/23/00 ARC 9694A	Conference Room—Lower Level Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	March 16, 2000 1 p.m. (If requested)

TREASURER OF STATE[781]

Waiver of administrative rules, ch 19 IAB 2/9/00 ARC 9677A	Room 114 State Capitol Bldg. Des Moines, Iowa	March 3, 2000 10 a.m.
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WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877]

Workforce development board, 1.1(2), 1.4 to 1.6 IAB 2/9/00 ARC 9687A	Labor Conference Room Third Floor West 1000 E. Grand Ave. Des Moines, Iowa	February 29, 2000 1 p.m.
Iowa workforce investment act program, ch 7 IAB 2/9/00 ARC 9688A	Labor Conference Room Third Floor West 1000 E. Grand Ave. Des Moines, Iowa	February 29, 2000 1 p.m.

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

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

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

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

The following list will be updated as changes occur:

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Agricultural Development Authority[25]

Soil Conservation Division[27]

ATTORNEY GENERAL[61]

AUDITOR OF STATE[81]

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

CITIZENS' AIDE[141]

CIVIL RIGHTS COMMISSION[161]

COMMERCE DEPARTMENT[181]

Alcoholic Beverages Division[185]

Banking Division[187]

Credit Union Division[189]

Insurance Division[191]

Professional Licensing and Regulation Division[193]

Accountancy Examining Board[193A]

Architectural Examining Board[193B]

Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

Real Estate Appraiser Examining Board[193F]

Savings and Loan Division[197]

Utilities Division[199]

CORRECTIONS DEPARTMENT[201]

Parole Board[205]

CULTURAL AFFAIRS DEPARTMENT[221]

Arts Division[222]

Historical Division[223]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

City Development Board[263]

Iowa Finance Authority[265]

EDUCATION DEPARTMENT[281]

Educational Examiners Board[282]

College Student Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

Libraries and Information Services Division[286]

Public Broadcasting Division[288]

School Budget Review Committee[289]

EGG COUNCIL[301]

ELDER AFFAIRS DEPARTMENT[321]

EMPOWERMENT BOARD, IOWA[349]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

EXECUTIVE COUNCIL[361]

FAIR BOARD[371]

GENERAL SERVICES DEPARTMENT[401]

HUMAN INVESTMENT COUNCIL[417]

HUMAN RIGHTS DEPARTMENT[421]

Community Action Agencies Division[427]

Criminal and Juvenile Justice Planning Division[428]

Deaf Services Division[429]

Persons With Disabilities Division[431]

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Status of African-Americans, Division on the[434]

Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]

INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
NATIONAL AND COMMUNITY SERVICE, IOWA COMMISSION ON[555]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board[575]
PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Substance Abuse Commission[643]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE AND FINANCE DEPARTMENT[701]
 Lottery Division[705]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
VETERINARY MEDICINE BOARD[811]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
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 Workforce Development Board and
 Workforce Development Center Administration Division[877]

NOTICE—AVAILABILITY OF PUBLIC FUNDS

<u>Agency</u>	<u>Program</u>	<u>Service Delivery Area</u>	<u>Eligible Applicants</u>	<u>Services</u>	<u>Intent to Compete and Application Due Date</u>	<u>Project Period and Contract Period</u>
Public Health	Gambling Treatment Marketing	Statewide	Profit or nonprofit organizations with experience in media and marketing	Produce mass media materials and conduct media campaigns related to problem gambling behavior	Application due April 11, 2000	Project period is from July 1, 2000, through June 30, 2003. Contract period is for one year. After June 30, 2003, two additional contracts for one-year periods may be offered.

Note: Voluntary training will be offered on February 23, 2000. Information on voluntary training time and locations is included in the application packet.

<u>Agency</u>	<u>Program</u>	<u>Service Delivery Area</u>	<u>Eligible Applicants</u>	<u>Services</u>	<u>Intent to Compete and Application Due Date</u>	<u>Project Period and Contract Period</u>
Public Health	Innovative Substance Abuse Prevention	Statewide	Nonprofit and governmental entities with experience in providing substance abuse prevention or related service.	Innovative Substance Abuse Prevention Services	Notice of intent to compete is due 3/16/2000. Application due 4/12/2000	7/1/2000 to 6/30/2001

Note: Voluntary training will be offered on February 22, 2000. Information on voluntary training time and locations is included in the application packet.

Application packets may be obtained from the Iowa Department of Public Health Web Page (<http://www.idph.state.ia.us>), in hard copy form or by E-mail attachment (Microsoft Word, 6.0 format). To request a hard copy or E-mail attachment, contact, in writing:

Allen Vander Linden, Contracts Administrator
 Department of Public Health
 Division of Substance Abuse and Health Promotion
 321 East 12th Street
 Lucas State Office Building
 Des Moines, Iowa 50319-0075
 Fax (515)281-4535; E-mail avanderl@idph.state.ia.us

<u>Agency</u>	<u>Program</u>	<u>Service Delivery Area</u>	<u>Eligible Applicants</u>	<u>Services</u>	<u>Intent to Compete and Application Due Date</u>	<u>Project Period and Contract Period</u>
Public Health	Public Information	Statewide	Nonprofit and governmental entities with experience in providing clearinghouse related activities.	Public Health information and clearinghouse	Notice of intent to compete due 3/1/2000. Application due 3/28/2000.	Project Period is from July 1, 2000, through June 30, 2005. Contract Period is for one year.

Note: Voluntary training will be offered on February 9, 2000. Information on voluntary training time and locations is included in the application packet.

<u>Agency</u>	<u>Program</u>	<u>Service Delivery Area</u>	<u>Eligible Applicants</u>	<u>Services</u>	<u>Intent to Compete and Application Due Date</u>	<u>Project Period and Contract Period</u>
Public Health	Substance Abuse and Problem Gambling Training	Statewide	Nonprofit and governmental entities with successful experience in development & coordination of training events, needs assessments, and evaluation.	Development & coordination of workshops and conferences including needs assessments and evaluations.	Notice of intent to compete due 3/1/2000. Application due 3/30/2000.	Project Period is from July 1, 2000, through June 30, 2005. Contract Period is for one year.

Note: Voluntary training will be offered on February 10, 2000. Information on voluntary training time and locations is included in the application packet.

Application packets may be obtained from the Iowa Department of Public Health Web Page (<http://www.idph.state.ia.us>), in hard copy form or by E-mail attachment (Microsoft Word, 6.0 format). To request a hard copy or E-mail attachment, contact, in writing:

Allen Vander Linden, Contracts Administrator
 Department of Public Health
 Division of Substance Abuse and Health Promotion
 321 East 12th Street
 Lucas State Office Building
 Des Moines, Iowa 50319-0075
 Fax (515)281-4535; E-mail avanderl@idph.state.ia.us

ARC 9695A

ALCOHOLIC BEVERAGES
DIVISION[185]

Notice of Termination

Pursuant to the authority of Iowa Code section 123.21, the Alcoholic Beverages Division terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on January 26, 2000, as ARC 9621A, adopting Chapter 19, "Waivers from Rules," Iowa Administrative Code.

The Notice proposed to adopt Chapter 19 by adding new rules specifying the general requirements for requesting a waiver and describing the procedure the Division will use to grant a waiver.

The Division is terminating the rule making commenced in ARC 9621A and will renounce the proposed rules to incorporate further changes and clarifications to requirements under this chapter.

ARC 9696A

ELDER AFFAIRS
DEPARTMENT[321]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 231.44, the Department of Elder Affairs hereby gives Notice of Intended Action to amend Chapter 9, "Care Review Committees," Iowa Administrative Code.

These amendments incorporate the "resident advocate" name change as passed by the 1999 Legislature in Iowa Code Supplement section 135C.11(2); propose a streamlining of reporting procedures for resident advocate volunteers; redefine duties of Area Agencies on Aging; address the reconfiguration of the program in facilities for persons with mental retardation and mental illness; and correct Iowa Code citations.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 14, 2000. Written comments should be directed to Dr. Judith A. Conlin, Director, Department of Elder Affairs, Clemens Building, Third Floor, 200 Tenth Street, Des Moines, Iowa 50309-3609.

Oral or written comments may be submitted at a public hearing to be held at 10 a.m. on Tuesday, March 14, 2000, in the North Conference Room, Department of Elder Affairs. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of these amendments.

Anyone who wishes to attend the hearing and has special requirements such as hearing, vision, mobility impairments, or other special needs should notify the Department of Elder Affairs no later than 4 p.m. on Thursday, March 9, 2000. Notice may be in writing or by telephone at (515)281-4658.

These amendments are intended to implement Iowa Code section 231.44.

The following amendments are proposed.

Amend 321—Chapter 9 as follows:

CHAPTER 9

CARE REVIEW

RESIDENT ADVOCATE COMMITTEES

321—9.1(249D 231) Care review Resident advocate committees established.

9.1(1) Committee for each licensed facility. A ~~care review~~ *resident advocate* committee shall be established for each licensed health care facility as defined in Iowa Code section 135C.1, in accordance with Iowa Code section 135C.25 and chapter ~~249D 231~~ and shall operate within the scope of these rules.

9.1(2) Committee membership. The committee shall consist of at least ~~three~~ *two* members or a number sufficient to maintain a ratio of *at least* 1 member to 15 residents ~~with the maximum size not to exceed 12 members~~. The ratio shall be waived by the department if the committee demonstrates the ability to carry out the functions outlined in these rules with fewer members.

9.1(3) Committee member residence. Members shall reside within the service area of the facility.

321—9.2(249D 231) Application for committee membership. Any individual may apply to the department for membership. AAAs and other organizations are encouraged to recommend names of potential volunteers for ~~care review~~ *resident advocate* committee membership to the department.

9.2(1) Application forms. Application forms may be obtained from any AAA, ~~or~~ of the department address in rule ~~321—2.1(249D 231)~~, *or other organizations designated by the department*.

9.2(2) Submission of forms. Each applicant shall complete and submit an application for membership to the department address in rule ~~321—2.1(249D 231)~~.

9.2(3) Membership restriction. Applications for membership on ~~care review~~ *resident advocate* committees will *not* be accepted ~~unless~~ *if* the applicant has an ownership interest in a facility; or is employed by the facility *or a competing facility; or has been employed by the facility within the past three years*; or is related to an employee, board member, or licensee of the facility; or is a public employee involved with the sponsoring or placement of residents in the facility; or is an administrator of ~~the a~~ long-term care facility; or is a professional consultant to the facility. Relatives shall be defined as any one of the following: father, mother, son, daughter, brother, sister, aunt, uncle, first cousin, nephew, niece, wife, husband, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepbrother, stepchild, stepsister, half sister, half brother, grandparent or grandchild.

9.2(4) Waiver of membership restriction. The waiver of membership restriction for relatives in subrule 9.2(3) may be reviewed and approved by the ~~commission~~ *executive director* and granted, if it can be documented to the department that efforts have been made individually or jointly by the ~~care review~~ *resident advocate* committee, AAA, or the department to contact and recruit alternative applicants.

9.2(5) Committee membership for facilities for mentally ill, mentally retarded or developmentally disabled. Applications for ~~care review~~ *resident advocate* committee membership for any facility caring primarily for persons who are mentally ill, mentally retarded, or developmentally disabled

ELDER AFFAIRS DEPARTMENT[321](cont'd)

shall be accepted only after consultation with the director of the division of mental health, mental retardation and developmental disabilities of the Iowa department of human services. The applications shall be considered acceptable if the director of the division of mental health, mental retardation and developmental disabilities of the Iowa department of human services institutes no disqualifying action within ten days of notification of the proposed appointments.

321—9.3(249D 231) Appointment to ~~care review~~ resident advocate committees.

9.3(1) Notification. Members of the ~~care review~~ resident advocate committee shall be appointed from individuals whose application for membership has been accepted according to this rule. Appointments shall be made by letter within 45 days of ~~notification of a vacancy receipt of applications~~ by the executive director or designee. Appropriate AAAs and facilities shall be notified of the appointment.

9.3(2) Traits or skills. Appointment of ~~care review~~ resident advocate committee members may be made from accepted applicants who may, but are not required to, possess a combination of the following traits or skills: knowledge of the long-term care system; understanding of the aging process; training in the human services field; experience in complaint identification, processing, and documentation; a commitment to the welfare and rights of residents; and understanding of the types and needs of clients served by the facility.

9.3(3) Preference. Preference for membership on ~~care review~~ resident advocate committees may be given to applicants with backgrounds and expertise that differ from existing members of the same committee.

321—9.4(249D 231) Cancellation of appointments to ~~care review~~ resident advocate committees.

9.4(1) Reasons for cancellation. A ~~care review~~ resident advocate committee member's appointment may be canceled by the executive director for any of the following reasons: falsification of information on the application for membership form, acting as a member without appointment, attending less than one-half of the meetings convened each year by the ~~care review~~ resident advocate committee chairperson, voluntary resignation, and actions which are found by the executive director to violate these rules or the intent of the ~~resident's advocate/~~ ombudsman program.

9.4(2) Filing an objection. A facility administrator who objects to the membership of the ~~care review~~ resident advocate committee for that facility may file ~~an a~~ written objection with the executive director. The objection shall be considered and investigated as a confidential complaint.

9.4(3) Notification of cancellation. The executive director shall notify, in writing, the remaining committee members, the appropriate AAA and the facility of the cancellation of ~~care review~~ resident advocate committee members' appointments.

321—9.5(249D 231) Request for reconsideration of appointment or cancellation of appointment.

9.5(1) ~~Timeline~~ Time of request. A request for reconsideration of the ~~decision of the executive director~~ concerning the appointment or cancellation of ~~the appointment of a~~ ~~care review~~ resident advocate committee member may be made in writing to the department within 30 days of the written notice of the ~~executive director's decision~~ ~~appointment or cancellation~~.

9.5(2) ~~Timeline~~ Time for response. The executive director shall consider the request and notify the requesting party

of the director's decision regarding the request within 30 days of receiving written notice of the request.

321—9.6(249D 231) ~~Care review~~ Resident advocate committee structure and meetings.

9.6(1) Structure. Every committee shall have a chairperson and secretary selected by the membership. The chairperson shall coordinate the activities of the committee. The secretary shall record minutes of each meeting and prepare reports as necessary.

9.6(2) Meetings. The committee shall meet at least quarterly and on other occasions as required to accomplish its responsibilities. The chairperson shall notify all members of the time and place of each meeting.

a. The administrator or staff of the facility shall not attend committee meetings except upon request of the committee.

b. Confidential information shall not be discussed during meetings when members of the general public are present.

c. The secretary shall submit written minutes to the administrator and to the ~~department at the conclusion of each meeting~~ resident advocate coordinator if the facility is a nursing facility or residential care facility.

d. Committee minutes shall be retained by the facility for a period of at least two years and shall be available to the department of inspections and appeals and the department of elder affairs upon request.

321—9.7(249D 231) Responsibilities of the committee.

9.7(1) Duties. The committee shall represent and advocate for the rights of residents of the facility.

9.7(2) The committee or individual members shall:

a. Conduct ~~a review~~ ~~ongoing reviews~~ of each resident annually according to the procedures identified in rule 9.10(249D 231);

b. Investigate complaints and grievances according to the procedures established in rule 9.11(249D 231); and

c. Participate in a training session approved by the department at least once per year.

321—9.8(249D 231) Committee access and assistance.

9.8(1) Access. The committee shall have access to the facility and private access to the residents.

9.8(2) Assistance to the committee. The committee may request information, advice, and counsel from the facility administrator, medical or health professionals or specialists, AAAs, the department or from other state and local agencies.

a. The physician's certification of care shall be made available to the committee by the administrator of the facility.

b. Physicians who have patients residing in the facility shall have the responsibility of assisting the committee upon request.

c. Upon contacting anyone on behalf of residents in the performance of duties, the ~~care review~~ resident advocate committee member shall clearly ~~identify oneself~~ ~~be identified~~ as a ~~care review~~ resident advocate committee member who is a volunteer advocate and shall clearly state the purpose and justification for this contact.

321—9.9(249D 231) Confidentiality.

9.9(1) Restriction on access. ~~Care review~~ Resident advocate committee members shall not have access to the following unless access is granted by the resident or resident's responsible party:

a. Medical, financial or personal records of the residents; or

ELDER AFFAIRS DEPARTMENT[321](cont'd)

b. Records of the social services department of the facility.

9.9(2) Nondisclosure of information. The committee shall not disclose information concerning the residents or the operation of the facility in a manner that will identify individuals or the facility, except to the ~~resident's advocate/ombudsman~~ program or as requested in proceedings involving the investigation of a facility by the department of inspections and appeals.

321—9.10(249D 23I) Committee procedures.

9.10(1) Resident reviews. To evaluate the degree of satisfaction that residents have with the quality of life experienced in the facility in which they reside, the following procedures shall be used:

a. Resident reviews shall be recorded, including responses to questions asked of residents or their representatives.

b. The committee shall establish a schedule for at least one private interview annually with each resident in the facility.

9.10(2) Review visits. Committee members shall make visits ~~without prior notice to the facility~~ to observe residents at different times of the day. ~~Committee members shall notify the staff person in charge of the facility that they are in the facility.~~

9.10(3) Review reports. The report of each resident review shall be discussed *with the committee as appropriate* and ~~provided to the administrator of the facility following the private interview of the resident.~~ Reports shall be retained by the ~~facility committee chairperson~~ for a period of at least two years. The report shall be available to the department of inspections and appeals and department of elder affairs, upon request.

9.10(4) Complaints and grievances during reviews. Complaints and grievances identified by the resident during resident reviews shall be handled according to subrule 9.11(2) and shall not be recorded with resident reviews.

321—9.11(249D 23I) Committee response to complaints and grievances.

9.11(1) General rule. Throughout the investigation of all complaints and grievances, the committee shall maintain objectivity and act as advocates for residents without being adversaries of the facility.

a. The dignity and privacy of residents will be maintained by all persons involved in a complaint or grievance investigation.

b. The committee may receive and investigate complaints or grievances regarding the rights and welfare of residents of a facility using the procedures appropriate to the source of the complaint, either from an individual or department of inspections and appeals.

c. The committee shall solicit the input of the complainant or resident regarding the complainant's or resident's wishes on action to be pursued by the committee.

d. The purpose of the committee response to complaints or grievances is to seek the ~~mutually satisfactory~~ resolution of problems and prevent unnecessary recourse to regulatory action against a facility. This purpose shall not, however, prevent such regulatory action when necessary to protect or achieve the rights of residents.

9.11(2) Action upon receipt of a complaint or grievance. Upon receipt of a complaint or grievance, the committee will contact the facility administrator to discuss the allegations, only if the contact does not violate confidentiality, ~~and shall forward a copy of the complaint or grievance to the resident's advocate/ombudsman.~~

a. Information which may identify the complainant or resident shall be confidential unless the complainant or resident has given written permission to the ~~care-review resident advocate~~ committee for the disclosure of the identity.

b. A committee member will investigate ~~or forward~~ the complaint or grievance ~~to the resident's advocate/ombudsman~~ within seven calendar days of receipt or forward the complaint or grievance to the ~~resident's advocate/ombudsman~~. Life or health threatening complaints will be forwarded within 72 hours.

c. The investigating ~~care-review resident advocate~~ committee member shall make an unannounced visit to the facility, ~~and upon arrival at the facility, may notify the staff person in charge of the facility that the member is in the facility.~~

d. The committee member investigating the complaint or grievance will, to the extent possible, ascertain the facts of the situation by talking with residents, staff, and others who might have information regarding the matter under investigation, and through personal observations of conditions and activities in the facility.

~~e. The committee shall attempt to resolve the situation to the mutual satisfaction of the facility administrator and the complainant.~~

~~f. e. If, after 14 days, a resolution has not been reached, the committee shall file a written report with the resident's advocate/ombudsman program for follow-up action as appropriate. The report shall document all attempts of resolution pursued by the committee. The resident's advocate/ombudsman program shall forward a copy of the report to the department of inspections and appeals.~~

~~g. f. The committee will inform the complainant of any action taken in response to the complaint or grievance within 20 days of receipt members are responsible for keeping the complainants informed of progress of the complaint.~~

321—9.12(249D 23I) Complaints referred from the department of inspections and appeals. The following procedures shall apply to complaints referred by the department of inspections and appeals to the department of elder affairs.

9.12(1) Referral process. Complaints or grievances received or initiated by the department of inspections and appeals may be referred for investigation to the ~~care-review resident advocate~~ committee by transmittal to the ~~resident's advocate/ombudsman~~ program at the department, address in 321—subrule 2.1(2).

9.12(2) Confidentiality. Information that may identify the complainant or resident shall be confidential.

9.12(3) Notification. The ~~resident's advocate/ombudsman~~ program will provide adequate information within three days to a member of the appropriate ~~care-review resident advocate~~ committee. Written notification will be provided within seven days.

9.12(4) Investigation. A committee member will investigate the complaint or grievance in accordance with rule 9.11(249D 23I).

321—9.13(249D 23I) Role of the AAAs. AAAs shall carry out the following activities in support of the ~~resident's advocate/ombudsman~~ program *in nursing facilities and residential care facilities.*

1. Advise the ~~resident's advocate/ombudsman~~ program on the training needs of ~~care-review resident advocate~~ committees in the planning and service area of the area agency;

2. Assist the ~~resident's advocate/ombudsman~~ program in training and coordinating the training of ~~care-review resident advocate~~ committee members;

3. Distribute department-provided forms if requested by ~~care-review resident advocate~~ committees;

ELDER AFFAIRS DEPARTMENT[321](cont'd)

4. Assist ~~care review~~ *resident advocate* committees to obtain legal and other technical assistance;
5. Recruit applicants for membership on ~~care review~~ *resident advocate* committees; and
6. Assist in the resolution of complaints or grievances being investigated by ~~care review~~ *resident advocate* committees or the ~~resident's advocate/~~ ombudsman program as requested.

321—9.14(249D 231) Approval of training for committees in nursing facilities and residential care facilities.

9.14(1) Potential provider requirements. The provider of proposed training for ~~care review~~ *committee members* shall submit the training agenda, facility, and objectives to the ~~resident's advocate/~~ ombudsman program for approval 30 days prior to the date of the proposed training.

9.14(2) ~~Timeline~~ *Time* for approval or disapproval. The ~~resident's advocate/~~ ombudsman program shall approve or disapprove the proposal and notify the provider of the proposed training within ten working days of receipt of the proposal.

9.14(3) Provider reports. Upon completion of the ~~care review~~ *resident advocate* committee training, the provider of the training shall submit a list of the name and address of each ~~care review~~ *resident advocate committee* member trained and the name and address of the long-term care facility at which each trained ~~care review~~ *committee* member serves, to the ~~resident's~~ *resident advocate/ombudsman program coordinator* within ten days following completion of the training course. *The ombudsman shall audit records at least once per year or as needed.*

ARC 9693A

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

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

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.5(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 68B.32A and Executive Order Number 11, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to adopt Chapter 15, "Uniform Waiver Rules," Iowa Administrative Code.

These rules describe the procedures for applying for, issuing or denying waivers from Board rules. The purpose of these rules is to comply with Executive Order Number 11 that requires state agencies to adopt a uniform waiver rule.

Public comments concerning the proposed rules will be accepted until 4:30 p.m. on March 14, 2000. Interested persons may submit written or oral comments by contacting W. Charles Smithson, Legal Counsel, Iowa Ethics and Campaign Disclosure Board, 514 E. Locust, Suite 104, Des Moines, Iowa 50309; fax (515)281-3701; telephone (515) 281-3489.

These rules are intended to implement Executive Order Number 11.

The following new chapter is proposed.

CHAPTER 15 UNIFORM WAIVER RULES

351—15.1(17A,56,68B,ExecOrd11) Applicability. This chapter outlines a uniform process for the granting of waivers from rules adopted by the board.

15.1(1) Board authority. A waiver from rules adopted by the board may be granted in accordance with this chapter if:

- a. The board has exclusive rule-making authority to promulgate the rule from which waiver is requested or has final decision-making authority over a contested case in which a waiver is requested; and
- b. No statute or rule otherwise controls the granting of a waiver from the rule from which waiver is requested.

15.1(2) Interpretive rules. These uniform waiver rules shall not apply to rules that merely define the meaning of a statute or other provisions of law or precedent.

15.1(3) Current civil penalty waiver rules. These uniform waiver rules shall not apply to the board's rules that provide procedures for requesting waiver from the imposition of civil penalties as set out in 351—subrules 6.2(7) and 11.5(2) and rule 351—13.9(68B).

351—15.2(17A,56,68B,ExecOrd11) Compliance with statute. No waiver may be granted from a requirement that is imposed by statute or court order. Any waiver must be consistent with statute and court order.

351—15.3(17A,56,68B,ExecOrd11) Criteria for waiver. The board may issue an order, either in response to a completed request or by its own motion, granting a waiver from a rule adopted by the board, in whole or in part, as applied to the particular factual circumstances of a specified person if the board finds that:

1. Application of the rule to the specified person would result in hardship or injustice to that person; and
2. Waiver on the basis of the particular factual circumstances as applied to the specified person would be consistent with the public interest; and
3. Waiver in the specific case would not prejudice the substantial legal rights of any other person.

15.3(1) Board discretion. The decision on whether the particular factual circumstances justify the granting of a waiver shall be made at the discretion of the board upon consideration of all relevant factors.

15.3(2) Mandatory waiver. The board shall grant a waiver from a rule, in whole or in part, as applied to the particular circumstances of a specified person, if the board determines that the application of the rule or portion thereof would not, to any extent, advance or serve any of the purposes of the rule.

15.3(3) Burden of persuasion. The person requesting the waiver shall assume the burden of persuasion when a request is filed for a waiver from a board rule.

15.3(4) Special waiver rules not precluded. These uniform waiver rules shall not preclude the board from granting waivers in other contexts or on the basis of other standards if a statute or other board rule authorizes the board to do so and the board deems it appropriate to do so.

15.3(5) Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the person requesting the waiver with the overall goal of uniform treatment of all other persons under the rule.

351—15.4(17A,56,68B,ExecOrd11) Filing of request for waiver. All requests for waiver must be submitted in writing to the Iowa Ethics and Campaign Disclosure Board, 514 E.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Locust, Suite 104, Des Moines, Iowa 50309, Attention: Legal Counsel. If the request relates to a pending contested case, a copy of the request shall also be filed in the contested case proceeding.

A request for waiver of a board rule shall include the following information where applicable and known to the requester:

1. The name, address and telephone number of the person or entity for whom a waiver is being requested and the case number of any related contested case if applicable.

2. A description and citation of the specific rule from which waiver is requested.

3. The specific waiver requested, including the precise scope and operative time period the waiver will extend.

4. The relevant facts the requester believes would justify a waiver. This shall include a signed statement from the requester attesting to the accuracy of the facts provided in the request and a statement of reasons the requester believes will justify a waiver.

5. A history of any contacts between the board and the requester within the last four years relating to the activity by the proposed waiver. This shall include any notices of violation whether resolved through administration resolution or a contested case proceeding.

6. Any information known to the requester regarding the board's treatment of similar cases.

7. The name, address and telephone number of any person or entity that would be adversely affected by the granting of the waiver.

8. The name, address and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

351—15.5(17A,56,68B,ExecOrd11) Additional information. Prior to issuing an order granting or denying a waiver, the board may request additional information from the requester relative to the request and surrounding circumstances. If the request was not filed in a contested case, the board may, on its own motion or upon request, schedule a telephonic or in-person meeting between the requester and the board or the board's designee.

351—15.6(17A,56,68B,ExecOrd11) Notice. The board shall acknowledge a request upon receipt. The board shall ensure that notice of the pendency of the request and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law, within 30 days of the receipt of the request. In addition, the board may give notice to other persons.

351—15.7(17A,56,68B,ExecOrd11) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case proceedings shall apply to any request for a waiver of rule filed in a contested case and shall otherwise apply to board proceedings for waiver only when the board so provides by rule or order or is required to do so by statute.

351—15.8(17A,56,68B,ExecOrd11) Ruling. An order granting or denying a waiver shall be in writing and shall contain:

1. A reference to the particular person and rule or portion thereof to which the order pertains;
2. A statement of the relevant facts and reasons upon which the action is based; and
3. A description of the precise scope and operative time period of the waiver if one is issued.

15.8(1) Conditions. The board may condition the granting of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

15.8(2) Time for ruling. The board shall grant or deny a request for waiver as soon as practicable but, in any event, shall do so within 90 days of its receipt, unless the requester agrees to a later date. However, if a request is filed in a contested case, the board shall grant or deny the request no later than the time at which the final decision in that contested case is issued.

15.8(3) When deemed denied. Failure of the board to grant or deny a request within the required time period shall be deemed a denial of that request by the board. However, any request for waiver submitted in a contested case proceeding shall be expressly ruled upon by the board.

15.8(4) Service of order. Within seven days of its issuance, any order issued under these uniform rules shall be transmitted to the requester or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

351—15.9(17A,56,68B,ExecOrd11) Public availability. Subject to the provisions of Iowa Code subsection 17A.3(1)"e," the board shall maintain a record of all orders granting or denying waivers under these uniform rules. All final rulings in response to requests for waiver shall be indexed and available to members of the public at the board's office.

351—15.10(17A,56,68B,ExecOrd11) Voiding or cancellation. A waiver is void if the material facts upon which the request is based are not true or if material facts have been withheld. The board may, at any time, cancel a waiver upon appropriate notice and hearing if the board finds:

1. The facts as stated in the request are not true;
2. Material facts have been withheld;
3. The alternative means of compliance provided in the waiver have failed to achieve the objectives of the statute or rule; or
4. The requester has failed to comply with the conditions of the order.

351—15.11(17A,56,68B,ExecOrd11) Violations. Violation of conditions in the waiver is the equivalent of violation of the particular rule for which the waiver is granted and is subject to the same remedies or penalties.

351—15.12(17A,56,68B,ExecOrd11) Defense. After the board issues an order granting a waiver, the order is a defense for the person or entity to whom the order pertains, within the terms and the specific facts set out therein, in any proceeding in which the rule in question is sought to be invoked.

351—15.13(17A,56,68B,ExecOrd11) Appeals. Any request for an appeal from a decision granting or denying a waiver shall be in accordance with the procedures provided in Iowa Code chapter 17A and board rules. An appeal shall be taken within 30 days of service of the ruling unless rule or statute provides a contrary time.

These rules are intended to implement Iowa Code chapters 17A, 56 and 68B and Executive Order Number 11.

ARC 9691A**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," appearing in the Iowa Administrative Code.

These amendments clarify procedures for billing for oxygen for Medicaid recipients in nursing facilities and remove Medicare limitations on services performed by independent laboratories.

Discrepancies in oxygen use documentation by oxygen providers and nursing facilities have created billing problems. Medicaid payment is only made to oxygen providers directly when a nursing facility resident needs oxygen for 12 or more hours per day for at least 30 days or more. When usage is less than that amount, the oxygen provider is to bill the nursing facility for the oxygen, and the nursing facility is to include the cost of the oxygen in its cost reports.

Department of Inspections and Appeals rules at 481—subrule 58.21(8) require nursing facility personnel to make an accurate written record of medications administered. Policy is being clarified to provide that payment will not be made to oxygen providers for oxygen that is not documented according to 481—subrule 58.21(8).

Recent Medicare reductions in payment to independent laboratories created discrepancies in Medicaid coverage between independent laboratories, hospital-based laboratories, and physician-office laboratories. These amendments provide that Medicaid will continue to reimburse independent laboratories for medically necessary laboratory services. It is cost-effective to provide medically necessary services, and coverage for all laboratory services will be consistent.

These amendments do not provide for waivers in specified situations because provision of oxygen should always be properly documented, and no waiver is needed because the amendment on independent laboratory services expands coverage.

Consideration will be given to all written data, views, and arguments thereto received by the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before March 15, 2000.

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

The following amendments are proposed.

ITEM 1. Amend subrule 78.10(2), paragraph "a," by adopting the following new subparagraph (6):

(6) Payment will not be made for oxygen that is not documented according to department of inspections and appeals 481—subrule 58.21(8).

ITEM 2. Amend rule 441—78.20(249A) as follows:

441—78.20(249A) Independent laboratories. Payment will be made for ~~the same medically necessary laboratory services payable under the Medicare program (Title XVIII of the Social Security Act)~~ provided by independent laboratories certified to participate in the Medicare program.

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

ARC 9701A**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Notice of Termination**

Pursuant to the authority of Iowa Code chapter 10A, the Department of Inspections and Appeals terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on January 26, 2000, as **ARC 9625A**, adopting Chapter 6, "Uniform Waiver and Variance Rules," Iowa Administrative Code.

The Notice proposed to adopt Chapter 6 providing a uniform process for the granting of waivers or variances from rules adopted by the department in compliance with Executive Order Number 11.

The department is terminating the rule making commenced in **ARC 9625A** and will renounce the proposed rules to incorporate further changes and clarifications to requirements under Executive Order Number 11.

ARC 9689A**REVENUE AND FINANCE
DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 421.17(19) and 422.68, the Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 13, "Permits," and Chapter 46, "Withholding," Iowa Administrative Code.

Item 1 amends rule 701—13.2(422) to provide for an electronic signature when an application for a sales tax permit is electronically submitted.

Item 2 amends subrule 46.3(1), first unnumbered paragraph, by striking the requirement that the responsible parties sign the application for an Iowa withholding agent's identification number.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Rule 13.2(422) in Item 1 is a discretionary rule and is subject to the Uniform Waiver Rule found in Executive Order Number 11.

REVENUE AND FINANCE DEPARTMENT[701](cont'd)

There is no waiver provision reflected in Item 2 because the Department lacks the statutory authority to grant waivers where rules are mainly an interpretation of statutes.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code Supplement section 17A.4A [1998 Iowa Acts, chapter 1202, section 10]. The Department will issue a regulatory analysis as provided in Iowa Code Supplement section 17A.4A [1998 Iowa Acts, chapter 1202, section 10] if a written request is filed by delivery or by mailing postmarked no later than March 27, 2000, to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business, or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before March 24, 2000. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue and Finance, at (515)281-4250 or at the Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by March 17, 2000.

These amendments are intended to implement Iowa Code section 421.17.

The following amendments are proposed.

ITEM 1. Amend rule 701—13.2(422) as follows:

701—13.2(422) Application for permit. An application for a permanent permit shall be made upon a form provided by the department, and the applicant shall furnish all information requested on such form.

An application for a permit for a business operating under a trade name shall state the trade name, as well as the individual owner's name, in the case of a sole ownership by an individual, or, the trade name and the name of all partners, in the case of a partnership.

The application shall be signed by the owner, in the case of an individual business; by a partner, in the case of a partnership, although all partners' names shall appear on the application; and by the president, vice president, treasurer or other principal officer of a corporation or association, unless written authorization is given by the officers for another person to sign the application.

For electronically transmitted applications, the application form shall state that in lieu of a person's handwritten signature, the E-mail address will constitute a valid signature.

The application shall state the date when the applicant will begin selling tangible personal property or taxable services at retail in Iowa from the location for which the application is made.

This rule is intended to implement Iowa Code section sections 421.17(15) and 422.53.

ITEM 2. Amend subrule 46.3(1), first unnumbered paragraph, as follows:

~~Where~~ *When* initial payment of wages, subject to Iowa withholding tax occurs late in the calendar quarter, or before the employer's or payer's federal employer's identification number is assigned by the Internal Revenue Service, the application for Iowa withholding agent's identification number shall be forwarded along with the first quarterly withholding return. The responsible party(ies) shall be listed on the application and the application shall be signed by each of the responsible party(ies) so listed.

ARC 9698A

**REVENUE AND FINANCE
DEPARTMENT[701]**

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue and Finance hereby gives Notice of Intended Action to amend Chapter 150, “Offset of Debts Owed State Agencies,” Iowa Administrative Code.

The amendment proposes to adopt a new division within Chapter 150 entitled “Federal Offset for Iowa Income Tax Obligations.” This new division provides that effective for refunds payable beginning January 1, 2000, the Internal Revenue Service may offset an overpayment of federal tax against an Iowa income tax obligation of a resident of Iowa. This new division provides for the procedures by which such offsets may be performed for the state of Iowa. This amendment implements the Internal Revenue Service Restructuring and Reforms Act of 1998, Pub. L. 105-206, 112 Stat. 685, 779 (1998).

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions in the manner set out in the Department's uniform waiver rule, if any.

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code Supplement section 17A.4A [1998 Iowa Acts, chapter 1202, section 10]. The Department will issue a regulatory analysis as provided in Iowa Code Supplement section 17A.4A [1998 Iowa Acts, chapter 1202, section 10] if a written request is filed by delivery or by mailing postmarked no later than March 27, 2000, to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who qualify as a small business, or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before March

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24, 2000. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact the Policy Section, Compliance Division, Department of Revenue and Finance, at (515)281-4250 or at the Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by March 17, 2000.

This amendment is intended to implement Pub. L. 105-206, 112 Stat. 685, 779 (1998).

The following amendment is proposed.

Amend 701—Chapter 150 by adopting a new division as follows:

FEDERAL OFFSET FOR IOWA INCOME TAX OBLIGATIONS

701—150.17(421,PL105-206) Purpose and general application of offset of a federal tax overpayment to collect an Iowa income tax obligation. Effective for refunds of overpayments to the Internal Revenue Service (IRS) that are payable beginning January 1, 2000, the IRS may offset, in whole or in part, an amount of federal refund payable to an Iowa resident by the amount of any past due legally enforceable Iowa income tax obligation owed by such taxpayer. The purpose of this rule is to establish a procedure to identify taxpayers that owe Iowa income tax liabilities and to establish a procedure for requesting the offset of the taxpayer's federal tax overpayment to collect a past due legally enforceable Iowa income tax obligation.

150.17(1) Definitions. The following definitions are applicable to the federal offset program:

"Assessment" means the determination of a past due tax obligation and includes self-assessments. An assessment includes the Iowa income tax, interest, penalties, fees or other charges associated with the past due legally enforceable Iowa income tax obligation.

"Department," "state of Iowa," "Iowa" or "the state" means the Iowa department of revenue and finance.

"Director" means the director of the Iowa department of revenue and finance.

"Overpayment" means a federal tax refund due and owing to a person or persons.

"Past due legally enforceable Iowa income tax obligation" means a debt which resulted from a judgment rendered by a court of competent jurisdiction which has determined an amount of state income tax to be due or a determination after an administrative hearing which has determined an amount of state income tax to be due and which is no longer subject to judicial review. In addition, this term also includes a debt which resulted from a state income tax which has been assessed but not collected, the time for redetermination which has expired, and which has not been delinquent for more than ten years.

"Resident of Iowa" means any person with a federal overpayment for the year in which Iowa seeks offset and such person has an Iowa address listed on the person's federal return for the tax period of overpayment.

"Secretary" means the Secretary of the Treasury for the federal government.

"State income tax obligation" or "Iowa income tax obligation" is intended to cover all Iowa income taxes. This term includes all local income taxes administered by the Iowa department of revenue and finance or determined to be a "state income tax" under Iowa law. Such taxes may include, but are

not limited to, individual income tax, fiduciary income tax, withholding tax, or corporate income tax, and penalties, interest, fines, judgments, or court costs relating to such tax obligations.

"Tax refund offset" means withholding or reducing, in whole or in part, a federal tax refund payment by an amount necessary to satisfy a past due legally enforceable state income tax obligation owed by the payee (taxpayer) of the tax refund payment. This rule only involves the offset of tax refund payments under 26 USC 6402(e); it does not cover the offset of federal payments other than tax refund payments for the collection of past due legally enforceable state income tax obligations.

"Tax refund payment" means the amount to be refunded to a taxpayer by the federal government after the Internal Revenue Service (IRS) has applied the taxpayer's overpayment to the taxpayer's past due tax liabilities in accordance with 26 USC 6402(a) and 26 CFR 6402-3(a)(6)(i).

150.17(2) Prerequisites for requesting a federal offset. The following are the requirements that the state of Iowa must meet before the state can request an offset of a federal overpayment against an Iowa income tax obligation:

a. Pre-offset notice. At least 60 days prior to requesting the offset of a taxpayer's federal overpayment for an Iowa income tax obligation, the state of Iowa must provide notice by certified mail, return receipt requested, to the person owing the Iowa income tax liability. This notice must state the following information:

(1) That the state proposes to request the offset of the person's federal overpayment against a specified Iowa income tax obligation and that such an obligation is past due and legally enforceable;

(2) That the authority for this offset is Internal Revenue Service Restructuring and Reforms Act of 1998, Pub. L. 105-206, 112 Stat. 685, 779 (1998), as implemented by 701 IAC 150.17(421,PL105-206);

(3) That the person owing the obligation has 60 days from the date of the notice to present evidence to the department that all or part of the obligation at issue is not past due or not legally enforceable;

(4) The mailing address for submitting such evidence;

(5) That failure to timely submit the evidence waives the taxpayer's right to protest the amount, validity or qualification of the Iowa income tax obligation for offset at any time in the future; and

(6) Where contact can be made with the department for additional information or questions.

b. The state must consider any evidence presented by the person owing the obligation and determine whether the amount or amounts are past due and legally enforceable.

c. The state must have made written demand on the taxpayer to obtain payment of the state income tax obligation for which the request for offset is being submitted.

d. Additional pre-offset notices. The department must provide a taxpayer with an additional pre-offset notice if the amount of the obligation to be subject to offset is increased due to a new assessment. However, a new pre-offset notice is not required to be sent to the taxpayer by the department if there is an increase in the amount to be offset due to accrued interest, penalties or other charges associated with an Iowa income tax obligation in which notice has previously been given.

e. Before offset of the federal refund can be requested by the state of Iowa, the person's Iowa income tax liability must be at least \$25, unless otherwise provided based on the discretion of the department and the Secretary. If an individual owes more than one Iowa income tax obligation, the mini-

REVENUE AND FINANCE DEPARTMENT[701](cont'd)

mum amount will be applied to the aggregate amounts of such obligations owed to Iowa.

f. Offset applies to residents of Iowa as defined under this rule.

150.17(3) Procedure after submission of evidence. Upon timely receipt of evidence by the department from the taxpayer as set forth in 150.17(2)“a”(3), the department has 60 days to review the evidence and notify the taxpayer whether the evidence submitted is sufficient to terminate the intended offset. If the department determines that the evidence is sufficient, the procedure to initiate the federal offset shall be terminated for that obligation and the taxpayer’s record of Iowa income tax obligation for that particular obligation shall be adjusted accordingly. However, if the department determines that the evidence is insufficient to show that the amount or amounts at issue are not, in whole or in part, a past due and legally enforceable income tax obligation, the department must notify the taxpayer within 60 days of receiving the evidence from the taxpayer.

The contest of an offset under this rule is subject to judicial review under Iowa Code section 17A.19 as “other agency action.”

In cases in which a taxpayer claims immunity from state taxation due to being an enrolled member of an Indian tribe who lives on that member’s tribe’s reservation and derives all of that member’s income from that reservation, Iowa must consider such claims de novo on the merits, unless such claims have been previously adjudicated by a court of competent jurisdiction.

150.17(4) Notice by Iowa to the Secretary to request federal offset. Iowa must notify the Secretary of an Iowa income tax obligation in the manner prescribed by the Secretary.

150.17(5) Erroneous payments to Iowa. If Iowa receives a notice from the Secretary that an erroneous payment has been made to Iowa under this rule, Iowa must promptly pay to the Secretary, in accordance with such rules and regulations as the Secretary may prescribe, an amount equal to the amount of the erroneous payment (without regard to whether any other amounts payable to Iowa under this rule have been paid to Iowa). In the alternative, Iowa may return the erroneous payment directly to the taxpayer. If this latter alternative is used by Iowa, then Iowa must notify the Secretary of the erroneous offset being paid to the taxpayer, and the taxpayer’s records will be adjusted accordingly.

150.17(6) Correcting and updating notice to Secretary. Iowa must notify the Secretary of any deletion or decrease in the amount of past due, legally enforceable Iowa income tax obligation referred to the Secretary for collection by offset under this rule. Iowa may also notify the Secretary of any increases in the amount or amounts referred to the Secretary for collection by offset under this rule provided that Iowa has complied with the requirements of this rule with regard to such amount or amounts.

This rule is intended to implement Iowa Code chapter 421 and Pub. L. 105-206, 112 Stat. 685, 779 (1998).

ARC 9690A

TRANSPORTATION
DEPARTMENT[761]

Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 400, “Vehicle Registration and Certificate of Title,” Iowa Administrative Code.

Rule 761—400.23(321) provides that the Department may approve the issuance of a new certificate of title for a vehicle that has been issued a junking certificate only if the junking certificate was issued in error. The rule currently lists three reasons that meet this standard. The amendment gives the Department the option to consider other circumstances. No waiver is provided because the amendment allows the Department the flexibility to consider individual circumstances.

Any person or agency may submit written comments concerning this amendment or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Director’s Staff Division, 800 Lincoln Way, Ames, Iowa 50010; Internet E-mail address: ifitzge@max.state.ia.us; fax (515)239-1639.
5. Be received by the Director’s Staff Division no later than March 14, 2000.

A meeting to hear requested oral presentations is scheduled for Thursday, March 16, 2000, at 10 a.m. in the conference room of the Motor Vehicle Division, which is located on the lower level of Park Fair Mall, 100 Euclid Avenue, Des Moines, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed amendment may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code Supplement section 17A.4A must be received by the Director’s Staff Division at the address listed in this Notice no later than 32 days after publication of this Notice in the Iowa Administrative Bulletin.

This amendment is intended to implement Iowa Code subsection 321.52(3).

Proposed rule-making action:

Amend rule 761—400.23(321) as follows:

761—400.23(321) Junked vehicle.

400.23(1) Junking certificate. The owner of a vehicle that is to be junked or dismantled shall obtain a junking certificate ~~under~~ *in accordance with* Iowa Code subsection 321.52(3).

400.23(2) Retitling a junked vehicle. The department may authorize issuance of a new certificate of title to the vehicle owner named on the junking certificate, only if *the de-*

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partment determines that the junking certificate was issued in error for one of the following reasons:

a. The reasons a junking certificate was issued in error include but are not limited to the following:

a- (1) The owner inadvertently surrendered the wrong certificate of title. The owner shall submit to the department a photocopy of the ownership document for each vehicle and a signed statement explaining the circumstances that resulted in the error.

b- (2) A junking certificate was obtained in error and the vehicle continues to be registered. The owner shall submit to the department a photocopy of the current registration and a signed statement explaining the circumstances that resulted in the error.

c- (3) The owner intended to apply for a salvage title under Iowa Code subsection 321.52(4) but inadvertently submitted an application for a junking certificate. The owner shall submit to the department a bill of sale or other documentation from the previous owner stating that the vehicle was rebuildable when purchased and a signed statement explaining the owner's original intention to obtain a salvage title. The department shall inspect the vehicle to verify the rebuildable condition.

d b. If the department determines that the junking certificate was issued in error, the department shall authorize the proper county treasurer to issue a certificate of title for the vehicle after payment by the owner of appropriate fees and taxes, including the return of any credit or refund for registration fees paid to the owner because of the error.

400.23(3) c. If the department determines that the vehicle was not junked junking certificate was not issued in error and denies the application for reinstatement of the certificate of title for the vehicle, the owner may apply for a certificate of title under the bonding procedure in rule 400.13(321) if the vehicle qualifies as an antique vehicle under Iowa Code subsection 321.115(1).

This rule is intended to implement Iowa Code subsection 321.52(3).

ARC 9694A

TRANSPORTATION
DEPARTMENT[761]

Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 604, "License Examination," Iowa Administrative Code.

This amendment permits the issuance of a driver's license after recommendation by the medical advisory board when an applicant does not meet the minimum field of vision standards set by rule. Members of the public whose field of vision does not meet the standards currently set by rule may be able to obtain limited driving privileges as a result of this amendment.

Any person or agency may submit written comments concerning this amendment or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.

2. Reference the number and title of the proposed amendment, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.

4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: jfitzge@max.state.ia.us.

5. Be received by the Director's Staff Division no later than March 14, 2000.

A meeting to hear requested oral presentations is scheduled for Thursday, March 16, 2000, at 1 p.m. in the conference room of the Motor Vehicle Division, which is located on the lower level of Park Fair Mall, 100 Euclid Avenue, Des Moines, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

After adoption, the DOT plans to file this amendment "emergency" in accord with Iowa Code paragraph 17A.5(2)"b" and make it effective upon filing, on the ground that the amendment confers a benefit on members of the public whose field of vision does not meet the standards currently set by rule. These individuals may be able to obtain limited driving privileges as a result of this amendment.

This amendment is intended to implement Iowa Code sections 321.186, 321.186A, 321.193 and 321.196.

Proposed rule-making action:

Amend subrule 604.13(4) as follows:

604.13(4) Discretionary issuance.

a. An applicant whose license is restricted under rule 761—604.11(321) or who cannot meet the vision standards in subrule 604.13(2) may submit a written request for review by an informal settlement officer.

b. Based upon consideration of the applicant's vision screening results or vision report, driving test and driving record, the written recommendation of the applicant's licensed vision specialist, and traffic conditions in the vicinity of the applicant's residence, the officer may recommend issuing a license with restrictions suitable to the applicant's capabilities. However:

(1) An applicant who cannot attain a visual acuity of 20/100 with both eyes or with the better eye may be considered for licensing only after recommendation by the medical advisory board.

(2) An applicant who cannot attain a visual acuity of 20/200 with both eyes or with the better eye shall not be licensed.

(3) If an applicant's binocular field of vision (sum of temporal measurements) is less than 95 degrees, or if neither eye has a monocular field of vision of at least 60 degrees temporal and 35 degrees nasal, the applicant shall not be licensed may be considered for licensing only after recommendation by the medical advisory board.

c. The officer's recommendation denying discretionary issuance or regarding the extent and nature of restrictions is subject to reversal or modification upon review or appeal only if it is clearly characterized by an abuse of discretion.

This rule is intended to implement Iowa Code sections 321.186, 321.186A, 321.193 and 321.196.

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Holmes Foster, and Auditor of State Richard D. Johnson have established today the following rates of interest for public obligations and special assessments. The usury rate for February is 8.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

RECOMMENDED for 74A.3 and 74A.7: A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities.

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 February 9, 2000, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7-31 days Minimum 5.10%
- 32-89 days Minimum 5.20%
- 90-179 days Minimum 5.60%
- 180-364 days Minimum 5.70%
- One year Minimum 5.80%
- Two years or more Minimum 6.10%

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

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

ARC 9700A

UTILITIES DIVISION[199]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.4, 474.5, 476.1, 476.2(1), 476.9, and 476.31 (1999), the Utili-

ties Board (Board) gives notice that on January 31, 2000, the Board issued an order in Docket No. RMU-00-3, In re: Annual Reports. The Board is proposing to amend current 199 IAC 23.2(8) by eliminating the requirements contained in parts (c) and (d) of the subrule. 199 IAC 23.2(8) contains some of the requirements for the annual reports filed by rate-regulated gas and electric utilities.

The proposed amendment is intended to implement the Board's changes to the annual report forms. The Board has undertaken a complete review of its annual report forms and requirements and eliminated pages of required information no longer useful or relevant or duplicated elsewhere in the reports. Most of these changes could be implemented without changes to the rules. However, the proposed amendment is necessary to eliminate the reporting requirements contained in parts (c) and (d) of 199 IAC 23.2(8) regarding aggregate measures of service quality and cost efficiency and reports identifying the value of those measures. The listing of aggregate measures has not proved useful and, if necessary, such information can be obtained by the Board or the Consumer Advocate Division of the Department of Justice.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendment. The statement must be filed on or before March 14, 2000, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

If requested pursuant to Iowa Code section 17A.4(1)"b," or on its own motion after reviewing the statements, the Board will determine whether an opportunity for oral presentation should be provided.

This amendment is intended to implement Iowa Code sections 476.1, 476.2(1), 476.9, and 476.31.

The following amendment is proposed.

Amend subrule 23.2(8) as follows:

23.2(8) The respondent shall file as part of its annual report filed with the board (a) a list (by title, author, and date) of any financial, statistical, technical or operational reviews or reports that a company may prepare for distribution to stockholders, bondholders, utility organizations or associations or other interested parties, *and* (b) a list (by form number and title) of all financial, statistical, technical and operational review-related documents filed with an agency of the federal government, ~~(c) a list identifying the aggregate measures of service quality and cost efficiency utilized by the president or chief operating officer for the utility's Iowa operations, and (d) a list identifying the report(s) utilized by the president or chief operating officer for the utility's Iowa operations containing the most recent value for each measure identified in "c."~~

ARC 9692A

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 514I.5(8), the Department of Human Services hereby amends Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," appearing in the Iowa Administrative Code.

The HAWK-I Board adopted these amendments on January 28, 2000. Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on December 15, 1999, as **ARC 9526A**.

These amendments change the way in which income is considered for self-employed persons applying for the HAWK-I program by allowing a deduction for the depreciation of capital assets as a cost of doing business and provide that no cost sharing shall be imposed on eligible American Indian or Alaskan Native children regardless of family income. In addition, these amendments provide that no copayment for an emergency room visit shall be imposed when family income is less than 150 percent of the federal poverty level for a family of the same size or when the child is an eligible American Indian or Alaskan Native.

Public support has been expressed for allowing the deduction for the depreciation of capital assets as it will help farmers who are experiencing financial problems due to the current farm crisis.

In the first six months of the HAWK-I program, approximately 10 percent of the children applying for the program were denied coverage due to excess income. It is estimated that about 20 percent of those children would be eligible for the program with a deduction for depreciation of assets applied to self-employment income. This projects to 372 children annually, for a total state and federal cost of approximately \$436,000.

The Department received instructions from the Health Care Financing Administration on October 6, 1999, that no cost sharing shall be imposed on eligible American Indian or Alaskan Native children regardless of family income. States that impose cost sharing on these children are not in compliance with Section 2102(b)(3) of the Balanced Budget Act of 1997 (Public Law 105-33).

These amendments do not provide for waivers in specified situations because these amendments confer a client benefit. It is not anticipated that there will be requests for waivers of these amendments.

Subrule 86.2(2), paragraph "a," subparagraph (1), numbered paragraph "2," was revised for clarification at the request of the Administrative Rules Review Committee.

The Department finds that these amendments confer a benefit on applicants for the HAWK-I program by allowing depreciated assets as a cost of doing business for self-

employed persons, thereby making more children eligible for the program. These amendments also confer a benefit on American Native and Alaskan Native children receiving the program by not imposing cost sharing on these children. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

These amendments are intended to implement Iowa Code chapter 514I.

These amendments became effective February 1, 2000.

The following amendments are adopted.

ITEM 1. Amend subrule **86.2(2)**, paragraph "a," subparagraph (1), numbered paragraph "2," as follows:

2. Earned income from self-employment. Earned income from self-employment means the net profit determined by comparing gross income with the allowable costs of producing the income. The net profit from self-employment income shall be determined according to the provisions of 441—~~paragraph subparagraphs~~ **75.57(2)"f"(1) through (7)**. *Additionally, the cost of depreciation of capital assets identified for income tax purposes shall be allowed as a cost of doing business for self-employed persons.* A person is considered self-employed when ~~the~~ *any of the following conditions exist.* The person:

- Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions; or
- Establishes the person's own working hours, territory, and methods of work; or
- Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

ITEM 2. Amend subrules 86.8(1) and 86.8(7) as follows:

86.8(1) Income limit. No premium shall be assessed when countable income is less than 150 percent of the federal poverty level for a family of the same size. When countable income is equal to or greater than 150 percent of the federal poverty level for a family of the same size, participation in the program is contingent upon the payment of a monthly premium.

EXCEPTION: No cost sharing shall be imposed on eligible American Indian or Alaskan Native children regardless of family income.

86.8(7) Copayment. There shall be a \$25 copayment for each emergency room visit if the child's medical condition does not meet the definition of emergency medical condition.

EXCEPTION: A copayment shall not be imposed when family income is less than 150 percent of the federal poverty level for a family of the same size or when the child is an eligible American Indian or Alaskan Native.

[Filed Emergency After Notice 1/31/00, effective 2/1/00]

[Published 2/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/00.

ARC 9697A

REVENUE AND FINANCE
DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue and Finance hereby adopts amendments to Chapter 40, "Determination of Net Income," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Chapter 54, "Allocation and Apportionment," Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," and Chapter 59, "Determination of Net Income," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXII, Number 13, page 1023, on December 29, 1999, as **ARC 9590A**. These amendments are identical to those published under Notice of Intended Action.

Item 1 amends rule 40.3(422) to add an Iowa Code section which exempts the interest from certain bonds issued by the Board of Regents from Iowa income tax. Also, Item 1 adds information about Iowa Code sections that exempt the interest from certain bonds issued by the state of Iowa, which have been moved to different chapters.

Item 2 amends rule 52.1(422) by adding new unnumbered paragraphs which clarify that certain political organizations described in Internal Revenue Code Section 527 and homeowners associations described in Internal Revenue Code Section 528 that are required to pay federal corporation income tax are subject to Iowa corporation income tax.

Item 3 amends subrule 52.5(2) to clarify that a small business corporation that is exempt from the federal alternative minimum tax is also exempt from the Iowa alternative minimum tax.

Item 4 amends subrule 54.7(4) to add sale of phone cards, sale of telecommunication services to resellers, Internet access, cellular phone services, personal communication services, paging services, radio communication services, and cable television, satellite television, or community antenna television companies to the listing of gross receipts from telecommunication services that are considered Iowa gross receipts and to define the term "telecommunication companies."

Item 5 adds new subrule 54.7(7) to set forth the method for utility companies to use to determine Iowa gross receipts or gross revenues from the transportation of natural or casinghead gas for others.

Item 6 adds new subrule 54.7(8) to set forth the method for utility companies to use to determine Iowa gross receipts or gross revenues from the transportation of electricity for others.

Item 7 amends rule 54.9(422) by adding a new unnumbered paragraph which clarifies that the rule takes precedence over rule 701—7.60(17A) which implements the uniform waiver rule found in Executive Order Number Eleven issued by the Governor.

Item 8 amends subrule 58.5(2) to clarify that a small business corporation that is a financial institution and that is exempt from the federal alternative minimum tax is also exempt from the Iowa alternative minimum tax.

Item 9 amends rule 59.29(422) by adding a new unnumbered paragraph which clarifies that the rule takes precedence over rule 701—7.60(17A) which implements the uniform waiver rule found in Executive Order Number Eleven issued by the Governor.

These amendments will become effective March 29, 2000, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 422.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [40.3, 52.1, 52.5(2), 54.7(4), 54.7(7), 54.7(8), 54.9, 58.5(2), 59.29] is being omitted. These amendments are identical to those published under Notice as **ARC 9590A**, IAB 12/29/99.

[Filed 2/3/00, effective 3/29/00]
[Published 2/23/00]

[For replacement pages for IAC, see IAC Supplement 2/23/00.]

ARC 9699A

SECRETARY OF STATE[721]

Adopted and Filed

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State amends Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

These amendments reflect changes in the laws that pertain to the implementation of local option taxes. The amendments remove references that require counties to provide the Department of Revenue and Finance with at least 40 days' notice before the implementation of a local option tax. Amendments to Iowa Code chapters 422B and 422E in 1999 Iowa Acts, chapter 156, sections 9, 13 and 15, become effective on April 1, 2000, and require that implementation dates for local option taxes be at least 90 days after the election. Since the notice to the Department of Revenue and Finance is required to be given within 10 days after the election, references to the 40-day notice period are irrelevant.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 29, 1999, as **ARC 9560A**. No public comment was received. These amendments are identical to those published under Notice of Intended Action.

These amendments were adopted by the Secretary of State on February 2, 2000.

These amendments will become effective on April 1, 2000.

These amendments are intended to implement Iowa Code chapter 422B as amended by 1999 Iowa Acts, chapter 156, sections 9 and 13, and Iowa Code chapter 422E as amended by 1999 Iowa Acts, chapter 156, section 15.

The following amendments are adopted.

ITEM 1. Amend subparagraph **21.800(3)"b"(2)** to read as follows:

(2) The date the tax will be imposed (which shall be the next implementation date provided in Iowa Code section 422B.9 following the date of the election and ~~allowing for not less than 40 days' notice to be given to the director of revenue and finance~~ *at least 90 days after the date of the election*, except that an election to impose a local option tax on a date immediately following the scheduled repeal date of an existing similar tax may ~~not be held at any time in the more than 14 months or less than 90 days~~ *before the scheduled re-*

SECRETARY OF STATE[721](cont'd)

peal date and allowing for not less than 40 days' notice to be given to the director of revenue and finance). The imposition date shall be uniform in all areas of the county voting on the tax at the same election.

ITEM 2. Amend subrule 21.803(4) to read as follows:

21.803(4) Notice to the department of revenue and finance. Within 10 days after an election where a local sales and services tax for school infrastructure projects has been adopted, repealed or where the rate of the tax has been

changed, the county auditor shall provide written notice by sending a copy of the abstract of votes to the director of the department of revenue and finance. ~~This notice shall be given at least 40 days before the implementation date of the tax.~~

[Filed 2/3/00, effective 4/1/00]

[Published 2/23/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/00.

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Department of General Services
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