

IOWA ADMINISTRATIVE BULLETIN

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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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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)
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441 IAC 79.1(1)	(Subrule)
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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).

Schedule for Rule Making 2003

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
Jan. 3 '03	Jan. 22 '03	Feb. 11 '03	Feb. 26 '03	Feb. 28 '03	Mar. 19 '03	Apr. 23 '03	July 21 '03
Jan. 17	Feb. 5	Feb. 25	Mar. 12	Mar. 14	Apr. 2	May 7	Aug. 4
Jan. 31	Feb. 19	Mar. 11	Mar. 26	Mar. 28	Apr. 16	May 21	Aug. 18
Feb. 14	Mar. 5	Mar. 25	Apr. 9	Apr. 11	Apr. 30	June 4	Sept. 1
Feb. 28	Mar. 19	Apr. 8	Apr. 23	Apr. 25	May 14	June 18	Sept. 15
Mar. 14	Apr. 2	Apr. 22	May 7	May 9	May 28	July 2	Sept. 29
Mar. 28	Apr. 16	May 6	May 21	May 23	June 11	July 16	Oct. 13
Apr. 11	Apr. 30	May 20	June 4	June 6	June 25	July 30	Oct. 27
Apr. 25	May 14	June 3	June 18	June 20	July 9	Aug. 13	Nov. 10
May 9	May 28	June 17	July 2	July 4	July 23	Aug. 27	Nov. 24
May 23	June 11	July 1	July 16	July 18	Aug. 6	Sept. 10	Dec. 8
June 6	June 25	July 15	July 30	Aug. 1	Aug. 20	Sept. 24	Dec. 22
June 20	July 9	July 29	Aug. 13	Aug. 15	Sept. 3	Oct. 8	Jan. 5 '04
July 4	July 23	Aug. 12	Aug. 27	Aug. 29	Sept. 17	Oct. 22	Jan. 19 '04
July 18	Aug. 6	Aug. 26	Sept. 10	Sept. 12	Oct. 1	Nov. 5	Feb. 2 '04
Aug. 1	Aug. 20	Sept. 9	Sept. 24	Sept. 26	Oct. 15	Nov. 19	Feb. 16 '04
Aug. 15	Sept. 3	Sept. 23	Oct. 8	Oct. 10	Oct. 29	Dec. 3	Mar. 1 '04
Aug. 29	Sept. 17	Oct. 7	Oct. 22	Oct. 24	Nov. 12	Dec. 17	Mar. 15 '04
Sept. 12	Oct. 1	Oct. 21	Nov. 5	Nov. 7	Nov. 26	Dec. 31	Mar. 29 '04
Sept. 26	Oct. 15	Nov. 4	Nov. 19	***Nov. 19***	Dec. 10	Jan. 14 '04	Apr. 12 '04
Oct. 10	Oct. 29	Nov. 18	Dec. 3	Dec. 5	Dec. 24	Jan. 28 '04	Apr. 26 '04
Oct. 24	Nov. 12	Dec. 2	Dec. 17	***Dec. 17***	Jan. 7 '04	Feb. 11 '04	May 10 '04
Nov. 7	Nov. 26	Dec. 16	Dec. 31	Jan. 2 '04	Jan. 21 '04	Feb. 25 '04	May 24 '04
Nov. 19	Dec. 10	Dec. 30	Jan. 14 '04	Jan. 16 '04	Feb. 4 '04	Mar. 10 '04	June 7 '04
Dec. 5	Dec. 24	Jan. 13 '04	Jan. 28 '04	Jan. 30 '04	Feb. 18 '04	Mar. 24 '04	June 21 '04
Dec. 17	Jan. 7 '04	Jan. 27 '04	Feb. 11 '04	Feb. 13 '04	Mar. 3 '04	Apr. 7 '04	July 5 '04
Jan. 2 '04	Jan. 21 '04	Feb. 10 '04	Feb. 25 '04	Feb. 27 '04	Mar. 17 '04	Apr. 21 '04	July 19 '04

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
13	Friday, December 5, 2003	December 24, 2003
14	Wednesday, December 17, 2003	January 7, 2004
15	Friday, January 2, 2004	January 21, 2004

PLEASE NOTE:

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

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

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

PUBLICATION PROCEDURES

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The Administrative Rules Review Committee will hold its regular, statutory at 9 a.m. on Tuesday, December 9, 2003, and Wednesday, December 10, 2003, in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Department organization, adopt ch 1; rescind 401—ch 1, 471—ch 1, 581—19.1, <u>Notice</u> ARC 2788B , <u>Terminated</u> ARC 2933B	11/12/03
Public records and fair information practices, adopt ch 4; rescind 401—ch 2, 471—ch 2, 581—ch 17, <u>Notice</u> ARC 2936B	11/12/03
Petitions for rule making, adopt ch 5; rescind 401—ch 18, 471—ch 3, 581—19.14, <u>Filed</u> ARC 2952B	11/26/03
Agency procedure for rule making, adopt ch 6; rescind 401—ch 19, 471—ch 4, 581—ch 31, <u>Filed</u> ARC 2951B	11/26/03
Declaratory orders, adopt ch 8; rescind 401—ch 17, 471—ch 5, 581—19.2 to 581—19.13, <u>Filed</u> ARC 2950B	11/26/03
Waivers, adopt ch 9; rescind 401—ch 20, 471—ch 7, 581—ch 33, <u>Notice</u> ARC 2938B	11/12/03
Information technology operational standards; information technology development strategies and activities, renumber 471—chs 12, 15 as 11—chs 25, 26; amend 25.1, 25.2(1), 25.2(2), 25.4(1), 25.4(3), 25.5(1), 25.5(2), 25.6 to 25.8, <u>Notice</u> ARC 2947B	11/26/03
Human resources definitions, renumber 581—ch 1 as 11—ch 50; amend 50.1, <u>Notice</u> ARC 2946B	11/26/03
Coverage and exclusions; job classification; separations, disciplinary actions and reduction in force; grievances and appeals, renumber 581—chs 2, 3, 11, 12 as 11—chs 51, 52, 60, 61; amend 51.2, 51.4, 52.4(4), 52.4(6), 52.5(4), 52.5(6), 52.7, 60.2(4) to 60.2(6), 60.3(7), 61.1, <u>Notice</u> ARC 2949B	11/26/03
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Sorghum, rescind ch 59, <u>Filed</u> ARC 2958B	11/26/03
Feeder pig dealer bonding/letter of credit requirement, 66.13, 66.20“1,” <u>Notice</u> ARC 2957B	11/26/03

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- Waste tire management—parenthetical implementations updated,
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- Officers of a candidate's committee, 4.4(1), Filed ARC 2968B 11/26/03
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- "Paid for by" attribution statement on political materials and advertisements,
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- "Paid for by" attribution statement on Web sites, 4.42(2), Filed ARC 2966B 11/26/03
- Filing of campaign disclosure reports—use of computer owned by corporate
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- Petitions for rule making; executive branch lobbying, chs 8, 13, Filed ARC 2964B 11/26/03

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New capital investment program tax credits, 42.19, 52.22, 58.12, <u>Filed ARC 2954B</u>	11/26/03
Motor fuel—definition of "nonterminal storage facility," record keeping, tax rate for gasoline, tax refund for fuel used for public purposes by benefited fire districts, 67.1, 67.3(9) to 67.3(13), 68.2(1), 68.8(20), 69.4(3), <u>Filed ARC 2955B</u>	11/26/03
Property tax credits and exemptions, 78.6(1)"c," 80.2(2)"c" and "t," 80.7(8)"b," <u>Filed ARC 2943B</u>	11/12/03

SECRETARY OF STATE[721]

Electronic transmission of election results, 22.1, 22.3(3), 22.5(3), 22.30, <u>Filed ARC 2939B</u>	11/12/03
Election administration—administrative complaint procedure, adopt ch 25, <u>Filed ARC 2928B</u>	11/12/03

TRANSPORTATION DEPARTMENT[761]

Airport improvement program; commercial air service marketing program; commercial air service vertical infrastructure program; Iowa airport registration, 700.2, 710.3, 710.4(3)"b," 710.5(3), 715.3(3) to 715.5, 715.7, 715.7(5), 716.1, 716.3, 716.5(1) to 716.5(3), 716.6, 716.7(2), 716.8(3), 720.4(1), 720.4(5), 720.4(6), 720.5(1), 720.10(2)"b," 720.10(3)"a," <u>Notice ARC 2914B</u>	11/12/03
General aviation hangar revolving loan fund, rescind ch 718, <u>Notice ARC 2913B</u>	11/12/03

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Revisions required pursuant to executive order nos. 8 and 9, 19.1(1), 19.1(2), 19.2, 19.3, 19.5(2), 19.5(3), 19.6(5) to 19.6(7), 19.7(4), 19.7(7), 19.9, 19.10(1)"d," 19.10(5), 19.11, 19.12(4), 19.13(4)"c," 19.15, 19.16(5), 20.1, 20.2, 20.2(2), 20.2(3) to 20.2(5), 20.3(3), 20.3(6), 20.3(13), 20.6(5) to 20.6(7), 20.7(8), 20.8(3), 20.10(2)"c," 20.10(7) to 20.10(9), 20.11, 20.12, 20.14(4), 20.15 to 20.17, 21.1, 21.12(1), 21.3(5)"e," 21.6(6), 35.14, 35.15, 36.7, 36.8, <u>Filed ARC 2932B</u>	11/12/03
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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, 2007.

Senator Jeff Angelo
808 West Jefferson
Creston, Iowa 50801

Senator Michael Connolly
3458 Daniels Street
Dubuque, Iowa 52002

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Senator Paul McKinley
Route 5, Box 101H
Chariton, Iowa 50049

Senator Donald Redfern
415 Clay Street
Cedar Falls, Iowa 50613

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Grinnell, Iowa 50112

Representative George Eichhorn
3533 Fenton Avenue
Stratford, Iowa 50249

Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

Representative David Heaton
510 East Washington
Mt. Pleasant, Iowa 52641

Representative Geri Huser
213 Seventh Street NW
Altoona, Iowa 50009

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

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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ADMINISTRATIVE SERVICES DEPARTMENT[11]

Benefits, rescind 581—ch 15; adopt 11—ch 64 IAB 11/12/03 ARC 2937B	Conference Room 4 Level A-South Hoover State Office Bldg. Des Moines, Iowa	December 3, 2003 11 a.m.
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DENTAL EXAMINERS BOARD[650]

Graduates of foreign dental schools, 11.2(2), 11.3(2), 11.4 IAB 11/12/03 ARC 2919B	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	December 9, 2003 10 a.m.
Impaired practitioner review committee, amendments to ch 35 IAB 11/12/03 ARC 2918B	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	December 9, 2003 10 a.m.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

University-based research utilization program, ch 63 IAB 11/12/03 ARC 2916B	Northwest Conference Room Second Floor 200 E. Grand Ave. Des Moines, Iowa	December 2, 2003 2 to 3 p.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Mandatory reporting of contract nonrenewal or termination or resignation based on allegations of misconduct, 11.37 IAB 11/12/03 ARC 2929B	Room 2 South Second Floor Grimes State Office Bldg. Des Moines, Iowa	December 9, 2003 1 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Manure applicator certification, 65.1, 65.19 IAB 11/12/03 ARC 2924B (See also ARC 2923B)	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 3, 2003 1 p.m.
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IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

General, rescind 581—21.1, 21.9, 21.32, 21.33, ch 22; adopt 495—chs 1 to 3, 17, 19, 22, 26, 30 to 33 IAB 11/12/03 ARC 2926B	7401 Register Dr. Des Moines, Iowa	December 2, 2003 9 a.m.
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LAW ENFORCEMENT ACADEMY[501]

Reserve officer personal standards, 10.100 to 10.106 IAB 11/26/03 ARC 2978B	Conference Room Law Enforcement Academy Camp Dodge Johnston, Iowa	December 30, 2003 10 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Cosmetology arts and sciences examiners, 60.4, 60.6, 60.9 to 60.13, 62.1(5) IAB 11/26/03 ARC 2960B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	December 17, 2003 10 to 11 a.m.
Psychology examiners, 240.6(1), 240.10, 240.12, 240.16, 240.17, 243.1 IAB 11/26/03 ARC 2959B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	December 18, 2003 9 to 10 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Volunteer health care provider program, ch 88 IAB 11/26/03 ARC 2975B	Room 517, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	December 16, 2003 1 to 2 p.m.
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TRANSPORTATION DEPARTMENT[761]

Aeronautics, amendments to chs 700, 710, 715, 716, 720 IAB 11/12/03 ARC 2914B	Modal Division Conference Room 800 Lincoln Way Ames, Iowa	December 5, 2003 9 a.m. (If requested)
General aviation hangar revolving loan fund, rescind ch 718 IAB 11/12/03 ARC 2913B	Modal Division Conference Room 800 Lincoln Way Ames, Iowa	December 5, 2003 10 a.m. (If requested)

UTILITIES DIVISION[199]

Eligible telecommunications carrier designation for wireless carriers, 39.2(5), 39.5 IAB 9/17/03 ARC 2773B	Hearing Room 350 Maple St. Des Moines, Iowa	December 10, 2003 10 a.m.
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

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

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation 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]
 Grow Iowa Values Board[264]
 Iowa Finance Authority[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 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]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]
INFORMATION TECHNOLOGY DEPARTMENT[471]
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]
LOTTERY AUTHORITY, IOWA[531]
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 for[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 DEPARTMENT[701]
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]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 2947B

ADMINISTRATIVE SERVICES DEPARTMENT[11]

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 2003 Iowa Acts, House File 534, section 4, the Department of Administrative Services hereby gives Notice of Intended Action to amend and transfer rules of the former Department of Information Technology[471], Chapter 12, “Information Technology Operational Standards,” and Chapter 15, “Information Technology Development Strategies and Activities,” to the Department of Administrative Services[11], Chapter 25, “Information Technology Operational Standards,” and Chapter 26, “Information Technology Development Strategies and Activities,” Iowa Administrative Code.

The purpose of this proposed rule making is to comply with statutory changes enacted by the First Session of the 80th General Assembly, 2003 Iowa Acts, House File 534, signed by the Governor on May 23, 2003, by transferring rules from the former Department of Information Technology to the new Department of Administrative Services. Changes are solely editorial in nature.

The Department will accept public comments on the proposed amendments until 4:30 p.m. on December 16, 2003. Interested persons may submit written, oral or electronic comments to Carol Stratemeyer, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0104; telephone (515)281-6134; fax (515)281-6140; or E-mail Carol.Stratemeyer@iowa.gov.

These amendments are intended to implement 2003 Iowa Acts, House File 534, sections 4 and 17 to 22.

The following amendments are proposed.

ITEM 1. Transfer **471—Chapter 12** to **11—Chapter 25** and **471—Chapter 15** to **11—Chapter 26**.

ITEM 2. Amend **11—Chapters 25** and **26** by replacing all internal references with references to Chapter 25 and Chapter 26, respectively.

ITEM 3. Amend **11—Chapters 25** and **26** by changing all references to Iowa Code chapter 14B to 2003 Iowa Acts, House File 534.

ITEM 4. Amend **11—25.1(80GA,HF534)**, definition of “participating agency,” as follows:

“Participating agency” means all executive branch agencies except the following:

1. to 3. No change.
4. The department of public safety law enforcement communications systems and *security systems in use for the legislature*.
5. No change.
6. *The Iowa lottery*.
7. *A judicial district department of correctional services established pursuant to Iowa Code section 905.2.*

ITEM 5. Amend subrule 25.2(1) as follows:

25.2(1) The information technology department is required to develop, *in consultation with the information technology council as established in 2003 Iowa Acts, House File 534, section 20*, and implement information technology and standards through a process as set forth in this chapter. It is the intent of the general assembly that information technology standards be established for the purpose of guiding the procurement of information technology *by all participating agencies*.

ITEM 6. Amend subrule 25.2(2) as follows:

25.2(2) The goal of the department is to ensure compatibility and interoperability of state government information technology systems, while at the same time promoting effective technology alignment with enterprise strategies and programs *develop and implement effective and efficient strategies for the use and provision of information technology for participating agencies and other governmental entities*.

ITEM 7. Amend subrules **25.4(1)** and **25.4(3)** by replacing “information technology department” with “department.”

ITEM 8. Amend subrules 25.5(1) and 25.5(2) as follows:

25.5(1) The director of the information technology department is charged with recommending standards.

25.5(2) Implementation of operational standards. The department shall implement information technology standards which are applicable to information technology operations by participating agencies, including but not limited to system design and systems integration and interoperability for participating agencies, pursuant to Iowa Code section 14B.102(2)“d.” *2003 Iowa Acts, House File 534, section 18.*

ITEM 9. Amend 11—25.6(80GA,HF534) as follows:

11—25.6(80GA,HF534) Waivers of operational standards. Participating agencies may apply directly to the information technology department for a waiver of a current or proposed standard. The director of the information technology department, upon the written request of a participating agency and for good cause shown, may grant a waiver from a requirement otherwise applicable to a participating agency relating to an information technology standard established by the information technology department.

ITEM 10. Amend 11—25.7(80GA,HF534) as follows:

11—25.7(80GA,HF534) Review of operational standards by the public and period of public comment.

25.7(1) Interested members of the public may participate in the process of establishing standards by providing written comments to ~~Director~~ *the Administrator*, Information Technology Department *Enterprise*, Hoover State Office Building, Level B, Des Moines, Iowa 50319. Comments will be accepted for a period of ten days after the initial posting of the standard by the department on the department’s Web site at <http://www.state.ia.us/government/its/Standards%20&%20Policies/ITStandards/index.htm>. ~~<http://www.iowaccess.org/government/its/ITStandards/index.html>~~

25.7(2) Interested members of the public may inquire about standards currently being considered for recommendation by the director by telephoning the information technology department *enterprise*, administrator of policy and planning, at (515)281-5503; in writing to Information Technology Department *Enterprise*, Hoover State Office Building, Level B, Des Moines, Iowa 50319; or by accessing the department’s Web site at <http://www.state.ia.us/government/>

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

[its/Standards%20&%20Policies/ITStandards/index.htm](http://www.iowaccess.org/government/its/ITStandards/index.htm)
<http://www.iowaccess.org/government/its/ITStandards/index.html>.

ITEM 11. Amend **11—25.8(80GA, HF534)** by replacing “information technology department” with “department.”

ARC 2946B

ADMINISTRATIVE SERVICES DEPARTMENT[11]

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 2003 Iowa Acts, House File 534, sections 4 and 61, the Department of Administrative Services hereby gives Notice of Intended Action to amend and transfer rules of the former Department of Personnel[581], Chapter 1, “Definitions,” to the Department of Administrative Services[11], Chapter 50, “Human Resources Definitions,” Iowa Administrative Code.

The purpose of this proposed rule making is to comply with statutory changes enacted by the 80th General Assembly, 2003 Iowa Acts, House File 534, signed by the Governor on May 23, 2003. Content changes are solely editorial in nature.

The Department will accept public comments on the proposed amendments until 4:30 p.m. on December 16, 2003. Interested persons may submit written, oral or electronic comments to Carol Stratemeyer, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0104; telephone (515)281-6134; fax (515)281-6140; or E-mail Carol.Stratemeyer@iowa.gov.

These amendments are intended to implement 2003 Iowa Acts, House File 534, section 4.

The following amendments are proposed.

ITEM 1. Transfer **581—Chapter 1**, “Definitions,” to **11—Chapter 50**, “Human Resource Definitions,” and change all internal references to Chapter 1 to Chapter 50.

ITEM 2. Amend rule **11—50.1(80GA, HF534)** as follows:

Amend the definition of “act” as follows:

“Act” means ~~2003 Iowa Code chapter 19A Acts, House File 534, creating the department of personnel administrative services.~~

Amend the definition of “compensatory leave” as follows:

“Compensatory leave” means leave accrued as a result of overtime, call back, ~~standby~~, holidays, or holiday work.

Amend the definition of “department” as follows:

“Department” means the Iowa department of ~~personnel administrative services.~~

Amend the definition of “director” as follows:

“Director” means the director of the Iowa department of ~~personnel administrative services~~ or the director’s designee.

Amend the definition of “merit system” by changing “Iowa Code chapter 19A” to “2003 Iowa Acts, House File 534.”

Amend the definition of “overtime” as follows:

“Overtime” means those hours that exceed 40 in a work-week for which an *eligible* employee is entitled to be compensated.

Amend the definition of “overtime covered class, employee, or position” as follows:

“Overtime covered class, employee, or position” means a class, employee, or position determined to be eligible for premium overtime compensation ~~in accordance with the federal Fair Labor Standards Act.~~

Amend the definitions of “permanent employee” and “probationary employee” by changing “Iowa Code section 19A.2A, unnumbered paragraph 3,” to “2003 Iowa Acts, House File 534, section 59,” and by changing “Iowa Code subsection 19A.9(8)” to “2003 Iowa Acts, House File 534, subsection 61.”

Amend the definition of “permanent employment” by changing “581 IAC 15.1(19A) or 15.2(19A)” to “11 IAC 64.1(80GA, HF534) or 64.2(80GA, HF534).”

ITEM 3. Amend rule **11—50.1(80GA, HF534)**, implementation sentence, as follows:

This rule is intended to implement ~~Iowa Code section 19A.9 2003 Iowa Acts, House File 534, section 4.~~

ARC 2949B

ADMINISTRATIVE SERVICES DEPARTMENT[11]

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 2003 Iowa Acts, House File 534, section 4, the Department of Administrative Services hereby gives Notice of Intended Action to amend and transfer rules of the former Department of Personnel[581], Chapter 2, “Coverage and Exclusions”; Chapter 3, “Job Classification”; Chapter 11, “Separations, Disciplinary Actions, and Reduction in Force”; and Chapter 12, “Grievances and Appeals,” to Department of Administrative Services[11], Chapter 51, “Coverage and Exclusions”; Chapter 52, “Job Classification”; Chapter 60, “Separations, Disciplinary Actions, and Reduction in Force”; and Chapter 61, “Grievances and Appeals,” Iowa Administrative Code.

The purpose of this proposed rule making is to comply with statutory changes enacted by the 80th General Assembly, 2003 Iowa Acts, House File 534, signed by the Governor on May 23, 2003. Differences between the original chapters and the transferred chapters include:

1. **11—52.5(4)** clarifies the time period for scheduling a classification appeal.

2. Chapter 52 does not contain rule 581—3.7(19A), Job Classification, concerning eligibility for “protection occupation” coverage within the Iowa Public Employees’ Retirement System, which was formerly an autonomous division of the Department of Personnel. With enactment of 2003 Iowa Acts, House File 534, the organizational relationship between the Department of Personnel and the Iowa Public Employees’ Retirement System was severed. Therefore, matters pertaining to the eligibility of employees within the retire-

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ment system are now within the sole purview of the Iowa Public Employees' Retirement System.

3. Subrules distinguishing between actions relating to a failure of an employee to maintain a required license or certificate and a discharge for cause are renumbered to provide a clear distinction between appeals concerning disciplinary actions and grievances alleging a violation of statute or rule.

The Department will accept public comments on the proposed rules until 4:30 p.m. on December 16, 2003. Interested persons may submit written, oral or electronic comments to Carol Stratemeyer, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0104; telephone (515)281-6134; fax (515)281-6140; or E-mail Carol.Stratemeyer@iowa.gov.

These rules are intended to implement 2003 Iowa Acts, House File 534, article 4, sections 57 through 61, 63, 75, 77, 78, 80, and 81.

The following amendments are proposed.

ITEM 1. Transfer **581—Chapter 2 to 11—Chapter 51; 581—Chapter 3 to 11—Chapter 52; 581—Chapter 11 to 11—Chapter 60; and 581—Chapter 12 to 11—Chapter 61** and change all references accordingly.

ITEM 2. Except as otherwise specified below, amend **11—Chapters 51, 52, 60 and 61** by replacing all references to Iowa Code chapter 19A with references to 2003 Iowa Acts, House File 534.

ITEM 3. Amend rule 11—51.2(80GA,HF534) as follows:

11—51.2(80GA,HF534) Merit system. The merit system shall include and apply to those positions in the state personnel system which have been determined by the director to be covered by the provisions of ~~Iowa Code chapter 19A~~ *2003 Iowa Acts, House File 534, section 59*, as it pertains to qualifications, examinations, probation, and just cause discipline and discharge hearings, hereafter referred to as merit system provisions. Whenever the director determines that a position should be covered by or not covered by merit system provisions, the director shall notify the appointing authority in writing of the decision and the effective date.

51.2(1) Exclusion of division administrators and policy-making positions. The appointing authority of each agency shall submit to the director for approval the position number and title of each position referred to in ~~Iowa Code section 19A.3~~ *2003 Iowa Acts, House File 534, section 60*, proposed for exclusion from coverage by the merit system provisions referred to in ~~Iowa Code section 19A.2A, unnumbered paragraph 3~~ *2003 Iowa Acts, House File 534, section 59(4)*. Subsequent changes in the number or duties of these positions shall be submitted to the director for exclusion approval.

51.2(2) Exclusion of confidential employees. Confidential employees excluded from coverage by merit system provisions shall be as provided for in ~~581—Chapter 11—Chapter 50~~.

51.2(3) Other exclusions. For further information regarding exclusions from merit system coverage, refer to ~~Iowa Code section 19A.3~~ *2003 Iowa Acts, House File 534, section 60*.

ITEM 4. Amend rule 11—51.4(80GA,HF534) as follows:

11—51.4(80GA,HF534) Personnel services contracts. Individuals providing services to the state pursuant to an authorized fee-for-services contract, including persons supplied by

a temporary employment service, are not employees of the state. Persons providing services under this rule who are determined to have a common law employer-employee relationship with the state may, however, be subject to withholding for certain taxes, social security, Medicare, and FUTA *federal unemployment taxes under the Federal Unemployment Tax Act*.

ITEM 5. Amend **11—Chapter 51**, implementation clause, as follows:

These rules are intended to implement ~~Iowa Code section 19A.9~~ *2003 Iowa Acts, House File 534, section 61*, and Iowa Code chapters ~~19A, 19B and 70A~~.

ITEM 6. Amend subrules 52.4(4) and 52.4(6) as follows:

52.4(4) Position classification review decision.

a. Notice of a position classification review decision shall be given by the department to the incumbent and to the appointing authority.

b. The decision shall become final unless the appointing authority or the incumbent submits a request for reconsideration to the department.

c. The request for reconsideration shall be in writing, state the reasons for the request and the specific classification requested, and must be received in the department within 30 calendar days following the date the decision was issued.

d. The final position classification decision in response to a request for reconsideration shall be issued by the department within 30 calendar days following receipt of the request.

52.4(6) Following a final position classification review decision, any subsequent request for review of the same position must be accompanied by a showing of substantive changes from the position description questionnaire upon which the previous decision was based.

a. A new position description questionnaire must be prepared and all new and substantively changed duties must be identified as such on the new questionnaire.

b. The absence of a showing of substantive changes in duties shall result in the request's being returned to the requester.

c. A decision to return a request for failing to show substantive change in duties may be appealed to the classification appeal committee in accordance with ~~581—3.5(19A) 11—52.5(80GA,HF534)~~.

d. The classification appeal committee shall rule only on the issue of whether a substantive change in duties has been demonstrated by the appellant.

e. The appellant has the burden of proof to show by a preponderance of evidence that there has been a substantive change in duties.

ITEM 7. Amend subrules 52.5(4) and 52.5(6) as follows:

52.5(4) Hearings.

a. The classification appeal committee ~~hearing shall be scheduled~~ *schedule a hearing* within 30 calendar days following receipt of the request for a hearing unless otherwise mutually agreed to in writing and signed by the parties.

b. All exhibits to be entered into evidence at the hearing shall be exchanged between the parties prior to the hearing.

c. The hearing shall be held at the Grimes State Office Building during the regular business hours of the department.

d. The appellant shall carry the burden of proof to show by a preponderance of evidence that the duties of the requested job classification are assigned and carried out on a permanent basis and are performed over 50 percent of the time.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

e. The committee shall grant or deny the job classification requested, remand the request to the director for further review, or decide whether there has been a substantive change in duties pursuant to an appeal under subrule ~~3.4(6) or 3.5(6)~~ 52.4(6) or 52.5(6).

f. The committee's written decision shall be issued within 30 calendar days following the close of the hearing and the receipt of any posthearing submissions. The written decision of the committee shall constitute final agency action.

52.5(6) Following a final classification appeal committee decision, any subsequent request for review of the same position must be accompanied by a showing of substantive changes from the position description questionnaire upon which the previous decision was based.

a. A new position description questionnaire must be prepared, and all new and substantively changed duties must be identified as such on the new questionnaire.

b. The absence of such a showing of substantive changes in duties shall result in the request's being returned to the requester.

c. A decision to return a request for failing to show substantive change in duties as defined in subrule ~~3.5(7)~~ 52.5(7) may be appealed to the classification appeal committee in accordance with ~~581—3.5(19A) 11—52.5(80GA, HF534)~~.

d. The classification appeal committee shall rule only on the issue of whether a substantive change in duties has been demonstrated by the appellant.

e. The appellant has the burden of proof to show by a preponderance of evidence that there has been a substantive change in duties.

ITEM 8. Amend subrule **52.5(7)** by replacing the cross reference to 581 IAC subrules 3.4(6) and 3.5(6) with a cross reference to subrules 52.4(6) and 52.5(6).

ITEM 9. Amend subrule **52.6(3)** by replacing the cross reference to subrule 3.6(2) with a cross reference to subrule 52.6(2).

ITEM 10. Amend subrule **52.6(4)** by replacing the cross reference to 581—11.3(19A) with a cross reference to 11—60.3(80GA, HF534).

ITEM 11. Amend subrule **52.6(6)** by replacing the cross reference to 581—Chapter 11 with a cross reference to 11—Chapter 60.

ITEM 12. Rescind rule **11—52.7(80GA, HF534)**.

ITEM 13. Amend paragraph **60.1(1)“a”** by replacing the cross reference to 581—Chapter 12 with a cross reference to 11—Chapter 61.

ITEM 14. Amend paragraph **60.1(1)“d”** by replacing the cross reference to 581—subrules 14.6(2) and 14.9(2) with a cross reference to 11—subrules 63.6(2) and 63.9(2).

ITEM 15. Amend **60.1(4)“a”(1)“2,”** four bulleted statements, by replacing the cross references to 11.1(4)“a”(1)“1” with cross references to 60.1(4)“a”(1)“1.”

ITEM 16. Amend paragraph **60.1(4)“g”** by replacing the cross reference to 11.4(1)“d” with a cross reference to 60.4(1)“d.”

ITEM 17. Amend **60.1(5)“a”(1)“2,”** four bulleted statements, by replacing the cross references to 11.1(5)“a”(1)“1” with cross references to 60.1(5)“a”(1)“1.”

ITEM 18. Amend paragraph **60.1(5)“g”** by replacing the cross reference to 11.1(5)“d” with a cross reference to

60.1(5)“d.”

ITEM 19. Amend paragraph **60.2(1)“a”** by replacing the cross reference to 11.2(1)“b”(1) with a cross reference to 60.2(1)“b”(1).

ITEM 20. Amend subrules 60.2(4) and 60.2(5) as follows:

60.2(4) Discharge. An appointing authority may discharge an employee. Prior to the employee's being discharged, the appointing authority shall inform the employee during a face-to-face meeting of the impending discharge and the reasons for the discharge, and at that time the employee shall have the opportunity to respond. A written statement of the reasons for the discharge shall be sent to the employee within 24 hours after the effective date of the discharge, and a copy shall be sent to the director by the appointing authority at the same time.

60.2(5) *Termination for failure to meet job requirements.* When an employee occupies a position where a current qualification for appointment is based upon the required possession of a temporary work permit or on the basis of possession of a license or certificate, and that document expires, is revoked or is otherwise determined to be invalid, the employee shall either be ~~discharged~~ removed from the payroll for failure to meet or maintain license or certificate requirements, or otherwise appointed to another position in accordance with these rules. This action shall be effective no later than the pay period following the failure to obtain, revocation of, or expiration of the permit, license, or certificate.

When an employee occupies a position where a current qualification for appointment is based upon the requirement of an approved background or records investigation and that approval is later withdrawn or unobtainable, the employee shall be immediately ~~discharged~~ removed from the payroll for failure to maintain those background or records requirements or may be appointed to another position in accordance with these rules.

~~**60.2(5)**~~ **60.2(6)** Appeal of a suspension, reduction of pay within the same pay grade, disciplinary demotion or discharge shall be in accordance with ~~581—Chapter 12 11—Chapter 61~~. The written statement to the employee or the reasons for the discipline shall include the verbatim content of ~~581—subrule 12.2(6) 11—subrule 61.2(6)~~.

ITEM 21. Amend rule **11—60.3(80GA, HF534)**, introductory paragraph, by replacing the cross reference to subrule 11.3(1) with a cross reference to subrule 60.3(1).

ITEM 22. Amend **60.3(3)“b”(2)**, first unnumbered paragraph, by replacing the cross reference to 11.3(3)“b”(1) with a cross reference to 60.3(3)“b”(1).

ITEM 23. Amend paragraph **60.3(6)“b”** by replacing the cross references to subrules 11.3(5) and 11.3(6) with cross references to subrules 60.3(5) and 60.3(6), respectively.

ITEM 24. Amend paragraph **60.3(6)“h”** by replacing the cross references to 581—subrule 14.2(2), paragraph “1,” and 581—subrule 14.3(10), respectively, with cross references to 11—subrule 63.2(2), paragraph “1,” and 11—subrule 63.3(10).

ITEM 25. Amend subrule 60.3(7) as follows:

60.3(7) Reduction in force shall not be used to avoid or circumvent the provisions or intent of ~~Iowa Code chapter 49A 2003 Iowa Acts, House File 534, section 61~~, or these rules governing reclassification, disciplinary demotion, or discharge. Actions alleged to be in noncompliance with this

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

rule may be appealed in accordance with 581—Chapter 12 11—Chapter 61.

ITEM 26. Amend **11—Chapter 60**, implementation clause, as follows:

These rules are intended to implement Iowa Code section 19A.9 2003 Iowa Acts, House File 534, section 61.

ITEM 27. Amend rule **11—61.1(80GA,HF533)**, first unnumbered paragraph, as follows:

Grievances shall state the issues involved, the relief sought, the date the incident or violation took place and any rules involved, and shall be filed on forms prescribed by the director. Grievances involving suspension, reduction in pay within the same pay grade, disciplinary demotion, or discharge shall be filed as appeals in accordance with subrule 12.2(6) 61.2(6) and commence with Step 3 of the grievance procedure described in subrule 61.1(1).

ITEM 28. Amend paragraphs **61.1(1)“c”** and **61.1(1)“d”** by replacing the cross references to 581—subrule 12.2(5) and 12.2(5), respectively, with cross references to subrule 61.2(5).

ITEM 29. Amend paragraph **61.2(1)“a”** by replacing the cross reference to 581—3.5(19A) with a cross reference to 11—52.5(80GA,HF534).

ITEM 30. Amend paragraph **61.2(1)“d”** by replacing the cross reference to 581—11.3(19A) with a cross reference to 11—60.3(80GA,HF534).

ITEM 31. Amend subrule **61.2(5)** by replacing both cross references to Iowa Code chapter 19A with a cross reference to 2003 Iowa Acts, House File 534.

ITEM 32. Amend subrule **61.2(6)** by replacing the cross reference to 581—12.1(19A) with a cross reference to 11—61.1(80GA,HF534) and by replacing the cross reference to 581—subrule 12.2(5) with a cross reference to 11—subrule 61.2(5).

ITEM 33. Amend subrule **61.2(7)** by replacing the cross reference to subrule 12.2(6) or subrule 12.2(1) with a cross reference to subrule 61.2(6) or subrule 61.2(1).

ITEM 34. Amend subrule **61.2(8)** by replacing the cross reference to rule 581—12.2(19A) with a cross reference to rule 11—61.2(80GA,HF534).

ITEM 35. Amend **11—Chapter 61**, implementation clause, as follows:

These rules are intended to implement Iowa Code section 19A.9 2003 Iowa Acts, House File 534, section 61.

ARC 2948B**ADMINISTRATIVE SERVICES DEPARTMENT[11]****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 2003 Iowa Acts, House File 534, section 4, the Department of Administrative Services

hereby gives Notice of Intended Action to amend and transfer rules of the former General Services Department[401], Chapter 14, “Organization and Operation of Terrace Hill,” and Chapter 16, “Terrace Hill Endowment for the Musical Arts,” to Administrative Services Department[11], Chapter 114, “Organization and Operation of Terrace Hill,” and Chapter 116, “Terrace Hill Endowment for the Musical Arts,” Iowa Administrative Code.

These amendments are for the purpose of converting these two chapters from the authority of the former Department of General Services to the new statutorily established Department of Administrative Services. Content changes are merely editorial in nature.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on December 16, 2003. Interested persons may submit written, oral or electronic comments by contacting Carol Stratemeyer, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0104; telephone (515) 281-6134; fax (515)281-6140; E-mail Carol.Stratemeyer@iowa.gov.

These amendments are intended to implement 2003 Iowa Acts, House File 534.

The following amendments are proposed.

ITEM 1. Transfer **401—Chapter 14** to **11—Chapter 114** and **401—Chapter 16** to **11—Chapter 116**.

ITEM 2. Amend **11—Chapters 114** and **116** by replacing all references to Iowa Code chapter 18 with references to 2003 Iowa Acts, House File 534.

ITEM 3. Amend **11—Chapters 114** and **116** by replacing all references to Iowa Code section 303.17 or Iowa Code section 18.8A with references to 2003 Iowa Acts, House File 534, section 41.

ITEM 4. Amend subrule 114.7(1) as follows:

114.7(1) Address. Terrace Hill is located at 2300 Grand Avenue, Des Moines, Iowa 50312. Telephone number ~~(515) 281-3604~~ (515)281-7205.

ARC 2957B**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****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 159.5 and 163.1 and 2003 Iowa Acts, House File 617, section 5, the Department of Agriculture and Land Stewardship gives Notice of Intended Action to amend Chapter 66, “Livestock Movement,” Iowa Administrative Code.

These proposed amendments are intended to implement 2003 Iowa Acts, House File 617. The proposed amendments establish a financial requirement of a bond or an irrevocable letter of credit for feeder pig dealers. This bond or letter of credit is to provide a secured asset for the recovery of damages incurred by a feeder pig purchaser who suffers damages because of sick or diseased pigs obtained from a feeder pig

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

dealer or who otherwise suffers damages arising from a breach of contract by the feeder pig dealer. The amount of the bond is to be set on a sliding scale based upon the volume of sales by the feeder pig dealer.

Any interested person may make written suggestions or comments on the proposed amendments until 4:30 p.m. on December 16, 2003. Such written material should be directed to Dr. David Schmitt, Assistant State Veterinarian, Animal Industry Bureau, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)281-4282 or by E-mail to David.Schmitt@idals.state.ia.us.

There are no waiver provisions in these amendments; however, the Department's general waiver rules apply to these proposed amendments.

These amendments are intended to implement Iowa Code section 163.30 and 2003 Iowa Acts, House File 617.

The following amendments are proposed.

ITEM 1. Amend 21—Chapter 66 by adding the following **new** rule:

21—66.13(163,80GA,HF617) Feeder pig dealer bonding/letter of credit requirement.

66.13(1) In addition to the bond required in Iowa Code section 163.30, a feeder pig dealer shall provide the department with evidence of financial responsibility consisting of a surety bond furnished by a surety or an irrevocable letter of credit issued by a financial institution. The evidence of financial responsibility shall be provided to the department before the feeder pig dealer's license is issued or renewed pursuant to Iowa Code section 163.30. The evidence of additional financial responsibility shall not be for less than \$50,000 or for more than \$300,000.

66.13(2) The amount of financial responsibility shall be based on the annual volume of feeder pig sales in Iowa reported by the feeder pig dealer to the department or, at the option of the feeder pig dealer, the annual volume of all livestock or feeder pig sales reported to the United States Packers and Stockyards Administration. The following table shall be used to determine the level of additional financial responsibility:

TABLE FOR COMPUTING SURETY BOND OR IRREVOCABLE LETTER OF CREDIT EQUIVALENTS

Volume Range in Dollars (not less than)	(not more than)	Additional Financial Responsibility Required
\$ 1	\$ 6,500,000	\$ 50,000
6,500,001	7,150,000	63,000
7,150,001	7,800,000	76,000
7,800,001	8,450,000	89,000
8,450,001	9,100,000	102,000
9,100,001	9,750,000	115,000
9,750,001	16,250,000	128,000
16,250,001	22,750,000	141,000
22,750,001	29,250,000	154,000
29,250,001	35,750,000	167,000
35,750,001	42,250,000	180,000
42,250,001	48,750,000	193,000
48,750,001	55,250,000	206,000
55,250,001	61,750,000	219,000
61,750,001	68,250,000	232,000
68,250,001	74,750,000	245,000

Volume Range in Dollars (not less than)	(not more than)	Additional Financial Responsibility Required
74,750,001	81,250,000	258,000
81,250,001	87,750,000	271,000
87,750,001	94,250,000	284,000
94,250,001	100,750,000	297,000
100,750,001	And higher	300,000

This rule is intended to implement Iowa Code section 163.30 and 2003 Iowa Acts, House File 617.

ITEM 2. Amend rule **21—66.20(163)**, numbered paragraph **"1,"** to read as follows:

1. Has not filed or maintained a surety bond in the form and amount as required by Iowa Code section 163.30 *or* 2003 Iowa Acts, House File 617.

ARC 2971B

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.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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The proposed amendments clarify the definitions of "committee," "candidate," and "ballot issue" as those terms are used in the campaign laws of Iowa.

The proposed amendments do not contain a waiver provision as there is no obligation being imposed.

Any interested person may make written comments on the proposed amendments on or before December 16, 2003. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 514 E. Locust, Suite 104, Des Moines, Iowa 50309. Persons who wish to comment orally should contact Charlie Smithson at (515) 281-3489.

These amendments are intended to implement Iowa Code section 56.2.

The following amendments are proposed.

ITEM 1. Rescind subrule **4.1(1)**, paragraph **"a,"** and adopt the following **new** paragraph in lieu thereof:

a. Committee defined. "Committee" includes the following:

1. A "candidate's committee" that is the committee, even if the committee consists only of the candidate, designated by a candidate for a state or local office to receive contributions, make expenditures, or incur debts in excess of \$750.

2. A "political committee" (PAC) that is a committee exceeding the \$750 organizational threshold to expressly advocate the nomination, election, or defeat of candidates or to expressly advocate the passage or defeat of a ballot issue.

3. A "state statutory political committee" (state party), "county statutory political party" (county central commit-

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

tee), or “city statutory political committee” (city central committee).

ITEM 2. Adopt **new** subrules 4.1(4) and 4.1(5) as follows:

4.1(4) Candidate defined. For purposes of Iowa Code chapters 56 and 68B, and the rules of the board, “candidate” means an individual who takes affirmative action to seek nomination or election to a state or local public office. “Takes affirmative action” includes making a public announcement of intention to seek nomination or election, making any expenditure or accepting any contribution for nomination or election, distributing petitions for signatures for nomination, filing nomination papers or an affidavit of candidacy, or being nominated by any convention process set out by law.

4.1(5) Ballot issue defined. “Ballot issue” means a question that has been approved by a political subdivision or the general assembly to be placed before the voters or is otherwise required by law to be placed before the voters. “Ballot issue” does not include the nomination, election, or defeat of a candidate.

ARC 2970B

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.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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

The proposed amendments consolidate current rules involving the requirement to place a “paid for by” attribution statement on political materials and political advertisements. The proposed amendments reflect federal court decisions, state law, and Board advisory opinions. The most significant change from the current rules would exempt a yard sign of 32 square feet or less (the current rule exempts yard signs of 16 square feet or less) from the requirement to place a “paid for by” attribution statement on the sign. This change is being proposed to reflect the fact that many people use hand-painted 4-foot by 8-foot plywood boards as yard signs.

The proposed amendments do not contain a waiver provision as the requirements reflect federal court decisions and state law.

Any interested person may make written comments on the proposed amendments on or before December 16, 2003. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 514 E. Locust, Suite 104, Des Moines, Iowa 50309. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

These amendments are intended to implement Iowa Code sections 56.14 and 68B.32A(8).

The following amendments are proposed.

ITEM 1. Rescind subrule 4.38(2) and adopt the following **new** subrule in lieu thereof:

4.38(2) Full form statement—individual. If an individual pays for the costs of political advertising or political material, the attribution statement shall contain the words “paid for by” and the full name and mailing address of the individual. The full name and mailing address shall be included in the attribution statement even if the individual’s name and address appear elsewhere on the political advertising or political material. For purposes of this subrule, political advertising or political material that is jointly paid for by a married couple must include the words “paid for by” and the full name and address of one member of the married couple.

ITEM 2. Rescind rule 351—4.39(56,68B) and adopt the following **new** rule in lieu thereof:

351—4.39(56) Specific items exempted from or subject to attribution statement requirement; multiple pages. Iowa Code section 56.14 requires the placement of a “paid for by” attribution statement on political advertising and political material, with certain exceptions.

4.39(1) Items exempted from requirement. The requirement to place a “paid for by” attribution statement does not apply to the following:

1. Editorials or news articles of a newspaper or magazine that are not political advertisements.
2. Small items upon which the inclusion of the attribution statement would be impracticable, such as yard signs, bumper stickers, pins, buttons, pens, pencils, emery boards, matchbooks and, except as set out in subrule 4.39(2), items that are smaller than 2 inches by 4 inches.
3. T-shirts, caps, and other articles of clothing.
4. Means of communication such as television and radio that are subject to federal regulations regarding an attribution requirement.

5. Political advertising or political material placed by an individual who acts independently and spends \$100 or less of the individual’s own money to expressly advocate the passage or defeat of a ballot issue.

For purposes of this subrule, “yard sign” means a political sign with a total dimension of 32 square feet or less, regardless of whether both sides of the sign are used, that has been placed or posted on real property.

4.39(2) Items subject to requirement. The requirement to place a “paid for by” attribution statement applies to the following:

1. Advertising such as yard signs larger than 32 square feet, billboards, posters, portable sign carriers, and signs affixed or painted to the side or top of a building or vehicle.
2. Advertisements in a newspaper, magazine, shopper, or other periodical regardless of the size of the advertisement.
3. Direct mailings, flyers, brochures, postcards, or any other form of printed general public advertising that is larger than 2 inches by 4 inches.
4. Campaign Web sites.

4.39(3) Multiple pages. If the political advertising or political material consists of more than one page, the “paid for by” attribution statement need only appear on one page of the advertising or material. For a campaign Web site, the attribution statement need only appear on the home page of the site.

This rule is intended to implement Iowa Code section 56.14.

ITEM 3. Rescind rule 351—4.41(56,68B) and adopt the following **new** rule in lieu thereof:

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

351—4.41(56,68B) Apparent violations; remedial action.

4.41(1) Administrative resolution. In an effort to informally resolve apparent violations of the requirement to place a "paid for by" attribution statement, the board may order administrative resolution of the matter. The board may direct the person responsible for placing the original political advertising or political material that did not include the attribution statement to place a correction advertisement in a local newspaper that reaches the same or substantially the same portion of the public that received the original political advertising or political material. The correction advertisement shall not be placed in the classified section.

4.41(2) Form of correction advertisement. The correction advertisement shall be in substantially the following form: "On (date) (describe the type of political advertising or political material) was distributed that did not state who paid for it. The (describe the type of political advertising or political material) was paid for by (insert name). Paid for by (insert correct attribution as set out in rule 351—4.38(56,68B))."

4.41(3) Board notice. The board shall notify the person who paid for the original political advertising or political material of the requirements of this rule. Notice shall include the direction to place the correction advertisement in a local newspaper that reaches the same or substantially the same portion of the public that received the initial political advertising or political material, the appropriate language for the correction advertisement, and the time frame for placing the correction advertisement and submitting a copy of it to the board.

4.41(4) Refusal to place correction advertisement. If the person who paid for the original political advertising or political material fails to timely file a correction advertisement after board notice to do so, the board may initiate the contested case proceeding process. If after a contested case proceeding it is determined that the person paid for the original political advertising or political material and then failed to comply with the board's directive to place a correction advertisement, the board may impose any of the sanctions in Iowa Code section 68B.32D.

This rule is intended to implement Iowa Code sections 56.14 and 68B.32A(8).

ITEM 4. Rescind and reserve rules **351—4.42(56,68B)** and **351—4.43(56,68B)**.

ARC 2977B

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 234.6, the Department of Human Services proposes to amend Chapter 153, "Social Services Block Grant and Funding for Local Services," Iowa Administrative Code.

These amendments:

- Propose several cost-cutting strategies that may become necessary to avoid deficit spending in the appropriation for the State Payment Program.

- Remove references to counties without approved county management plans, since all counties now have approved plans.

Although actual expenditures for the first two months of state fiscal year 2004 have been less than projected, program projections using the usual methods predict a deficit of \$580,000. The Department is proposing three strategies for containing costs in the State Payment Program:

- Removing from the Iowa Plan members who receive only non-managed services of protective payee, transportation, or rent subsidy, for a projected six-month savings of \$41,378 in administrative fees.

- Requiring waiting lists for services in counties that have waiting lists for services to county residents.

- If necessary to remain within the State Payment Program's appropriation, reducing the payment to providers by an across-the-board percentage. The percentage of reduction shall be the lowest possible to remain within the program's appropriation, and shall not exceed 5 percent. Spending projections will be adjusted monthly according to the previous months' actual spending. No rate reductions will be made if the program's actual spending does not result in a budget deficit.

These amendments do not provide for waivers in specified situations because necessary savings would not be achieved if waivers are granted. Individuals may request a waiver under the Department's general rule on exceptions, 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before December 17, 2003. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 234.6(6).

The following amendments are proposed.

ITEM 1. Amend subrule 153.52(1) as follows:

153.52(1) Eligibility criteria. ~~When residing in a county without an approved county management plan, meet~~ Meet the eligibility criteria established in the last approved county management plan ~~for the county where the applicant resides.~~ ~~When residing in a county with an approved county management plan, meet the eligibility criteria in the approved plan.~~

ITEM 2. Amend subrule 153.53(2) as follows:

153.53(2) Eligibility for services. An applicant ~~residing in a county with an approved county management plan shall be determined eligible based on the eligibility guidelines contained in the approved county management plan for the county where the applicant resides.~~ An applicant ~~residing in a county without an approved county management plan shall be determined eligible based on the eligibility guidelines of the last approved county management plan.~~ The department's service worker is responsible for the decision made on eligibility based on the approved county management plan.

a. A person eligible for the state payment program as of June 30, 1996, shall remain eligible as long as the eligibility requirements in effect on June 30, 1996, are met.

b. *The department may institute a waiting list for applicants residing in a county that institutes a waiting list for ser-*

HUMAN SERVICES DEPARTMENT[441](cont'd)

vices funded through the county mental health, mental retardation and developmental disabilities services fund.

ITEM 3. Amend rule 441—153.54(234), introductory paragraph, as follows:

441—153.54(234) Eligible services. Services eligible for reimbursement pursuant to this division of the rules are, ~~for applicants residing in a county without an approved county management plan, the services defined in the last approved county management plan where the applicant resides. For applicants residing in a county with an approved county management plan, the applicant is eligible for the services defined in the approved county management plan of the applicant's county of residence.~~

ITEM 4. Amend subrule **153.55(1)** as follows:

Amend paragraph “a,” subparagraph (2), as follows:

(2) ~~For a member residing in a county without an approved county management plan, the service is in the county's last approved county management plan and payment for the service for other residents would be made from the county mental health, mental retardation and developmental disabilities services fund. For a member residing in a county with an approved county management plan, the service is provided under the approved county management plan of the member's county of residence, and payment for the service for other residents would be made from the county mental health, mental retardation and developmental disabilities services fund.~~

Amend paragraph “b,” subparagraphs (2) and (3), as follows:

(2) ~~For a member residing in a county without an approved county management plan, the Iowa Plan contractor has verified the member's state payment program eligibility with the department and the service is in the county's last approved plan and payment for the service is made for other residents from the county mental health, mental retardation and developmental disabilities services fund.~~

(3) ~~For a member residing in a county with an approved county management plan, the Iowa Plan contractor has verified the person's state payment program eligibility with the department and the service is provided under the approved county management plan of the member's county of residence, and payment for the service for other residents is made from the county mental health, mental retardation and developmental disabilities services fund.~~

Adopt the following **new** paragraph:

c. The department may exclude from the Iowa Plan members who are enrolled in the program for only non-managed services such as protective payee, transportation, and rent subsidy. For these members, payment for services will be made through the department as long as the person is eligible and the following criteria are met:

(1) The department has accepted the provider for a special mental health-mental retardation county contract agreement.

(2) The service is in the approved county management plan of the member's county of residence.

(3) The member's county of residence provides or pays for the service for persons who have legal settlement there.

(4) Payment for the service for other residents would be made from the county mental health, mental retardation and developmental disabilities fund.

(5) Service providers have accessed the other payment systems for which the member is eligible before billing the state payment program.

ITEM 5. Amend rule 441—153.57(234) as follows:

Rescind and reserve subrule **153.57(1)**, paragraph “d.”

Amend subrule **153.57(3)**, paragraph “b,” introductory paragraph and subparagraphs (1) and (2), as follows:

b. Payment to a provider with a special mental health-mental retardation county contract agreement for services provided to a member shall be the unit rate paid on November 1, 2001, by the county in which the provider is located for the remainder of state fiscal year 2003, and the unit rate paid by the county in which the provider is located, *reduced by X (0 to 5) percent*, effective July 1, 2003 [*insert month*] 1, 2004.

(1) Payment to a provider for services to a member whose case is being overseen by the department's service worker and the Iowa Plan shall be at the rate established by the Iowa Plan contractor as of November 1, 2001, for the remainder of state fiscal year 2003, and at the rate established by the Iowa Plan contractor effective July 1, 2003.

(2) Payment to a provider requesting enrollment in a special mental health, mental retardation county contract agreement between January 1, 2003, and June 30, 2003, shall be at the rate paid on November 1, 2001, by the county in which the provider is located. *If the department reduces rates by an across-the-board percentage, the Iowa Plan contractor shall make the same reduction in rates.*

Rescind subparagraph (3).

Amend subrule **153.57(3)**, paragraph “d,” as follows:

d. Financial participation on the part of the member for services and maintenance for members residing in a county without an approved county management plan shall be governed by the financial participation provisions of the last approved county management plan or under other applicable conditions as stated in the rules which apply to the services requested or received.

Financial participation on the part of the member residing in a county with an approved county management plan shall be governed by the financial participation provisions of the approved county management plan of the member's county of residence.

ITEM 6. Amend rule 441—153.58(234), introductory paragraph and first unnumbered paragraph, as follows:

441—153.58(234) Reduction, denial or termination of benefits. For members residing in a county without an approved county management plan, the member's state payment program benefits may be denied, terminated or reduced according to the provisions of the last approved county management plan or under other applicable conditions as stated in the rules which apply to the services requested or received.

For members residing in a county with an approved county management plan, the member's state payment program benefits may be denied, terminated or reduced according to the provisions of the approved county management plan of the member's county of residence.

ARC 2945B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Termination

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on October 1, 2003, as **ARC 2826B**, amending Chapter 57, “Residential Care Facilities,” Chapter 58, “Nursing Facilities,” Chapter 62, “Residential Care Facilities for Persons

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

with Mental Illness," Chapter 63, "Residential Care Facilities for the Mentally Retarded," and Chapter 65, "Intermediate Care Facilities for Persons with Mental Illness (ICF/PMI)," Iowa Administrative Code.

The Notice proposed to amend the above-cited chapters by stipulating that long-term care facilities cannot restrict the manner in which residents obtain prescribed medications. The Department is terminating the rule making commenced in **ARC 2826B** so that the Department and interested parties, affected individuals, advocates, and regulators may study further the following issues: resident choice of pharmacy, reduced costs of medications, utilization of third-party payors, and medication packaging and resident safety.

ARC 2978B**LAW ENFORCEMENT
ACADEMY[501]****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 80D.2, the Iowa Law Enforcement Academy with approval of the Iowa Law Enforcement Academy Council hereby gives Notice of Intended Action to amend Chapter 10, "Reserve Officer Weapons Certification," Iowa Administrative Code.

The Iowa State Reserve Law Officer's Association (ISRLOA) has requested that the Iowa Law Enforcement Academy (ILEA) adopt personal standards for reserve peace officers. Iowa reserve peace officers are nonregular, sworn members of a law enforcement agency who serve with or without compensation. Reserve peace officers have regular police powers while functioning as representatives of a law enforcement agency. Sworn officers wear uniforms and are most often armed. Reserve peace officers cannot supplant certified peace officers.

Initial meetings were held with the ISRLOA and the Iowa Law Enforcement Academy in Fall 2002. The ISRLOA sees the development of personal standards as the necessary first step in an effort to increase the professionalism of Iowa reserve peace officers. The second step will involve a review of the number of required training hours for reserve peace officers. The third step will involve state certification for reserve peace officers. The rules provide a reporting mechanism to the Iowa Law Enforcement Academy to help ensure that reserve peace officers are not supplanting active certified officers.

Meetings were held at ILEA in Spring 2003 to request law enforcement agency input concerning personal standards for reserve peace officers. Members from each of the Iowa law enforcement associations were invited to these meetings. Chiefs and sheriffs from various-sized agencies with reserve peace officer programs were also invited. Meetings were held on January 16 and February 25, 2003. The Academy and Iowa Law Enforcement Academy Council members received several letters expressing concerns and opinions about the proposed personal standards.

The proposed rules were presented at the ISRLOA annual meeting in Spring 2003. The membership approved the requested personal standards as presented at the annual meeting. The proposed rules were presented to the Iowa Law Enforcement Academy Council on April 3, 2003. Bob Taylor, President of ISRLOA, and Sheriff Ted Kamatchus, Marshall County Sheriff's Office, gave the presentation to the Council. Chief Doug Book, Forest City, spoke in favor of the requested standards. Chief Jon Huggins, Colfax, and Chief Aldrich, DeSoto, spoke against the requested standards. The Council requested that the matter be deferred until the June 2003 Council meeting to further discuss the standards and get additional input. Additional changes were made in the rules following input. The rules reflect that those individuals currently serving as reserve peace officers will not be required to meet the personal standards. Certified officers who leave active status and become reserve peace officers will be treated similarly to certified officers who move from one agency to another.

The proposed rules were presented at the June 5, 2003, Iowa Law Enforcement Academy Council meeting. The Council approved the decision that a Notice of Intended Action be submitted in order to place the proposed rules before the public for discussion. The proposed rules outline the personal standards for an individual wanting to serve as a reserve peace officer in Iowa.

An overview of the proposed rules was presented at the fall meeting of the Iowa Police Executive Forum, at the Iowa State Police Association annual meeting, and at several Iowa State Sheriffs and Deputies Association board meetings.

Any interested person may make written suggestions or comments on the proposed rules on or before December 30, 2003. Such written materials should be directed to the Iowa Law Enforcement Academy, P.O. Box 130, Camp Dodge, Johnston, Iowa 50131; fax (515)242-5471.

There will be a public hearing on December 30, 2003, at 10 a.m. in the conference room at the Iowa Law Enforcement Academy, Camp Dodge, Johnston, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Iowa Law Enforcement Academy at (515)242-5357 and advise of specific needs.

These rules are intended to implement Iowa Code section 80D.2.

The following amendments are proposed.

ITEM 1. Amend **501—Chapter 10**, title, as follows:

**RESERVE OFFICER WEAPONS CERTIFICATION
PEACE OFFICERS**

ITEM 2. Add the following **new** division title applicable to rules 501—10.1(80D) to 501—10.10(80D):

**DIVISION I
RESERVE PEACE OFFICER WEAPONS CERTIFICATION**

ITEM 3. Adopt the following **new** division:

**DIVISION II
RESERVE PEACE OFFICER PERSONAL STANDARDS**

LAW ENFORCEMENT ACADEMY[501](cont'd)

501—10.100(80D) General requirements for reserve peace officers. In no case shall any person be selected or appointed as a reserve peace officer unless the person:

10.100(1) Is a citizen of the United States and a resident of Iowa or intends to become a resident of Iowa upon appointment as a reserve peace officer. However, with the approval of the Iowa law enforcement academy council, a city located on a state border that is within a standard metropolitan statistical area may allow reserve peace officers to reside in an adjacent state within that statistical area upon written application by the agency administrator to the council showing substantial reason and documenting undue hardship.

10.100(2) Is 18 years of age at the time of selection or appointment.

10.100(3) Has a valid driver's or chauffeur's license issued by the state of Iowa. Reserve peace officers who are allowed to reside in an adjacent state within a standard metropolitan statistical area shall be required to possess a valid driver's or chauffeur's license.

10.100(4) Is not addicted to drugs or alcohol.

10.100(5) Is of good moral character as determined by a thorough background investigation including a fingerprint search conducted on local, state and national fingerprint files, and has not been convicted of a felony or a crime involving moral turpitude. "Moral turpitude" is defined as an act of baseness, vileness, or depravity in the private and social duties which a person owes to another person, or to society in general, contrary to the accepted and customary rule of right and duty between person and person. Moral turpitude is conduct that is contrary to justice, honesty or good morals. The following nonexclusive list of acts has been held by the courts to involve moral turpitude: income tax evasion, perjury, insubordination, theft, indecent exposure, sex crimes, conspiracy to commit a crime, defrauding the government, and illegal drug sales. The offenses of assault, domestic abuse, or other offenses of domestic violence, stalking, and any offense in which a weapon was used in the commission are crimes involving moral turpitude. Various factors, however, may cause an offense which is generally not regarded as constituting moral turpitude to be regarded as such.

10.100(6) Has successfully passed a physical test adopted by the Iowa law enforcement academy.

10.100(7) Is not by reason of conscience or belief opposed to the use of force when necessary to fulfill the person's duties.

10.100(8) Is a high school graduate with a diploma, or possesses a GED equivalency certificate.

10.100(9) Has uncorrected vision of not less than 20/100 in both eyes, corrected to 20/20. The applicant shall have color vision consistent with the occupational demands of law enforcement. An applicant's passing any of the following color vision tests indicates that the applicant has color vision abilities consistent with the occupational demands of law enforcement:

a. Pseudoisochromatic plates tests such as but not limited to: Tokyo Medical College, Ishihara, Standard Pseudoisochromatic Plates, Dvorine, American Optical HHR Plates, American Optical.

b. Panels tests such as Farnsworth Dichotomous D-15 Test or any other test designed and documented to identify extreme anomalous trichromatic, dichromatic or monochromatic color vision.

An individual with extreme anomalous trichromatism or monochromasy color vision, as determined through testing, is not eligible to serve as a reserve peace officer in the state of Iowa.

10.100(10) Has normal hearing in each ear. Hearing is considered normal when, tested by an audiometer, hearing sensitivity thresholds are within 25dB measured at 1000Hz, 2000Hz and 3000Hz averaged together.

10.100(11) Is examined by a licensed physician or surgeon and meets the physical requirements necessary to fulfill the responsibilities of a reserve peace officer.

501—10.101(80D) Mandatory psychological testing and administrative procedure. In no case shall any person be selected or appointed as a reserve peace officer unless the person has performed satisfactorily in preemployment cognitive or personality tests, or both, prescribed by the Iowa law enforcement academy.

10.101(1) Required cognitive test.

a. An applicant for a reserve peace officer position in the state of Iowa shall take the Stanard & Associates' National Police Officer Selection Test (POST).

b. The minimum satisfactory score to be eligible for reserve peace officer status is 70 percent on each of the four sections of POST. Agencies may require a higher satisfactory score than 70 percent on each or any of the sections of the test.

10.101(2) Required personality test.

a. The Minnesota Multiphasic Personality Inventory (MMPI) test shall be taken by all reserve peace officer applicants in the final selection process.

b. The prescribed personality test for an applicant in the final selection process shall be administered, scored and interpreted by the academy or by an individual who has been approved by the academy. The prescribed personality test for a reserve peace officer in the final selection process shall be evaluated by the Iowa law enforcement academy. These tests shall be evaluated and test results and evaluations shall be forwarded to a law enforcement agency for selection purposes only by the Iowa law enforcement academy upon proper waiver by the applicant.

10.101(3) Test administration.

a. Test results may be forwarded by the academy to a law enforcement agency for selection purposes only upon proper waiver by the applicant.

b. The Iowa law enforcement academy shall have pre-scheduled testing dates each fiscal year. Nonscheduled testing dates may also be provided.

10.101(4) Cognitive test.

a. At the discretion of the agency, the cognitive test (POST) may be administered by qualified individuals.

b. Arrangements for and administration of the POST shall be in accordance with directions of the Iowa law enforcement academy.

10.101(5) Personality test.

a. Those law enforcement agencies which choose to administer, score, or interpret the MMPI without using the academy's testing services shall forward to the academy within 14 days of the beginning date of service psychological testing information on any individual selected as a reserve peace officer. Such information shall include, but not be limited to, all scores from MMPI scales used in the evaluation, the MMPI answer sheet, and any resulting reports.

b. The MMPI may be administered to applicants who are not in the final selection process.

10.101(6) Costs of tests. The academy will establish and post fee costs for administering and evaluating the psychological and cognitive test or tests mandated by the academy for agencies who choose to utilize academy testing services.

LAW ENFORCEMENT ACADEMY[501](cont'd)

The cost of the POST test shall be paid to Stanard & Associates in accordance with the fee schedule approved by and posted at the Iowa law enforcement academy.

10.101(7) Availability of test scores.

a. Forwarding of cognitive test results. Individual cognitive test scores of cognitive tests purchased through the Iowa law enforcement academy shall be provided by the Iowa law enforcement academy to designated agencies upon request and proper waiver by the applicant for a minimal handling fee.

b. Forwarding of MMPI results. The evaluation by the Iowa law enforcement academy of MMPI tests will be available to any designated agency upon request and proper waiver by the applicant for a minimal handling fee.

c. Individual POST test scores must be postmarked and forwarded to Stanard & Associates within one business day of the date of the examination.

d. Individual POST test scores shall be forwarded by Stanard & Associates to designated agencies upon request and payment of a fee in accordance with the fee schedule approved by and posted by the Iowa law enforcement academy.

e. Only scores forwarded to Stanard & Associates will be recognized as valid and become part of the Iowa database.

10.101(8) Tests valid for specific period.

a. The Iowa law enforcement academy evaluations of the MMPI may be used for only 12 months to comply with these testing rules.

b. At its discretion, the agency may elect to require an applicant to retake any Iowa law enforcement academy required psychological test as well as any other tests that it may deem necessary in its selection process.

c. POST test scores shall be valid for a period of 12 months from the date of the test. A person may retest on the same version of the POST test once within a 12-month period, with a minimum required delay of 90 days before the retest. No delay in retesting is required when a person is given an alternate version of the POST test.

d. The law enforcement agency retains the exclusive right to decide whether an individual shall be allowed to retest or take an alternate version of the POST test as provided by these rules.

10.101(9) Construction. Nothing in these rules should be construed to preclude the law enforcement agency from requiring a reserve peace officer applicant to take tests other than those mandated by these rules so long as the applicant in the final selection process has complied with these rules.

501—10.102(80D) Reserve peace officers moving from agency to agency.

10.102(1) A reserve peace officer who has previously met all the requirements of rule 10.100(80D) and who intends to move reserve peace officer status from one Iowa law enforcement agency to another Iowa law enforcement agency, or who intends to be a reserve peace officer for more than one Iowa law enforcement agency simultaneously, shall:

a. Undergo a psychological examination as provided in rule 10.101(80D); and

b. Be of good moral character as determined by a thorough background investigation by the law enforcement agency, including, but not limited to, a fingerprint search conducted by the Iowa division of criminal investigation and the Federal Bureau of Investigation. If the results of the fingerprint file checks cannot reasonably be obtained prior to the time of appointment, the appointment shall be considered conditional until such time as the results are received and reviewed by the appointing agency.

10.102(2) Except as otherwise specified, the provisions of rule 10.101(80D) do not need to be reverified upon the movement of reserve peace officer status from one Iowa law enforcement agency to another Iowa law enforcement agency or upon the reserve peace officer's being appointed as a reserve peace officer by more than one Iowa law enforcement agency simultaneously, if the reserve peace officer met all of the requirements of rule 10.101(80D) when the person was initially appointed as a reserve peace officer and if, without a break of not more than 180 days from law enforcement service, the person is appointed as a reserve peace officer by another Iowa law enforcement agency.

501—10.103(80D) Active law enforcement officer moving to reserve peace officer status.

10.103(1) An active law enforcement officer who has previously met all the requirements of rule 501—2.1(80B) and who intends to move to reserve peace officer status, or who intends to be a reserve peace officer for more than one Iowa law enforcement agency simultaneously, or who intends to be a reserve peace officer for an Iowa law enforcement agency while also working as an active law enforcement officer shall:

a. Undergo a psychological examination as provided in rule 10.101(80D); and

b. Be of good moral character as determined by a thorough background investigation by the law enforcement agency, including, but not limited to, a fingerprint search conducted by the Iowa division of criminal investigation and the Federal Bureau of Investigation. If the results of the fingerprint file checks cannot reasonably be obtained prior to the time of appointment, the appointment shall be considered conditional until such time as the results are received and reviewed by the appointing agency.

10.103(2) Except as otherwise specified, the provisions of rule 10.101(80D) do not need to be verified upon the movement of active law enforcement officer status to reserve peace officer status or upon being appointed as a reserve peace officer by more than one Iowa law enforcement agency simultaneously, or upon the reserve police officer's being appointed as a reserve peace officer by one Iowa law enforcement agency while serving in active law enforcement status for another agency if the peace officer met all of the requirements of rule 10.101(80D) when the person was initially appointed as a peace officer and if, without a break of not more than 180 days from law enforcement service, the person is appointed as a reserve peace officer by another Iowa law enforcement agency.

501—10.104(80D) Reserve peace officers in agencies under intergovernmental agreements.

When jurisdictions enter into an intergovernmental agreement under the provisions of Iowa Code chapter 28E for the sharing of law enforcement services by those jurisdictions and sharing of reserve peace officers, the compliance of reserve peace officers with rule 10.100(80D) does not need to be reverified if the execution, filing and recording of the intergovernmental agreement conform to the requirements of Iowa law and a certified copy of the agreement is provided to the director of the academy. However, this exception from reverification does not apply to the establishment of a unified law enforcement district as defined in Iowa Code section 28E.21, wherein a new legal entity or political subdivision is established.

501—10.105(80D) Higher standards not prohibited. A person who does not meet minimum standards may not be selected or appointed as an Iowa reserve peace officer. Agen-

LAW ENFORCEMENT ACADEMY[501](cont'd)

cies are not limited or restricted in establishing additional standards.

501—10.106(80D) Reserve peace officers appointed before enactment of this chapter. These rules apply only to reserve peace officers appointed after [insert the effective date of these rules].

These rules are intended to implement Iowa Code section 80D.2.

ARC 2960B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 157.14, the Board of Cosmetology Arts and Sciences Examiners hereby gives Notice of Intended Action to amend Chapter 60, “Licensure of Cosmetologists, Electrologists, Estheticians, Manicurists, Nail Technologists, and Instructors of Cosmetology Arts and Sciences,” and Chapter 62, “Fees,” Iowa Administrative Code.

These proposed amendments adopt a new rule regarding reissued certificates or wallet cards, set the fee charged for duplicate and reissued wallet cards and certificates, clarify the rule regarding licensure by endorsement, and clarify circumstances when temporary permits shall be revoked.

Any interested person may make written comments on the proposed amendments no later than December 17, 2003, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, E-mail pwilson@idph.state.ia.us.

A public hearing will be held on December 17, 2003, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 147, 157 and 272C.

The following amendments are proposed.

ITEM 1. Amend rule **645—60.4(157)**, numbered paragraph “2,” as follows:

2. Obtains verification from the District of Columbia or any state(s), territory(ies), foreign country(ies) or province(s) where the applicant is licensed. Verifications of current licensure in the practice discipline in another state for at least 12 months in the 24-month period preceding the submission of the application must be mailed sent from each state, territory, province or foreign country or the District of Columbia. *The verifications shall be sent directly to Experior Testing the board-approved testing service.* The testing service will not accept verification if received from the applicant;

ITEM 2. Amend rule 645—60.6(157) as follows:

645—60.6(157) Temporary permits to practice cosmetology arts and sciences. An applicant who is applying for initial licensure and is not licensed in another state and who has met the requirements for licensure except for the written examinations may apply for a temporary permit to practice cosmetology arts and sciences. The temporary permit shall be valid from the date the application is completed until the applicant passes the examination in the practice discipline for which the applicant is seeking licensure. The temporary permit shall be valid for a maximum of 90 days from the date of issuance. The temporary permit holder shall practice under direct supervision of a licensee. After 90 days the temporary permit shall be invalid and the person may not practice in the cosmetology arts and sciences.

The temporary permit shall be revoked if an applicant fails two examinations (~~each examination failed once or one examination failed twice~~) either the theory examination or the Iowa law (*jurisprudence*) examination twice. The applicant shall submit the temporary permit to the testing service before sitting for another examination.

ITEM 3. Renumber rules **645—60.9(272C)** through **645—60.12(272C)** as **645—60.10(272C)** through **645—60.13(272C)** and adopt the following new rule:

645—60.9(147) Reissued certificate or wallet card. The board shall reissue a certificate or current wallet card upon receipt of a written request from the licensee, return of the original document and payment of the fee as specified in rule 645—62.1(147,157).

ITEM 4. Amend subrule 62.1(5) as follows:

62.1(5) Duplicate or reissued *wallet card* or license fee is \$10.

ARC 2959B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Psychology Examiners hereby gives Notice of Intended Action to amend Chapter 240, “Licensure of Psychologists,” and Chapter 243, “Fees,” Iowa Administrative Code.

These proposed amendments adopt a new rule for criteria for obtaining a reissued certificate or wallet card license, set the fees charged for duplicate and reissued wallet cards and certificates, amend license renewal requirements, adopt a new rule on licensure by endorsement, and redefine the number of hours required for supervised professional experience. Licensees who regularly examine, attend, counsel or treat adults or children will be required at the time of license renewal to have completed a course approved by the Iowa Department of Public Health abuse education review panel regarding abuse identification and reporting.

Any interested person may make written comments on the proposed amendments no later than December 18, 2003, ad-

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

dressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, E-mail pwilson@idph.state.ia.us.

A public hearing will be held on December 18, 2003, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 154B and 272C.

The following amendments are proposed.

ITEM 1. Amend subrule **240.6(1)**, paragraph “a,” as follows:

a. Be ~~12 months full-time~~ *at least one year* or a minimum of ~~1800~~ *1500 hours of supervised professional experience*;

ITEM 2. Rescind rule 645—240.10(154B) and adopt the following **new** rule in lieu thereof:

645—240.10(147) Licensure by endorsement. An applicant who has been a licensed psychologist at the doctoral level under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

240.10(1) Submits to the board a completed application.

240.10(2) Pays the licensure fee.

240.10(3) Provides an official copy of the EPPP score sent directly to the board from the Association of State and Provincial Psychology Boards. The passing score is established by the Association of State and Provincial Psychology Boards.

240.10(4) Provides verification of licenses from other states that has been sent directly from those states to the board office.

240.10(5) Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

a. Provides:

(1) Official copies of academic transcripts that have been sent directly from the school; and

(2) Satisfactory evidence of the applicant’s qualifications in writing on the prescribed forms by the applicant’s supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the state in which the applicant is currently licensed or equivalent documentation of supervision; or

b. Has an official copy of one of the following certifications sent directly to the board from the certifying organization:

(1) Current Certification of Professional Qualification that was originally issued by the Association of State and Provincial Psychology Boards on or after January 1, 2002.

(2) Current credentialing at the doctoral level as a Health Service Provider in Psychology by the National Register of Health Service Providers in Psychology that was granted after December 31, 1981.

(3) Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

240.10(6) Passes the Iowa jurisprudence examination as required in 240.4(5).

ITEM 3. Rescind rule 645—240.12(154B) and adopt the following **new** rule in lieu thereof:

645—240.12(147) License renewal.

240.12(1) The biennial license renewal period for a license to practice psychology shall begin on July 1 of even-numbered years and end on June 30 of the next even-numbered year. The board shall notify the licensee at the address on record at least 60 days prior to expiration of the license.

240.12(2) An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

240.12(3) A licensee shall:

a. Meet the continuing education requirements of rule 645—241.2(272C) and the mandatory reporting requirements of subrule 240.12(4); and

b. Submit the completed renewal application, continuing education report form and renewal fee before the license expiration date.

240.12(4) Mandatory reporter training requirements.

a. A licensee who regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

b. A licensee who regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

c. A licensee who regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

Training may be completed through separate courses as identified in paragraphs “a” and “b” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “a” to “c,” including program date(s), content, duration, and proof of participation.

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

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

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 241.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

240.12(5) When all requirements for license renewal are met, the licensee shall be sent a wallet card by regular mail.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

240.12(6) A person licensed to practice as a psychologist shall keep the person's license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

240.12(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 243.1(3).

a. To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within one month following the expiration date on the wallet card.

b. To place the late license on inactive status, the licensee shall submit a written request for inactive status. No continuing education shall be required.

ITEM 4. Renumber rule **645—240.16(17A,147,272C)** as **645—240.17(17A,147,272C)** and adopt the following **new** rule:

645—240.16(147) Reissued certificate or wallet card. The board shall reissue a certificate or current wallet card upon receipt of a written request from the licensee, return of the original document and payment of the fee as specified in rule 645—243.1(147,154B).

ITEM 5. Amend subrule 243.1(5) as follows:

243.1(5) Duplicate *or reissued* license *certificate* fee is \$10.

ITEM 6. Renumber subrules **243.1(6)** to **243.1(12)** as **243.1(7)** to **243.1(13)** and adopt the following **new** subrule:

243.1(6) Duplicate or reissued wallet card fee is \$10.

ARC 2975B**PUBLIC HEALTH
DEPARTMENT[641]****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 135.24 as amended by 2003 Iowa Acts, House File 557, the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 88, "Volunteer Health Care Provider Program," Iowa Administrative Code, and to adopt new Chapter 88 with the same title.

The rules in current Chapter 88 describe the eligibility of health care providers who provide free health care services through qualified programs to be defended and indemnified by the State of Iowa. New Chapter 88 adds psychologists, master social workers, independent social workers, marital and family therapists, mental health counselors, and pharmacists to the health care provider professions eligible for the program. New Chapter 88 also allows for eligible free clinics to apply for and receive clinic liability coverage. In addition, this new chapter further clarifies the rules included in current Chapter 88, which is being rescinded.

Any interested person may make written suggestions or comments on the proposed new chapter on or before December 16, 2003. Such written materials should be directed to Julie McMahon, Director, Division of Community Health,

Iowa Department of Public Health, Lucas State Office Building, 312 E. 12th Street, Des Moines, Iowa, 50319-0075; fax (515)242-6384; E-mail jmcmahon@idph.state.ia.us. Persons who wish to convey their views orally should contact the Community Health Division at (515)281-7016 or at the Community Health Division offices on the fifth floor of the Lucas State Office Building.

Also, there will be a public hearing on December 16, 2003, from 1 to 2 p.m. in Room 517, Fifth Floor, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any person who plans to attend the public hearing and has special requirements such as hearing or mobility impairments should contact the Department of Public Health and advise of specific needs.

This amendment is intended to implement Iowa Code section 135.24 as amended by 2003 Iowa Acts, House File 557.

The following amendment is proposed.

Rescind 641—Chapter 88 and adopt the following **new** chapter in lieu thereof:

**CHAPTER 88
VOLUNTEER HEALTH CARE
PROVIDER PROGRAM**

641—88.1(135,80GA,HF557) Definitions. For the purpose of these rules, the following definitions shall apply:

"Charitable organization" means a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code which has as its primary purpose the sponsorship or support of programs designed to improve the quality, awareness, and availability of health care services to children and to serve as a funding mechanism for provision of health care services, including but not limited to immunizations, to children in this state.

"Defend" means that the office of the attorney general shall provide the volunteer health care provider with legal representation at no cost to the volunteer health care provider.

"Department" means the Iowa department of public health.

"Eligibility agreement" means a signed contract, providing for defense and indemnification, between a volunteer health care provider or free clinic and the volunteer health care provider program (VHCPP).

"Free clinic" means a facility, other than a hospital or health care provider's office, which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and which has as its sole purpose the provision of health care services without charge to individuals who are otherwise unable to pay for the services.

"Health care facility" means a residential care facility, a nursing facility, an intermediate care facility for persons with mental illness, or an intermediate care facility for persons with mental retardation.

"Health care services" means services received from a volunteer health care provider at a qualified program as provided in Iowa Code section 135.24 as amended by 2003 Iowa Acts, House File 557, and these rules, and approved in a VHCPP eligibility or sponsor agreement.

"Indemnify" means that the state of Iowa shall pay all sums that the volunteer health care provider or free clinic holding an eligibility agreement with the VHCPP is legally obligated to pay as damages because of any claim made

PUBLIC HEALTH DEPARTMENT[641](cont'd)

against the volunteer health care provider or free clinic which arises out of the provision of free health care services rendered or which should have been rendered by the volunteer health care provider or free clinic.

“Sponsor agreement” means a signed contract, providing for VHCPP participation by individual health care providers of free health care services, between a hospital, clinic, free clinic, health care facility, health care referral program, or charitable organization and the VHCPP.

“Volunteer health care provider” means a physician licensed pursuant to Iowa Code chapter 148, 150 or 150A; a physician assistant licensed pursuant to Iowa Code chapter 148C and practicing under a supervising physician; a chiropractor licensed pursuant to Iowa Code chapter 151; an advanced registered nurse practitioner, a licensed practical nurse or a registered nurse licensed pursuant to Iowa Code chapter 152; a dentist, dental assistant, or dental hygienist licensed or registered pursuant to Iowa Code chapter 153; a psychologist licensed pursuant to Iowa Code chapter 154B; a master social worker or an independent social worker licensed pursuant to Iowa Code chapter 154C; a marital and family therapist or mental health counselor licensed pursuant to Iowa Code chapter 154D; or a pharmacist licensed pursuant to Iowa Code chapter 155A, who has executed an eligibility agreement with the VHCPP.

“Volunteer health care provider program” or “VHCPP” means the volunteer health care provider program of the department.

641—88.2(135,80GA, HF557) Purpose. The VHCPP is established to defend and indemnify eligible volunteer health care providers and eligible free clinics providing free health care services through qualified programs as provided in Iowa Code section 135.24 as amended by 2003 Iowa Acts, House File 557, and these rules.

641—88.3(135,80GA, HF557) Eligibility for defense and indemnification coverage.

88.3(1) Volunteer health care provider eligibility. To be eligible for protection as an employee of the state under Iowa Code chapter 669 for a claim arising from covered health care services, a volunteer health care provider shall satisfy each of the following conditions at the time of the act or omission allegedly resulting in injury:

a. The applicant shall hold an active unrestricted license to practice in Iowa under Iowa Code chapter 148, 148C, 150, 150A, 151, 152, 153, 154B, 154C, 154D, or 155A.

(1) Every physician and dentist shall authorize the release of information allowing certified statements to be sent to the board of medical examiners or board of dental examiners from the National Practitioner Data Bank—Health Care Integrity and Protection Data Bank, the Federation of State Medical Boards Disciplinary Data Bank, or State Dental Boards Disciplinary Data Bank, as appropriate, setting forth any malpractice judgment or award or disciplinary action involving the physician or dentist.

(2) Every chiropractor, master social worker, independent social worker, marriage and family therapist, mental health counselor, physician assistant, psychologist, licensed practical nurse, registered nurse, and advanced registered nurse practitioner shall request certified statements directly from the National Practitioner Data Bank—Health Care Integrity and Protection Data Bank setting forth any malpractice judgment or award or disciplinary action involving the requester, shall pay the cost for such certified statements and shall submit such certified statements as part of the VHCPP application. Every chiropractor shall also authorize the re-

lease of information allowing certified statements to be sent to the board of chiropractic examiners from the Chiropractic Information Network/Board Action Databank (CINBAD) setting forth any malpractice judgment or award or disciplinary action involving the chiropractor.

(3) Every pharmacist shall authorize the release of information allowing certified statements to be sent to the board of pharmacy examiners from the National Association of Boards of Pharmacy setting forth any disciplinary action involving the pharmacist or any pharmacy in which the pharmacist has ever been owner, partner, or officer, and the pharmacist shall pay the cost for such certified statements. Every pharmacist shall also authorize the release of information from the pharmacist’s malpractice insurance carrier to be sent to the board of pharmacy examiners, and the pharmacist shall pay the cost for such release. Information released from the pharmacist’s malpractice insurance carrier shall include either the history and details of all claims that have been filed on behalf of the pharmacist or any pharmacy in which the pharmacist has ever been owner, partner, or officer, or confirmation that there have been no claims.

(4) The volunteer health care provider shall provide a sworn statement attesting that the license to practice is free of restrictions. The statement shall describe any disciplinary action that has ever been taken against the health care provider by any professional licensing authority or health care facility, including any voluntary surrender of license or other agreement involving the health care provider’s license to practice or any restrictions on practice, suspension of privileges, or other sanctions. The statement shall also describe any malpractice suits that have been filed against the health care provider. The statement provided by a pharmacist volunteer health care provider shall also describe any disciplinary action that has ever been taken against any pharmacy in which the pharmacist has ever been owner, partner, or officer.

b. Application. The applicant shall submit the following information on forms provided by the VHCPP:

(1) The patients to be served;

(2) The health care services to be provided;

(3) The site where health care services are to be provided;

(4) The days and maximum number of hours when the free health care services will be provided each month at each site;

(5) The public health purpose that shall be served by the provision of free health care services to the patients in question.

c. The applicant shall submit a certified statement, which shall be submitted on forms provided by the VHCPP, attesting that the volunteer health care provider agrees to:

(1) Cooperate fully with the state in the defense of any claim or suit relating to participation in the VHCPP, including attending hearings, depositions and trials and assisting in securing and giving evidence, responding to discovery and obtaining the attendance of witnesses.

(2) Accept financial responsibility for personal expenses and costs incurred in the defense of any claim or suit related to participation in the VHCPP, including travel, meals, compensation for time and lost practice, and copying costs, and agree that the state will not compensate the volunteer health care provider for the volunteer health care provider’s expenses or time needed for the defense of the claim or suit.

(3) Receive no direct monetary compensation of any kind for services provided in the sponsor program.

(4) Comply with the eligibility agreement with the VHCPP concerning approved health care services and programs.

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d. The applicant shall have a signed and current eligibility agreement with the VHCPP which identifies the covered health care services within the respective scope of practice and conditions of defense and indemnification as provided in rules 88.5(135,80GA,HF557) and 88.6(135,80GA,HF557). The eligibility agreement shall:

(1) Provide that the volunteer health care provider shall perform only those health care services identified and approved by the VHCPP;

(2) Identify the sponsor program, approved by the VHCPP through an application process, through which the health care services will be provided;

(3) Identify by category the patient groups to be served and the need for provision of free health care services;

(4) Identify the sites at which the free health care services will be provided;

(5) Identify the maximum amount of time the free health care services will be provided at the identified sites by the volunteer health care provider each month;

(6) Provide that the volunteer health care provider shall maintain proper records of the health care services; and

(7) Provide that the volunteer health care provider shall make no representations concerning eligibility for the VHCPP nor eligibility of services for indemnification by the state except as authorized by the department.

88.3(2) Free clinic eligibility. To be eligible for protection as a state agency under Iowa Code chapter 669 for a claim arising from the provision of covered health care services at the free clinic, a free clinic shall satisfy each of the following conditions at the time of the act or omission allegedly resulting in injury:

a. The free clinic shall comply with subrules 88.4(1) through 88.4(6).

b. The free clinic shall provide a list of all health care providers who volunteer at the clinic.

c. The free clinic shall submit proof that each health care professional volunteering at the free clinic either:

(1) Holds a current eligibility agreement with the VHCPP, or

(2) Holds current professional liability insurance coverage and an active unrestricted license to practice in Iowa under Iowa Code chapter 148, 148C, 150, 150A, 151, 152, 153, 154B, 154C, 154D, or 155A.

d. The free clinic shall submit a list of the clinic board of directors and contact information for the board of directors.

e. The free clinic shall submit proof of 501(c)(3) status.

641—88.4(135,80GA,HF557) Sponsor program eligibility. As a condition of sponsoring health care providers in the VHCPP, a hospital, clinic, free clinic, health care facility, health care referral program, or charitable organization shall satisfy each of the following conditions:

88.4(1) Licensure. The applicant program shall be licensed to the extent required by law for the facility in question.

88.4(2) If the program is a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code, the organization shall provide proof of 501(c)(3) status to the VHCPP.

88.4(3) Application. The applicant program shall submit the following information on forms provided by the VHCPP:

a. The patients to be served;

b. The health care services to be provided;

c. The site where health care services are to be provided;

d. The days and times when health care services are to be provided at each site;

e. The public health purpose that shall be served by the provision of free health care services to the patients in question.

88.4(4) Certified statement. The applicant program shall submit a certified statement, which shall be submitted on forms provided by the VHCPP, attesting that the applicant program and its staff, employees and volunteers agree to:

a. Cooperate fully with the state in the defense of any claim or suit relating to participation in the VHCPP, including attending hearings, depositions and trials and assisting in securing and giving evidence, responding to discovery and obtaining the attendance of witnesses;

b. Accept financial responsibility for applicant program's expenses and costs incurred in the defense of any claim or suit related to participation in the VHCPP, including travel, meals, compensation for time and lost practice, and copying costs, and agree that the state will not compensate the applicant program for expenses or time needed for the defense of the claim or suit;

c. Receive no direct monetary compensation of any kind for health care services provided in the applicant program;

d. Comply with the agreement with the VHCPP concerning approved health care services and programs.

88.4(5) General liability insurance. The applicant program shall submit proof of general liability insurance for the clinic site.

88.4(6) Agreement. A signed and current agreement shall exist with the VHCPP which shall:

a. Provide that the applicant program shall perform only those health care services identified and approved by the VHCPP;

b. Identify by category the patient groups to be served and the need for provision of free health care services;

c. Identify the sites at which the free health care services will be provided;

d. Provide that the applicant shall maintain proper records of health care services for a period of six years from the date of service or, in the case of a minor, for a period of one year after the minor has reached the age of majority; and

e. Provide that the applicant agrees that only the volunteer health care provider is afforded protection under Iowa Code section 135.24, and that the state assumes no obligation to the program, its employees, officers, or agents, unless the program is registered as an eligible free clinic in accordance with subrule 88.3(2).

641—88.5(135,80GA,HF557) Covered health care services. A volunteer health care provider holding a current eligibility agreement with the VHCPP shall be afforded the protection of an employee of the state under Iowa Code chapter 669 and a free clinic holding a current eligibility agreement with the VHCPP shall be afforded protection as an agency of the state under Iowa Code chapter 669, only for claims for injury proximately caused by a health care provider's provision of covered health care services.

88.5(1) Covered health care services are only those that are:

a. Identified in the eligibility agreement with the VHCPP;

b. In compliance with these rules;

c. Provided by or under the direct supervision of the volunteer health care provider;

d. Health care services of:

(1) Physicians and physician assistants: for well-child examinations, annual adult examinations, diagnosis and treatment of acute and chronic conditions (other than the administration of anesthesia, and surgical procedures except

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minor surgical procedures, and administration of local anesthesia for the stitching of wounds or the removal of lesions or foreign particles), health education, health maintenance, and immunizations.

(2) Chiropractors: for examinations, diagnosis and treatment, health education and health maintenance.

(3) Licensed practical nurses and registered nurses: for well-child examinations, treatment of acute and chronic conditions, health education, health maintenance, and immunizations.

(4) Advanced registered nurse practitioners: for well-child examinations, diagnosis and treatment of acute and chronic conditions, health education, health maintenance, immunizations and minor surgical procedures.

(5) Dentists: for dental examinations, diagnosis and treatment of acute and chronic conditions, health education, health maintenance and minor surgical procedures.

(6) Dental assistants: for intraoral services, extraoral services, infection control, radiography and removal of plaque or stain by toothbrush, floss, or rubber cup coronal polish.

(7) Dental hygienists: for assessments and screenings, health education, health maintenance and preventive services (cleaning, X-rays, sealants, fluoride treatments, fluoride varnish).

(8) Psychologists: for services which are within the scope of practice as defined by Iowa Code chapter 154B and the administrative rules which implement that chapter.

(9) Master social workers: for services which are within the scope of practice as defined by Iowa Code chapter 154C and the administrative rules which implement that chapter.

(10) Independent social workers: for services which are within the scope of practice as defined by Iowa Code chapter 154C and the administrative rules which implement that chapter.

(11) Marital and family therapists: for services which are within the scope of practice as defined by Iowa Code chapter 154D and the administrative rules which implement that chapter.

(12) Mental health counselors: for services which are within the scope of practice as defined by Iowa Code chapter 154D and the administrative rules which implement that chapter.

(13) Pharmacists: for drug dispensing, patient education, health maintenance and immunizations.

88.5(2) Experimental procedures or procedures and treatments which lack sufficient evidence of clinical effectiveness are excluded from the program.

641—88.6(135,80GA,HF557) Defense and indemnification. The state shall defend and indemnify a volunteer health care provider or a free clinic for a claim arising from the VHCPP only to the extent provided by Iowa Code chapter 669 and Iowa Code section 135.24 as amended by 2003 Iowa Acts, House File 557. Persons or entities other than the participating volunteer health care provider or free clinic are not considered state employees or state agencies under Iowa Code chapter 669. Defense and indemnification of the volunteer health care provider under Iowa Code chapter 669 and Iowa Code section 135.24 as amended by 2003 Iowa Acts, House File 557, shall occur only if all of the following requirements are met:

88.6(1) The claim involves injury proximately caused by covered health care services which were identified and approved in the eligibility agreement with the VHCPP and then only to the extent the health care services were provided by or under the direct supervision of the volunteer health care pro-

vider, including claims based on negligent delegation of health care.

88.6(2) The claim arises from covered health care services that were performed at a site identified and approved in the eligibility agreement with the VHCPP.

88.6(3) The claim arises from covered health care services provided through a qualified program identified and approved in the volunteer health care provider's eligibility agreement with the VHCPP and which meets the requirements of rule 88.3(135,80GA,HF557).

88.6(4) The volunteer health care provider, free clinic, or sponsor program that provided the health care services receives no direct monetary compensation of any kind or promise to pay compensation for the health care services which resulted in injury.

88.6(5) The health care services are provided to a patient who is a member of a patient group identified in the eligibility agreement with the VHCPP.

88.6(6) The volunteer health care provider, free clinic, or sponsor program is eligible and registered as provided in rule 88.3(135,80GA,HF557).

641—88.7(135,80GA,HF557) Term of agreement.

88.7(1) Volunteer health care provider. The eligibility agreement with the VHCPP shall expire two years from the date of execution. Volunteer health care providers may apply for renewal by filing an application at least 30 days prior to expiration of the eligibility agreement.

88.7(2) Free clinic liability. The eligibility agreement with the VHCPP shall expire two years from the date of execution. The free clinic may apply for renewal by filing an application at least 30 days prior to expiration of the eligibility agreement.

88.7(3) Sponsor program. The sponsor agreement with the VHCPP shall expire two years from the date of execution. Sponsor programs may apply for renewal by filing an application at least 30 days prior to expiration of the sponsor agreement.

641—88.8(135,80GA,HF557) Reporting requirements and duties.

88.8(1) Upon obtaining knowledge or becoming aware of any injury allegedly arising out of the negligent rendering of, or the negligent failure to render, covered health care services under this program, a participating volunteer health care provider, free clinic, or sponsor program shall provide written notice to the VHCPP, as soon as practicable, containing, to the extent obtainable, the circumstance of the alleged injury, the names and addresses of the injured, and any other relevant information.

88.8(2) Upon obtaining knowledge or becoming aware of an injury as defined in subrule 88.8(1), the participating volunteer health care provider, free clinic, or sponsor program shall promptly take all reasonable steps to prevent further or other injury from arising out of the same or similar incidents, situations or conditions.

88.8(3) A participating volunteer health care provider, free clinic, or sponsor program shall immediately notify the Iowa Department of Justice, Special Litigation Division, Hoover State Office Building, Des Moines, Iowa 50319, of service or receipt of an original notice, petition, suit or claim seeking damages from the volunteer health care provider, free clinic or sponsor program related to participation in the VHCPP.

641—88.9(135,80GA,HF557) Revocation of eligibility and registration. The VHCPP may suspend, revoke, or condition the eligibility of a volunteer health care provider, free

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clinic or sponsor program for cause, including but not limited to:

1. Failure to comply with the eligibility or sponsor agreement with the VHCPP.

2. Violation of state law governing the respective scope of practice or other law governing the health care services provided under the program.

3. Making false, misleading, or fraudulent statements in connection with the VHCPP, including determination of eligibility of the health care provider, free clinic or program or handling of a claim against the health care provider, free clinic, program or the state.

4. Evidence of substance abuse or intoxication affecting the provision of health care services under the program.

5. Reasonable grounds to believe that the volunteer health care provider may have provided incompetent or inadequate care to a patient under the program or is likely to do so.

6. Reasonable grounds to believe that the volunteer health care provider's, free clinic's, or sponsor program's participation in VHCPP may expose the state to undue risk.

7. Failure to immediately notify the VHCPP of any disciplinary action brought against the volunteer health care provider by the licensing board.

641—88.10(135,80GA,HF557) Procedure for revocation of registration. A proceeding for revocation of a volunteer health care provider's registration or a free clinic's or sponsor program's eligibility for participation shall be conducted as a contested case proceeding pursuant to Iowa Code chapter 17A and 641 IAC 173. This does not preclude emergency summary suspension where appropriate under Iowa Code section 17A.18. The VHCPP shall immediately notify the appropriate licensing board and the appropriate approved free clinic or sponsor program of revocation of a volunteer health care provider's registration.

641—88.11(135,80GA,HF557) Effect of suspension or revocation. If the VHCPP suspends or revokes a volunteer health care provider's or free clinic's eligibility, the action shall suspend or revoke future eligibility, but shall not negate defense and indemnification coverage for covered acts or omissions which occurred during the effective dates of the eligibility agreement.

88.11(1) Registration denied—appeal procedure. An applicant who has been denied registration by the VHCPP may appeal the denial and request a hearing on the issues related to the denial by serving a notice of the appeal and request for hearing to the Director, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075, in writing, not more than 30 days following the date of the mailing of the notification of registration denial to the applicant or not more than 30 days following the date upon which the applicant was served notice if notification was made in the manner of service of an original notice. The request for hearing shall specifically delineate the facts to be contested and determined at the hearing.

88.11(2) Registration denied—hearing. If an applicant who has been denied registration by the VHCPP appeals the registration denial and requests a hearing pursuant to subrule 88.11(1), the hearing and subsequent procedures shall be pursuant to Iowa Code chapter 17A and 641 IAC 173.

641—88.12(135,80GA,HF557) Board notice of disciplinary action. The applicable state licensing board shall notify the VHCPP of the initiation of a contested case against a registered volunteer health care provider or the imposition of dis-

ciplinary action, including providing copies of any contested case decision or settlement agreement with the volunteer health care provider upon request of the VHCPP.

641—88.13(135,80GA,HF557) Effect of eligibility certification. The certification of a volunteer health care provider or free clinic as eligible for participation in the VHCPP by the applicable state licensing board and the department is solely a determination that the state will defend and indemnify the volunteer health care provider or the eligible free clinic to the extent provided by Iowa Code section 135.24 as amended by 2003 Iowa Acts, House File 557, and these rules. The certification is not an approval or indication of ability or competence and may not be represented as such. The hospital, clinic, free clinic, health care facility, health care referral program, or charitable organization through which the volunteer health care provider provides free health care services shall retain responsibility for determining that health care personnel are competent and capable of adequately performing the health care services to be provided.

641—88.14(135,80GA,HF557) Reporting by volunteer health care provider and program. Within 60 days following each calendar quarter, the free clinic or program shall provide a listing of patients and health care services provided by the VHCPP participant. A reporting form will be provided by the VHCPP to the local participating free clinic or sponsor program at the time the eligibility or sponsor agreement is approved by the VHCPP. At a minimum, the report shall include a listing of patients by name, age, ethnicity, insurance status, clinic site, volunteer health care provider name and the health care services provided by the volunteer health care provider. Such reports shall be considered confidential pursuant to Iowa Code section 22.7(2).

These rules are intended to implement Iowa Code section 135.24 as amended by 2003 Iowa Acts, House File 557.

ARC 2953B

REVENUE 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 hereby gives Notice of Intended Action to amend Chapter 42, “Adjustments to Computed Tax,” and Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” Iowa Administrative Code.

These amendments are proposed because of 2003 Iowa Acts, House Files 683 and 692.

Item 1 amends subrule 42.15(2) to provide for additional property rehabilitation tax credits for individual income tax for projects located in cultural and entertainment districts.

Item 2 updates an implementation clause.

Item 3 adopts new rule 42.21(422), which provides for a university-based research utilization program tax credit for individual income tax. This credit, which is administered by the Iowa Department of Economic Development, is intended

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to promote the adoption of new technology developed at the three state universities.

Item 4 amends subrule 52.18(2) to provide for additional property rehabilitation tax credits for corporation income tax for projects located in cultural and entertainment districts. This change is similar to the one in Item 1.

Item 5 updates an implementation clause.

Item 6 adopts new rule 52.24(422), which provides for a university-based research utilization program tax credit for corporation income tax. This credit, which is administered by the Iowa Department of Economic Development, is intended to promote the adoption of new technology developed at the three state universities. This change is similar to the one in Item 3.

The proposed amendments 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 these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

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 section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than December 29, 2003, to the Policy Section, Compliance Division, Department of Revenue, 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 December 16, 2003. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, 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, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by December 19, 2003.

These amendments are intended to implement Iowa Code chapter 404A as amended by 2003 Iowa Acts, House File 683, and Iowa Code chapters 262B and 422 as amended by 2003 Iowa Acts, House File 692.

The following amendments are proposed.

ITEM 1. Amend subrule 42.15(2), introductory paragraph, as follows:

42.15(2) Application and review process for the property rehabilitation credit. Taxpayers who want to claim an income tax credit for completing a property rehabilitation project must submit an application for approval of the project. The application forms for the property rehabilitation credit may be requested from the State Tax Credit Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust, Des Moines, Iowa 50319-0290. The telephone number for this office is (515)281-4137. Applications for the credit will be accepted by the state historic preservation office on or after July 1, 2000, until such time as

all the available credits allocated for each fiscal year are encumbered. For the fiscal year ~~years~~ beginning on or after July 1, 2000, and ~~ending June 30, 2001~~, \$2.4 million was ~~shall be~~ appropriated for property rehabilitation tax credits for ~~that each year~~. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional \$500,000 of property rehabilitation tax credits is appropriated for projects located in cultural and entertainment districts which are certified by the department of cultural affairs. If less than \$500,000 of tax credits is appropriated during the fiscal year beginning July 1, 2005, the remaining amount may be carried over to the fiscal year beginning July 1, 2006.

ITEM 2. Amend rule **701—42.15(422)**, implementation clause, as follows:

This rule is intended to implement Iowa Code chapter 404A as amended by 2003 Iowa Acts, Senate File 441, and House File 683, and section 422.11D.

ITEM 3. Amend 701—Chapter 42 by adopting the following **new** rule:

701—42.21(422) University-based research utilization program tax credit. Effective for tax years beginning on or after July 1, 2004, a university-based research utilization program tax credit is available to eligible businesses approved by the Iowa department of economic development and to eligible university employees who develop technologies for eligible businesses. The administrative rules for the university-based research utilization program tax credit for the Iowa department of economic development may be found under 261—Chapter 63.

42.21(1) Eligibility and application process for the university-based research utilization program tax credit. An eligible business includes a new business or a business that has been in existence for less than one year prior to applying for this program. The eligible business must also utilize a technology developed by an employee at a university under the control of the state board of regents to qualify for this program.

To qualify under this program, the eligible business must submit an application to the Iowa department of economic development. If the application is approved, the eligible business and university employee are eligible for tax credits as set forth in subrule 42.21(2).

42.21(2) Computation of the tax credit. After the eligible business files its income tax return, the department shall provide to the Iowa department of economic development summary information regarding the amount of tax paid by the eligible business. This summary information will be provided to the Iowa department of economic development for the five tax years following the tax year in which the eligible business is approved. The Iowa department of economic development will then issue tax credit certificates to the eligible business and the university employee. The tax credit certificate will contain the name, address, tax identification number and amount of tax credit for the eligible business and for the eligible university employee, along with the tax year in which the credit can first be claimed. The tax credit certificate must be attached to the tax return.

a. The eligible business will receive a tax credit certificate valued at 30 percent of the tax liability of the business. The value of a tax credit certificate to an eligible business cannot exceed \$225,000 for a tax year, and the total value of tax credit certificates to an eligible business cannot exceed \$600,000 over a five-year period.

EXAMPLE: A business is approved by the Iowa department of economic development in March 2004 for this pro-

REVENUE DEPARTMENT[701](cont'd)

gram. The business shows a tax liability of \$1,000 on the Iowa income tax return for the period ending December 31, 2004, and a \$5,000 tax liability on the Iowa income tax return for the period ending December 31, 2005. The department will notify the Iowa department of economic development of the \$5,000 tax liability for the 2005 tax year, since this summary information is submitted starting with the tax year following the year of approval. The business will receive a tax credit certificate of \$1,500 (30 percent of the \$5,000 tax liability), which can be claimed on the tax return of the business for the period ending December 31, 2006.

b. The university employee will receive a tax credit certificate valued at 10 percent of the tax liability of the business. If more than one university employee is responsible for the development of the technology, the value equal to 10 percent of the tax liability of the business will be divided equally between the eligible university employees. The value of a tax credit certificate to the eligible university employees cannot exceed \$75,000 for a tax year, and the total value of tax credit certificates to the eligible university employees cannot exceed \$600,000 over a five-year period.

EXAMPLE: A business is approved by the Iowa department of economic development in March 2004 for this program. The business shows a tax liability of \$1,000 on the Iowa income tax return for the period ending December 31, 2004, and a \$5,000 tax liability on the Iowa income tax return for the period ending December 31, 2005. The department will notify the Iowa department of economic development of the \$5,000 tax liability for the 2005 tax year, since this summary information is submitted starting with the tax year following the year of approval. Assuming only one university employee was involved in developing the technology, this university employee will receive a tax credit certificate of \$500 (10 percent of the \$5,000 tax liability), which can be claimed on the tax return of the university employee for the period ending December 31, 2006.

c. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the taxpayer's liability for the following five years or until depleted, whichever occurs first. The tax credit certificate is not refundable and not transferable. The tax credit shall not be carried back prior to the tax year in which the taxpayer redeems the credit. If the eligible business is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

42.21(3) Overall limitation on tax credits. For the fiscal year beginning July 1, 2004, no more than \$2 million of tax credit certificates can be issued. For the fiscal years beginning July 1, 2005, through July 1, 2009, no more than \$10 million of tax credit certificates can be issued. Tax credit certificates cannot be issued for fiscal years beginning on or after July 1, 2010.

This rule is intended to implement 2003 Iowa Acts, House File 692, sections 111 and 112.

ITEM 4. Amend subrule 52.18(2), introductory paragraph, as follows:

52.18(2) Application and review process for the property rehabilitation credit. Taxpayers who want to claim an income tax credit for completing a property rehabilitation project must submit an application for approval of the project. The application forms for the property rehabilitation credit may be requested from the State Tax Credit Program Manag-

er, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust, Des Moines, Iowa 50319-0290. The telephone number for this office is (515)281-4137. Applications for the credit will be accepted by the state historic preservation office on or after July 1, 2000, until such time as all the available credits allocated for each fiscal year are encumbered. For the fiscal year years beginning on or after July 1, 2000, and ending June 30, 2001, \$2.4 million was shall be appropriated for property rehabilitation tax credits for that each year. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional \$500,000 of property rehabilitation tax credits is appropriated for projects located in cultural and entertainment districts which are certified by the department of cultural affairs. If less than \$500,000 of tax credits is appropriated during the fiscal year beginning July 1, 2005, the remaining amount may be carried over to the fiscal year beginning July 1, 2006.

ITEM 5. Amend rule **701—52.18(422)**, implementation clause, as follows:

This rule is intended to implement Iowa Code chapter 404A as amended by 2003 Iowa Acts, Senate File 441, and House File 683, and section 422.33.

ITEM 6. Amend 701—Chapter 52 by adopting the following **new** rule:

701—52.24(422) University-based research utilization program tax credit. Effective for tax years beginning on or after July 1, 2004, a university-based research utilization program tax credit is available to eligible businesses approved by the Iowa department of economic development and to eligible university employees who develop technologies for eligible businesses. The administrative rules for the university-based research utilization program tax credit for the Iowa department of economic development may be found under 261—Chapter 63.

52.24(1) Eligibility and application process for the university-based research utilization program tax credit. An eligible business includes a new business or a business that has been in existence for less than one year prior to applying for this program. The eligible business must also utilize a technology developed by an employee at a university under the control of the state board of regents to qualify for this program.

To qualify under this program, the eligible business must submit an application to the Iowa department of economic development. If the application is approved, the eligible business and university employee are eligible for tax credits as set forth in subrule 52.24(2).

52.24(2) Computation of the tax credit. After the eligible business files its income tax return, the department shall provide to the Iowa department of economic development summary information regarding the amount of tax paid by the eligible business. This summary information will be provided to the Iowa department of economic development for the five tax years following the tax year in which the eligible business is approved. The Iowa department of economic development will then issue tax credit certificates to the eligible business and the university employee. The tax credit certificate will contain the name, address, tax identification number and amount of tax credit for the eligible business and for the eligible university employee, along with the tax year in which the credit can first be claimed. The tax credit certificate must be attached to the tax return.

a. The eligible business will receive a tax credit certificate valued at 30 percent of the tax liability of the business. The value of a tax credit certificate to an eligible business

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cannot exceed \$225,000 for a tax year, and the total value of tax credit certificates to an eligible business cannot exceed \$600,000 over a five-year period.

EXAMPLE: A business is approved by the Iowa department of economic development in March 2004 for this program. The business shows a tax liability of \$1,000 on the Iowa income tax return for the period ending December 31, 2004, and a \$5,000 tax liability on the Iowa income tax return for the period ending December 31, 2005. The department will notify the Iowa department of economic development of the \$5,000 tax liability for the 2005 tax year, since this summary information is submitted starting with the tax year following the year of approval. The business will receive a tax credit certificate of \$1,500 (30 percent of the \$5,000 tax liability), which can be claimed on the tax return of the business for the period ending December 31, 2006.

b. The university employee will receive a tax credit certificate valued at 10 percent of the tax liability of the business. If more than one university employee is responsible for the development of the technology, the value equal to 10 percent of the tax liability of the business will be divided equally between the eligible university employees. The value of a tax credit certificate to the eligible university employees cannot exceed \$75,000 for a tax year, and the total value of tax credit certificates to the eligible university employees cannot exceed \$600,000 over a five-year period.

EXAMPLE: A business is approved by the Iowa department of economic development in March 2004 for this program. The business shows a tax liability of \$1,000 on the Iowa income tax return for the period ending December 31, 2004, and a \$5,000 tax liability on the Iowa income tax return for the period ending December 31, 2005. The department will notify the Iowa department of economic development of the \$5,000 tax liability for the 2005 tax year, since this summary information is submitted starting with the tax year following the year of approval. Assuming only one university employee was involved in developing the technology, this university employee will receive a tax credit certificate of \$500 (10 percent of the \$5,000 tax liability), which can be claimed on the tax return of the university employee for the period ending December 31, 2006.

c. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the taxpayer's liability for the following five years or until depleted, whichever occurs first. The tax credit certificate is not refundable and not transferable. The tax credit shall not be carried back prior to the tax year in which the taxpayer redeems the credit. If the eligible business is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

52.24(3) Overall limitation on tax credits. For the fiscal year beginning July 1, 2004, no more than \$2 million of tax credit certificates can be issued. For the fiscal years beginning July 1, 2005, through July 1, 2009, no more than \$10 million of tax credit certificates can be issued. Tax credit certificates cannot be issued for fiscal years beginning on or after July 1, 2010.

This rule is intended to implement 2003 Iowa Acts, House File 692, section 111, and Iowa Code 422.33 as amended by 2003 Iowa Acts, House File 692, section 85.

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 Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for November is 6.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective November 11, 2003, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7-31 days Minimum 0.50%
- 32-89 days Minimum 0.60%
- 90-179 days Minimum 0.70%
- 180-364 days Minimum 0.70%
- One year to 397 days Minimum 0.80%
- More than 397 days Minimum 1.50%

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.

NOTICE—USURY

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

December 1, 2002 — December 31, 2002	6.00%
January 1, 2003 — January 31, 2003	6.00%
February 1, 2003 — February 28, 2003	6.00%
March 1, 2003 — March 31, 2003	6.00%

April 1, 2003 — April 30, 2003	6.00%
May 1, 2003 — May 31, 2003	5.75%
June 1, 2003 — June 30, 2003	6.00%
July 1, 2003 — July 31, 2003	5.50%
August 1, 2003 — August 31, 2003	5.25%
September 1, 2003 — September 30, 2003	6.00%
October 1, 2003 — October 31, 2003	6.50%
November 1, 2003 — November 30, 2003	6.25%
December 1, 2003 — December 31, 2003	6.25%

ARC 2952B**ADMINISTRATIVE SERVICES
DEPARTMENT[11]****Adopted and Filed**

Pursuant to the authority of 2003 Iowa Acts, House File 534, section 4, the Department of Administrative Services rescinds 401—Chapter 18, “Petitions for Rule Making,” 471—Chapter 3, “Petitions for Rule Making,” and rule 581—19.14(17A,19A), “Petition for Rule Making,” and adopts 11—Chapter 5, “Petitions for Rule Making,” Iowa Administrative Code.

The purpose of this rule making is to consolidate the uniform rules regarding petitions for rule making by rescinding the comparable rules adopted by the former Departments of General Services, Personnel, and Information Technology, that now comprise the Department of Administrative Services, and adopting Chapter 5 under the new agency identification number 11 for the Department of Administrative Services.

Notice of Intended Action was published in the October 1, 2003, Iowa Administrative Bulletin as **ARC 2803B**. The adopted amendments are identical to those published under Notice.

These amendments were adopted November 5, 2003.

These amendments will become effective on February 11, 2004.

These amendments are intended to implement Iowa Code chapter 17A and 2003 Iowa Acts, House File 534.

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 [rescind 401—Ch 18, 471—Ch 3, 581—19.14; adopt 11—Ch 5] is being omitted. These amendments are identical to those published under Notice as **ARC 2803B**, IAB 10/1/03.

[Filed 11/6/03, effective 2/11/04]
[Published 11/26/03]

[For replacement pages for IAC, see IAC Supplement 11/26/03.]

ARC 2951B**ADMINISTRATIVE SERVICES
DEPARTMENT[11]****Adopted and Filed**

Pursuant to the authority of 2003 Iowa Acts, House File 534, section 4, the Department of Administrative Services hereby rescinds 401—Chapter 19, “Agency Procedure for Rule Making,” 471—Chapter 4, “Agency Procedure for Rule Making,” and 581—Chapter 31, “Department Procedure for Rule Making,” and adopts 11—Chapter 6, “Agency Procedure for Rule Making,” Iowa Administrative Code.

The purpose of this rule making is to consolidate the uniform rules on agency procedure for rule making by rescinding the comparable rules adopted by the former Departments of General Services, Personnel, and Information Technology that now comprise the Department of Administrative Services and adopting Chapter 6 under the new agency identification

number 11 for the Department of Administrative Services.

Notice of Intended Action was published in the October 1, 2003, Iowa Administrative Bulletin as **ARC 2804B**. The adopted amendments are identical to those published under Notice.

These amendments were adopted November 5, 2003.

These amendments will become effective on February 11, 2004.

These amendments are intended to implement Iowa Code chapter 17A and 2003 Iowa Acts, House File 534.

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 [rescind 401—Ch 19, 471—Ch 4, 581—Ch 31; adopt 11—Ch 6] is being omitted. These amendments are identical to those published under Notice as **ARC 2804B**, IAB 10/1/03.

[Filed 11/6/03, effective 2/11/04]
[Published 11/26/03]

[For replacement pages for IAC, see IAC Supplement 11/26/03.]

ARC 2950B**ADMINISTRATIVE SERVICES
DEPARTMENT[11]****Adopted and Filed**

Pursuant to the authority of 2003 Iowa Acts, House File 534, section 4, the Department of Administrative Services rescinds 401—Chapter 17, “Declaratory Orders,” 471—Chapter 5, “Declaratory Orders,” and rules 581—19.2(17A) to 581—19.13(17A), and adopts 11—Chapter 8, “Declaratory Orders,” Iowa Administrative Code.

The purpose of this rule making is to consolidate uniform rules regarding declaratory orders by rescinding the comparable rules adopted by the former Departments of General Services, Personnel, and Information Technology, that now comprise the Department of Administrative Services, and adopting Chapter 8 under the new agency identification number 11 for the Department of Administrative Services.

Notice of Intended Action was published in the October 1, 2003, Iowa Administrative Bulletin as **ARC 2805B**. The adopted amendments are identical to those published under Notice.

These amendments were adopted November 5, 2003.

These amendments will become effective on February 11, 2004.

These amendments are intended to implement Iowa Code chapter 17A and 2003 Iowa Acts, House File 534.

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 [rescind 401—Ch 17, 471—Ch 5, 581—19.2 to 19.13; adopt 11—Ch 8] is being omitted. These amendments are identical to those published under Notice as **ARC 2805B**, IAB 10/1/03.

[Filed 11/6/03, effective 2/11/04]
[Published 11/26/03]

[For replacement pages for IAC, see IAC Supplement 11/26/03.]

ARC 2976B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 159.5(11), 163.1, and 189.13, and 2003 Iowa Acts, House File 624, the Department of Agriculture and Land Stewardship hereby adopts new Chapter 57, "Whitetail Deer Hunting Preserves," and amends Chapter 64, "Infectious and Contagious Diseases," Chapter 65, "Livestock Importation," and Chapter 76, "Meat and Poultry Inspection," Iowa Administrative Code.

The purpose of these new rules and amendments is to implement 2003 Iowa Acts, House File 624, which transferred the regulation of whitetail deer and mule deer raised behind fences from the Department of Natural Resources to the Department of Agriculture and Land Stewardship. The new rules and amendments deal with several issues including the regulation of whitetail deer hunting preserves, the registration of facilities where Cervidae are maintained, changes to the Department's chronic wasting disease program for Cervidae, and the slaughtering of farm deer under inspection by the Meat and Poultry Bureau. The rules also impose fees to cover the costs of the Department's providing services and administering the programs.

The new whitetail deer hunting preserves rules are very similar to existing rules administered by the Department of Natural Resources relating to non-whitetail deer hunting preserves. Prior to enactment of 2003 Iowa Acts, House File 624, the Department of Natural Resources' rules governed preserves that contained whitetail deer. The purpose of these new rules is to continue regulation of whitetail deer hunting preserves under Department of Agriculture and Land Stewardship jurisdiction in a similar manner.

The purpose of the amendments to the chronic wasting disease program is to incorporate whitetail deer and mule deer into the CWD monitoring program, require mandatory registration of all premises containing Cervidae, lower the age for test-eligible animals to those 16 months of age and older, and require participation in the CWD monitoring program for whitetail deer hunting preserves with some modifications.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 1, 2003, as **ARC 2790B**. In addition, these amendments were simultaneously Adopted and Filed Emergency as **ARC 2791B**.

The Department held a public hearing on the proposed amendments on Wednesday, October 22, 2003. In addition to comments received at the hearing, the Department received several written comments. As a result of the comments, the following changes were made to the amendments published under Notice and Adopted and Filed Emergency:

1. Rule 21—57.6(80GA, HF624) was changed to clarify that permanent record retention means that records shall be maintained for at least five years. In addition, the rule was changed to clarify that the preserve operator must maintain an estimate of whitetail deer on the preserve rather than an exact inventory of all animals on the preserve.

2. Rule 21—64.44(163) was rescinded to eliminate the intrastate brucellosis and tuberculosis testing requirement on Cervidae.

3. Rule 21—64.104(163) was amended in the following manner:

- The definition of "Cervidae" was modified to include all members of the Cervidae family.
- A definition for "CWD susceptible Cervidae" was added.

4. Rule 21—64.119(163) was amended:

- To lessen the intrastate movement requirements on those farm deer not currently known to be susceptible to CWD.

- To clarify that the term "been enrolled" means that the herd owner has received written notification of enrollment from the Department.

- To remove language referring to a brucellosis and tuberculosis testing requirement for intrastate movement of Cervidae.

5. Rule 21—64.120(163) was amended to lessen the import movement requirements on those farm deer not currently known to be susceptible to CWD.

6. Rule 21—64.122(163) was amended:

- To exempt fees for the registration of premises that house Cervidae owned by a governmental unit or that operate as a nonprofit corporation.

- To clarify that the 8-foot-high fence requirement is limited to premises that house whitetail deer.

7. Rule 21—64.123(163) was amended to exempt governmental units and nonprofit corporations from the CWD enrollment fee and the CWD veterinary inspection fee.

8. Rule 21—65.12(163) was amended:

- To require Cervidae imported into Iowa to be quarantined and isolated until inspected by a departmental representative.

- To clarify that preimportation testing for brucellosis and tuberculosis is required for all Cervidae six months and older.

No waiver provision is included in these amendments because an existing rule allows for waivers in appropriate cases. The waiver rule applies to these amendments.

These amendments are intended to implement Iowa Code chapters 163 and 189A and 2003 Iowa Acts, House File 624.

These amendments will become effective December 31, 2003, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Adopt the following **new** chapter:

CHAPTER 57

WHITETAIL DEER HUNTING PRESERVES

21—57.1(80GA, HF624) Definitions. As used in these rules:

"Annual activity report" means the annual report form provided by the department.

"Boundary sign" means a sign prescribed by the department which, when posted, designates whitetail deer hunting preserve boundaries.

"Department" means the Iowa department of agriculture and land stewardship.

"Licensee" means a person or organization that possesses a valid whitetail deer hunting preserve license issued by the Iowa department of agriculture and land stewardship under this chapter.

"Tag" means a self-adhesive, numbered transportation tag for marking individual whitetail deer taken.

"Whitetail deer" means an animal belonging to the Cervidae family and classified as part of the Virginianus species of the Odocoileus genus, commonly referred to as whitetail

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

deer. However, a whitetail deer does not include any unmarked free-ranging whitetail deer.

“Whitetail deer hunting preserve” means property and facilities designated and licensed for holding, rearing, releasing, or processing whitetail deer for the purpose of hunting, for a fee, over an extended season.

“Whitetail deer hunting preserve license” means a seasonal license that authorizes the holder to establish a whitetail deer hunting preserve for the purpose of holding, propagating, and releasing whitetail for hunting purposes.

21—57.2(80GA, HF624) Whitetail deer hunting preserve license application.

57.2(1) Any person who seeks to operate a whitetail deer hunting preserve shall apply to the department for a whitetail deer hunting preserve license. The application shall be on a form prescribed by the department and shall be accompanied by a \$1000 annual licensing fee; however, any person who, on September 1, 2003, held a hunting preserve license issued by the Iowa department of natural resources may operate under that license until that license expires in 2004 or is otherwise terminated by the Iowa department of natural resources. All whitetail deer hunting preserves, no matter how licensed, shall comply with the rules in this chapter.

57.2(2) All whitetail deer hunting preserve license applications shall be accompanied by two copies of a plat map depicting the location of all tracts of land included in the proposed hunting preserve.

57.2(3) Upon receipt of an application, the department shall inspect the property identified in the application that is to comprise the proposed whitetail deer hunting preserve. The department may license the proposed whitetail deer hunting preserve if the department finds all of the following:

a. That the proposed whitetail deer hunting preserve contains a minimum of 320 acres of contiguous land and not more than 2560 acres.

b. That the total area of all licensed hunting preserves, including preserves licensed by the department of natural resources, and the proposed preserve will not exceed 3 percent of the land area of the county.

c. That the proposed whitetail deer hunting preserve’s fences have been certified pursuant to 2003 Iowa Acts, House File 624, section 7, or 2003 Iowa Acts, House File 624, section 22.

d. That the proposed whitetail deer hunting preserve operator has complied with the notification requirements of 2003 Iowa Acts, House File 624, section 8, unless the application is for a renewal of an existing license, including the renewal of a hunting preserve license issued by the department of natural resources prior to September 1, 2003.

57.2(4) A whitetail deer hunting preserve shall seek approval of any proposed additions or deletions to the land area of the preserve at least 30 days prior to the effective date of the proposed addition or deletion. The department will inspect the boundary fences of any additions or deletions to ensure that the fence may be certified. If the addition or deletion results in the whitetail deer hunting preserve’s exceeding the minimum or maximum acreage limitations or the county limitation set in subrule 57.2(3), then the department shall deny the proposed deletion or addition. The department will also deny the addition or deletion if the department determines that the new boundary fences cannot be certified.

57.2(5) The department shall charge the applicant a fee of \$35 per hour for any inspection of a proposed whitetail deer hunting preserve fence done to certify the fence.

21—57.3(80GA, HF624) Chronic wasting disease testing. All whitetail deer hunting preserves shall comply with the chronic wasting disease testing requirements contained in rule 21—64.121(163).

21—57.4(80GA, HF624) Boundary signs required. All licensed whitetail deer hunting preserves shall provide, post, and maintain boundary signs which meet the following minimum specifications:

1. 160-square-inch surface area;
2. Sign material of wood, steel, aluminum or heavy poly-plastic; and
3. White/red sign color combination with the message “Licensed hunting preserve.”

Boundary signs shall be spaced no more than 500 feet apart.

21—57.5(80GA, HF624) Fencing required. All licensed whitetail deer hunting preserves shall construct and maintain a “deerproof” boundary fence. Such fence shall be constructed and maintained with a minimum height of 8 feet above ground level. The fence is subject to periodic inspection by the department. The department shall charge an inspection fee of \$35 per hour for a fence inspection.

21—57.6(80GA, HF624) Records and annual report. All licensed whitetail deer hunting preserves shall submit a completed annual activity report no later than April 30 of the license year to the Iowa Department of Agriculture and Land Stewardship, Animal Industry Bureau, Wallace State Office Building, Des Moines, Iowa 50319-0053. All licensed whitetail deer hunting preserves shall retain sales/shipping receipts and health certification records involving the purchase and delivery of any whitetail deer to the licensee. All licensed whitetail deer hunting preserves shall record any transaction involving the sale of whitetail deer by the licensee. All original sales receipts for harvested whitetail deer shall remain with the licensee as a part of the permanent record for a period of at least five years, and a copy shall be provided to the purchasing hunter/client. This record requirement shall also apply to any sale of whitetail deer for private or commercial use, and any sale must be recorded immediately following the event.

Any licensed whitetail deer hunting preserve that has a valid license shall maintain an inventory record of all whitetail deer released and an estimate of whitetail deer being held on the licensed property at any given time.

21—57.7(80GA, HF624) Whitetail deer transportation tags. The hunter shall place a numbered, self-adhesive whitetail deer tag on a leg of each whitetail deer harvested on a licensed whitetail deer hunting preserve prior to moving the carcass in any manner. The hunter shall, upon taking a whitetail deer, immediately validate the whitetail deer tag by including the following information in the space provided on the tag: sex of animal taken and the hunter’s signature. The hunter shall also notch or punch a hole in the corresponding blocks on the whitetail deer tag designating the year, month and day the animal was taken. The whitetail deer tag shall remain attached to the whitetail deer until the deer is processed for consumption.

Whitetail deer tags shall be purchased from the Animal Industry Bureau, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053, at a cost of \$1 per whitetail deer tag.

21—57.8(80GA, HF624) Whitetail deer processed at a preserve. A licensed whitetail deer hunting preserve may prepare whitetail deer for hunters/clients by cleaning, dress-

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

ing, preserving, and packaging the meat. Packaging material shall be a freezer-type paper wrap which shall be sealed and bear the species name, date killed, and whitetail deer hunting preserve name in a legible fashion on the outside of the package. All packages shall have the phrase "NOT FOR SALE" clearly written or stamped on the package. The meat of no other species of animal shall be mixed with the whitetail deer packaged or processed under this rule. The whitetail deer tag shall remain with the meat during processing and shipment.

21—57.9(80GA, HF624) General conditions for licenses.

1. Records and facilities shall be available for inspection by employees of the department during reasonable hours.

2. All records and reports must be kept current and shall reflect a true and accurate account of the licensee's activities.

3. The department's animal industry bureau must be notified within 30 days in writing if the licensee ceases operation as a whitetail deer hunting preserve.

4. A licensee must seek to renew the whitetail deer hunting preserve license within 30 days following the expiration date. Renewal requests received after this period may be considered as a new application pursuant to rules 57.2(80GA, HF624) and 57.3(80GA, HF624).

5. The department may revoke or suspend a license if it finds that a licensee has committed a violation of the rules of this chapter, applicable provisions of 21—Chapter 64 or 2003 Iowa Acts, House File 624, or is more than 90 days delinquent in paying required fees.

6. All new whitetail deer hunting preserve license applications shall be considered on a first-come, first-served basis following April 30 of each year.

21—57.10(80GA, HF624) Fee retention. All fees collected by the department under this chapter shall be retained by the department to pay for the costs of administering this program and other programs relating to farm deer.

These rules are intended to implement 2003 Iowa Acts, House File 624.

ITEM 2. Rescind and reserve rule **21—64.44(163)**.

ITEM 3. Amend rule **21—64.104(163)** as follows:

Amend the following definitions:

"Adjacent herd" means one of the following:

1. A herd of Cervidae occupying premises that border an affected herd, including herds separated by roads or streams.

2. A herd of Cervidae occupying premises that were previously occupied by an affected herd within the past ~~four~~ five years as determined by the designated epidemiologist.

"Cervidae" means elk, red deer, fallow deer, sika deer, and related species and hybrids of these species all animals belonging to the Cervidae family.

"Cervid CWD surveillance identification program" or "CCWDSI program" means a CWD surveillance program that requires identification and laboratory diagnosis on all deaths of Cervidae ~~over 18~~ 16 months of age and older including, but not limited to, deaths by slaughter, hunting, illness, and injury. A copy of approved laboratory reports shall be maintained by the owner for purposes of completion of the annual inventory examination for recertification. Such diagnosis shall include examination of brain and any other tissue as directed by the state veterinarian. If there are deaths for which tissues were not submitted for laboratory diagnosis due to postmortem changes or unavailability, the department shall determine compliance.

"CWD exposed" or "exposed" means a designation applied to Cervidae that are either part of an affected herd or for which epidemiological investigation indicates contact with

CWD affected animals or contact with animals from a CWD affected herd in the past ~~four~~ five years.

"Official cervid identification" means one of the following:

1. to 4. No change.

5. *A plastic or other material tag which provides unique animal identification and is issued and approved by the North American Deer Farmers Association.*

Insert the following **new** definition in alphabetical order:

"CWD susceptible Cervidae" means whitetail deer, black-tail deer, mule deer, red deer, elk, and related species and hybrids of these species.

ITEM 4. Amend subrule 64.106(1) as follows:

64.106(1) Slaughter establishments. All slaughtered Cervidae ~~over 18~~ 16 months of age and older must have brain tissue submitted at slaughter and examined for CWD by an approved laboratory. This brain tissue sample will be obtained by a state or federal meat inspector or accredited veterinarian on the premises at the time of slaughter.

ITEM 5. Amend rule 21—64.109(163) as follows:

21—64.109(163) Duration of quarantine. Quarantines placed in accordance with these rules shall be removed as follows:

1. For herds of origin, quarantines shall be removed after ~~four~~ five years of compliance with rules 64.104(163) through 64.120(163).

2. For herds having contact with affected or exposed animals, quarantines shall be removed after ~~four~~ five years of compliance with rules 64.104(163) through 64.120(163).

3. For adjacent herds, quarantines shall be removed as directed by the state veterinarian in consultation with the epidemiologist.

ITEM 6. Amend rule 21—64.119(163) as follows:

21—64.119(163) Intrastate movement requirements.

64.119(1) All intrastate movements of Cervidae other than to a state or federally inspected slaughter establishment shall be accompanied by an intrastate movement certificate of veterinary inspection signed by a licensed, accredited veterinarian. Movement of *CWD susceptible Cervidae*, other than direct movement to slaughter, shall only be allowed from herds that have ~~satisfactorily completed at least one year~~ been enrolled in the Iowa CWD monitoring program. *As used in this subrule, "been enrolled" means that the herd owner has received from the department written notification of the herd's enrollment and participation in the program.*

64.119(2) Such intrastate movement certificate shall include all of the following:

a. Consignor's name and address.

b. Consignee's name and address.

c. Individual, official identification of each animal.

d. *For CWD susceptible Cervidae, the certificate shall include the CWD herd premises number, the herd status level, the anniversary date, and the expiration date.*

e. *For Cervidae other than CWD susceptible Cervidae, the following statement must be included on the certificate:*

"The animal(s) has not spent any time within the past 36 months in a zoo, animal menagerie, or like facility, or has not been on the same premises as a cervid herd which has been classified as a CWD infected herd, exposed herd, or trace herd."

ITEM 7. Amend rule 21—64.120(163) as follows:

21—64.120(163) Import requirements. ~~For the purpose of this rule, cervidae shall mean all animals belonging to the~~

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Cervidae family. Movement of CWD susceptible *Cervidae*, other than direct movement to slaughter, shall only be allowed from herds which have satisfactorily completed at least three years in an official, recognized CWD monitoring program.

64.120(1) All *Cervidae* entering Iowa must be accompanied by all of the following:

a. and b. No change.

c. ~~The~~ *One of the following statement statements* must appear on the certificate:

(1) *For CWD susceptible Cervidae:* "All *Cervidae* on this certificate originate from a CWD monitored or certified herd in which these animals have been kept for at least one year or were natural additions. There has been no diagnosis, signs, or epidemiologic evidence of CWD in this herd for the past five years. All *cervids* listed are quarantined to the destination and shall be held in isolation until inspected by a departmental representative."

(2) *For Cervidae other than CWD susceptible Cervidae:* "The animal(s) has not spent any time within the past 36 months in a zoo, animal menagerie, or like facility, or has not been on the same premises as a cervid herd which has been classified as a CWD infected herd, exposed herd, or trace herd. All *cervids* listed are quarantined to the destination and shall be held in isolation until inspected by a departmental representative."

d. No change.

64.120(2) No change.

ITEM 8. Adopt the following new rules:

21—64.121(163) Whitetail deer hunting preserve—mandatory participation in CWD monitoring and surveillance program. Whitetail deer hunting preserves, including those required to be licensed pursuant to 21—57.2(80GA, HF624), must participate in the CWD monitoring and surveillance program.

64.121(1) Animal identification. All *Cervidae* released into a licensed whitetail deer hunting preserve after September 15, 2003, must be officially identified.

64.121(2) Sampling rate. Sampling for CWD surveillance must occur at a minimum rate sufficient to provide 90 percent confidence that the disease will be detected in the premises population if present at the rate of 5 percent of the animals. All animals added to preserves pursuant to subrule 64.121(1) must be tested upon death or removal from the premises.

21—64.122(163) Mandatory Cervidae premises registration.

64.122(1) Commencing January 1, 2004, all premises with *Cervidae* must be registered with the department. Such registration shall be renewed annually and expire on December 31 of the year of registration. Registration fees of \$100 annually will be required to be submitted with the registration form; however, a licensed whitetail deer hunting preserve shall be exempt from paying a registration fee in addition to the whitetail deer hunting preserve licensing fee. In addition, premises that house government-owned *Cervidae* or that operate as a nonprofit corporation shall have the registration fee waived.

64.122(2) Fencing. All premises containing *Cervidae* must be fenced in a manner to safely contain the *Cervidae* within the premises and to prevent egress and ingress of the captive animals and free-roaming *Cervidae*. For premises that contain whitetail deer, such fence shall be at least eight feet in height and be of sound construction.

21—64.123(163) Fees. Farm deer producers may elect to have their herds enrolled in this voluntary program utilizing the services of a departmental veterinarian. Farm deer producers who enroll in the program shall pay the following fees:

1. Commencing January 1, 2004, an annual chronic wasting disease enrollment fee of \$100. The enrollment shall be renewed annually with an accompanying fee of \$100. Premises that house government-owned *Cervidae* or that operate as a nonprofit corporation shall have the enrollment fee waived.

2. Veterinarian inspection fee for utilizing the services of departmental veterinarians will be on an hourly basis. The hourly rate charged for this service will be \$50 per hour. Premises that house government-owned *Cervidae* or that operate as a nonprofit corporation shall have the hourly rate waived.

21—64.124(163) Fee retention. All fees collected by the department relating to farm deer or *Cervidae* shall be retained by the department to pay for the costs of administering this program and other programs relating to farm deer.

ITEM 9. Amend rule 21—65.12(163) as follows:

21—65.12(163) Farm-deer Cervidae. *Cervidae* permitted entry into the state will be quarantined to the premises of destination and held in isolation until inspected by a departmental representative. As defined in Iowa Code section 481A.1, subsection 20, paragraph "h," farm-deer *Cervidae* six months of age or over imported into Iowa must originate from a herd not under quarantine and be tested negative for tuberculosis (TB) within 90 days of importation by the Single Cervical Tuberculin (SCT) test (*Cervidae*), or originate from an Accredited Herd (*Cervidae*), or originate from a Qualified Herd (*Cervidae*) tested negative within 90 days of importation, with test dates shown on the certificate of inspection. Herd status and SCT test are according to USDA Tuberculosis Eradication in *Cervidae* Uniform Methods and Rules effective May 15, 1994.

Farm-deer *Cervidae* must also be classified as negative for brucellosis within 90 days of importation, or originate from a Certified Brucellosis-Free Cervid Herd, or a Cervid Class Free Status State (Brucellosis). This negative status must be determined by brucellosis tests approved for cattle and bison and tested in a cooperative state-federal laboratory.

Movement to slaughter is not affected by this rule.

ITEM 10. Adopt the following new rules:

21—76.14(189A) Federal Wholesome Meat Act regulations adopted for the regulation of farm deer.

1. All federal regulations adopted in 21—76.1(189A).

2. All federal regulations adopted in 21—76.2(189A), except Part 303 and Part 307.4(c) of Title 9, Chapter III of the Code of Federal Regulations, revised as of August 29, 2003.

This rule is intended to implement Iowa Code chapter 189A and 2003 Iowa Acts, House File 624.

21—76.15(189A) Fees.

1. The fee for inspecting farm deer shall be \$50 per hour for time spent, and \$75 per hour for overtime inspection.

2. The producer shall be responsible for paying the shipping costs of CWD samples obtained by department inspection personnel during inspected slaughter of farm deer as part of the department's chronic wasting disease testing program.

3. All fees collected by the department under this rule shall be retained by the department to pay for the costs of administering this program and other programs relating to farm deer.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

This rule is intended to implement Iowa Code chapter 189A and 2003 Iowa Acts, House File 624.

[Filed 11/7/03, effective 12/31/03]

[Published 11/26/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/26/03.

ARC 2958B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 159.5(11), the Department of Agriculture and Land Stewardship hereby rescinds Chapter 59, "Sorghum," Iowa Administrative Code.

The purpose of this rule making is to eliminate an obsolete and cumbersome chapter which is not necessary and is largely unenforceable. The chapter deals with record-keeping requirements for persons selling or offering for sale sorghum or sorghum products.

Notice of Intended Action was published in the September 17, 2003, Iowa Administrative Bulletin as **ARC 2781B**. No public comment was received on this amendment. This amendment is identical to the amendment published under Notice.

This amendment is intended to implement Iowa Code section 159.5(11).

This amendment will become effective December 31, 2003.

The following amendment is adopted.

Rescind and reserve **21—Chapter 59**.

[Filed 11/6/03, effective 12/31/03]

[Published 11/26/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/26/03.

ARC 2968B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendment clarifies the following:

1. That a candidate's committee shall appoint a treasurer who is an Iowa resident and at least 18 years of age and that the committee may appoint a chairperson who is not subject to residency or age requirements.

2. That all other committees shall appoint separate individuals to serve as treasurer and chairperson and that each shall be at least 18 years of age.

3. That, except for a candidate's committee, each committee shall either appoint an Iowa resident as treasurer or

maintain the committee's funds in an Iowa financial institution.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on October 1, 2003, as **ARC 2813B**. No oral or written comments on the amendment were received. This amendment is identical to that published under Notice.

The Board adopted this amendment on November 5, 2003.

This amendment is intended to implement Iowa Code section 56.3.

This amendment will become effective on December 31, 2003.

The following amendment is adopted.

Rescind subrule 4.4(1) and adopt the following **new** subrule in lieu thereof:

4.4(1) Committee officers. The committee shall disclose on the statement of organization the name, mailing address, telephone number, and office of each committee officer. Each candidate's committee shall appoint a treasurer who shall be an Iowa resident and at least 18 years of age. A candidate's committee may also appoint a committee chairperson who is not limited by residency or age. Every other committee shall appoint a separate treasurer and chairperson, each of whom shall be at least 18 years of age. Except for a candidate's committee, every committee shall either have an Iowa resident as treasurer or shall maintain all of the committee's funds in bank accounts in a financial institution in Iowa.

[Filed 11/6/03, effective 12/31/03]

[Published 11/26/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/26/03.

ARC 2965B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendment clarifies that, when a committee receives a campaign contribution by mail, the date of the contribution to be reported on a disclosure report is the date that the recipient physically opens the envelope. This policy was announced by the Board in IECDB Advisory Opinion 2000-13.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on October 1, 2003, as **ARC 2814B**. No oral or written comments on the amendment were received. This amendment is identical to that published under Notice.

The Board adopted this amendment on November 5, 2003.

This amendment is intended to implement Iowa Code section 56.6.

This amendment will become effective on December 31, 2003.

The following amendment is adopted.

Amend subrule 4.14(2) as follows:

4.14(2) Date of contribution—date received. The schedule shall include the complete date (month/day/year) *that* the contribution was physically received by a person on behalf of

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

the committee. If the contribution is by check, the date of the contribution to be reported is the date the check is physically received by a person on behalf of a committee, even if this date is different from the date shown on the check. *For contributions received by mail, the date of the contribution to be reported shall be the date that the recipient physically opens the envelope.*

[Filed 11/6/03, effective 12/31/03]
[Published 11/26/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/26/03.

ARC 2967B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendment permits a trust that makes a one-time contribution in excess of \$750 to a campaign committee the choice of filing a one-page form that registers a "political committee" and discloses the contribution in lieu of filing a statement of organization, disclosure reports, and a notice of dissolution. The amendment also clarifies technical language in the current rule.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on October 1, 2003, as **ARC 2812B**. No oral or written comments on the amendment were received. This amendment is identical to that published under Notice.

The Board adopted this amendment on November 5, 2003.

This amendment is intended to implement Iowa Code sections 56.6(6) and 56.12.

This amendment will become effective on December 31, 2003.

The following amendment is adopted.

Rescind rule 351—4.31(56,68B) and adopt the following **new** rule in lieu thereof:

351—4.31(56) Information required for a trust to avoid a contribution in the name of another person. A contribution to a committee by a trustee solely in the name of the trust constitutes a contribution in the name of another person as prohibited in Iowa Code section 56.12 unless the recipient committee publicly discloses the contribution as provided in this rule.

4.31(1) Living or revocable trust. If the contribution involves a trust identified as a revocable trust or a living trust that does not file a separate trust tax return and whose federal tax ID number is the same as the social security number of the grantor who creates the trust and who is also a trustee, the contribution shall be reported by the recipient committee as being made by the "(name) revocable (or living) trust."

4.31(2) Other trusts. For a contribution involving a trust that does not qualify under subrule 4.31(1), the recipient committee shall identify the trust, the trustee, and the trustor.

4.31(3) Registering a committee. A trust, except for a living or revocable trust, that raises or spends more than \$750 for campaign activities shall register a political committee (PAC) and shall file disclosure reports. A trust, except for a living or revocable trust, that makes a one-time contribution in excess of \$750 may file Form DR-OTC in lieu of filing a statement of organization and filing disclosure reports.

This rule is intended to implement Iowa Code sections 56.6(6) and 56.12.

[Filed 11/6/03, effective 12/31/03]
[Published 11/26/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/26/03.

ARC 2966B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendment requires the placement of the "paid for by" attribution statement on Web sites that expressly advocate the nomination, election, or defeat of a candidate or the passage or defeat of a ballot issue. This policy was announced by the Board in IECDB Advisory Opinion 2000-25.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on October 1, 2003, as **ARC 2810B**. No oral or written comments on the amendment were received. This amendment is identical to that published under Notice.

The Board adopted this amendment on November 5, 2003.

This amendment is intended to implement Iowa Code section 56.14.

This amendment will become effective on December 31, 2003.

The following amendment is adopted.

Amend subrule 4.42(2) as follows:

4.42(2) Items subject to requirement. In addition to those items specified by Iowa Code section 56.14(1)"b," the requirement for an attribution statement is interpreted to apply to scratch pads and postcards because inclusion of the statement is not impracticable when other text is being printed, and the cost is not significantly increased by printing it. *The attribution statement shall also appear on any Web site that expressly advocates the election, nomination, or defeat of a clearly identified candidate or expressly advocates the passage or defeat of a clearly identified ballot issue. The attribution statement only needs to appear on the home page of the Web site.*

[Filed 11/6/03, effective 12/31/03]
[Published 11/26/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/26/03.

ARC 2969B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendment permits a candidate's committee to use a computer owned by a corporate entity to generate and file a campaign disclosure report so long as the report does not expressly advocate the election or defeat of a candidate. This policy was announced in IECDB Advisory Opinion 2002-01. The Board's rules already contain a similar provision for other types of committees.

The amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin on October 1, 2003, as **ARC 2811B**. No oral or written comments on the amendment were received. This amendment is identical to that published under Notice.

The Board adopted this amendment on November 5, 2003.

This amendment is intended to implement Iowa Code section 56.15.

This amendment will become effective on December 31, 2003.

The following amendment is adopted.

Amend rule 351—4.46(56,68B) as follows:

351—4.46(56,68B) Voter education. These rules do not prevent a corporate entity from providing or publicizing voter registration procedures, election day information, voting procedures or other voter education information, so long as the information provided does not expressly advocate the election or defeat of a clearly identified candidate. *Also, these rules do not prevent a candidate's committee from using a corporate computer to generate and file a campaign disclosure report so long as the report does not expressly advocate the election or defeat of a clearly identified candidate.*

This rule is intended to implement Iowa Code section 56.15.

[Filed 11/6/03, effective 12/31/03]

[Published 11/26/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/26/03.

ARC 2964B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby rescinds Chapter 8, "Petitions for Rule Making," and adopts new Chapter 8, "Executive Branch Lobbying," and rescinds Chapter 13, "Executive Branch Lobbyists," and adopts new Chapter 13, "Petitions for Rule Making," Iowa Administrative Code.

The amendments incorporate the subject matter of current Chapter 8 in new Chapter 13 and of current Chapter 13 in new Chapter 8 and incorporate current procedures and statutory requirements.

The amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on October 1, 2003, as **ARC 2815B**. No oral or written comments on the amendments were received. These amendments contain the following changes from those published under Notice:

In rule 351—8.6(68B), the phrase "compensation received for" was added to numbered paragraphs "2" and "3" to clarify that money received, not time spent, is a reportable lobbying expenditure. The paragraphs now read as follows:

"2. Compensation received for time spent researching and drafting proposed legislation, rules, or executive orders when the draft is then submitted to any executive branch official or employee.

"3. Compensation received for time spent by the lobbyist communicating with executive branch officials and employees for purposes of engaging in executive branch lobbying."

The words "or client" were added to subrule 8.7(6) to permit clients to cancel lobbyist registrations. The subrule now reads as follows:

"8.7(6) Cancellation. If a lobbyist's service on behalf of a client is concluded prior to the end of the calendar year, the lobbyist or client may cancel the registration and terminate the reporting requirements of Iowa Code section 68B.37 and rule 351—8.8(68B) so long as compliance with subrule 8.8(4) is achieved. Cancellation may be completed by the filing of an executive branch lobbyist termination statement or by letter."

The Board adopted these amendments on November 5, 2003.

These amendments are intended to implement Iowa Code chapters 17A and 68B and Iowa Code section 56.15A.

These amendments will become effective on December 31, 2003.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Chs 8, 13] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 2815B**, IAB 10/1/03.

[Filed 11/6/03, effective 12/31/03]

[Published 11/26/03]

[For replacement pages for IAC, see IAC Supplement 11/26/03.]

ARC 2973B**IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1) and 16.5(17), the Iowa Finance Authority hereby rescinds Chapter 1, "General," Iowa Administrative Code, and adopts a new Chapter 1 with the same title.

This amendment replaces the current Chapter 1 with a revised chapter concerning general matters of the Iowa Finance Authority (Authority). New Chapter 1 details the mission, organization, programs and operations of the Authority, including the office where and the means by which interested

IOWA FINANCE AUTHORITY[265](cont'd)

persons may obtain information and make submissions or requests.

Notice of Intended Action was published in the September 3, 2003, Iowa Administrative Bulletin as **ARC 2718B**. No public comment was received on this amendment. The adopted amendment is identical to that published under Notice of Intended Action.

The Authority adopted this amendment on November 5, 2003.

This amendment will become effective on December 31, 2003.

This amendment is intended to implement Iowa Code sections 17A.3(1) and 16.5(17).

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [Ch 1] is being omitted. This amendment is identical to that published under Notice as **ARC 2718B**, IAB 9/3/03.

[Filed 11/6/03, effective 12/31/03]
[Published 11/26/03]

[For replacement pages for IAC, see IAC Supplement 11/26/03.]

ARC 2972B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(17) and 2003 Iowa Acts, Senate File 458, section 101, the Iowa Finance Authority adopts Chapter 19, "State Housing Trust Fund," Iowa Administrative Code.

This amendment adopts a new chapter concerning the state housing trust fund held and operated by the Iowa Finance Authority (Authority). Through the state housing trust fund, the Authority seeks to further its mission with respect to affordable housing. The rules outline the application procedure, program guidelines, and other necessary requirements of the state housing trust fund. The rules adopt a trust fund allocation plan, which plan is incorporated by reference in rule 265—19.1(16).

The trust fund allocation plan sets forth the purpose of the state housing trust fund program, the administrative information required for participation in the program, the threshold criteria, the selection criteria and other applicable requirements. Copies of the trust fund allocation plan are available upon request from the Authority and are available electronically on the Authority's Web site. The address for the Authority's Web site is www.ifahome.com. It is the Authority's intent to incorporate the 2004 trust fund allocation plan by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

Notice of Intended Action was published in the October 1, 2003, Iowa Administrative Bulletin as **ARC 2827B**. The Authority held a public hearing over the Iowa Communications Network on October 21, 2003, to receive public comments on the 2004 Allocation Plan (Allocation Plan). The Authority received written comments in addition to the oral comments received at the public hearing. No changes to the actual text of the rules have been made, as the changes were made to the Allocation Plan incorporated by reference.

The Authority received both oral and written public comments on the draft 2004 Allocation Plan. These public com-

ments addressed various aspects of the 2004 Allocation Plan, including: a request that each annual allocation plan be as consistent and fair as possible; comments for changing the definition of Housing Assistance Plan to better fit different communities; deleting a provision that required new funds for meeting the local match section; expanding the definition and examples of local match; clarifying the certification process; deleting the section on the distinct and separate corporate identity requirement; revising the requirement that 40 percent of trust fund awards be used for extremely low-income people; questioning the need for scoring; questioning the requirement that new units actually be produced under the project based awards; and other general comments on the 2004 Allocation Plan.

The Authority revised the draft 2004 Allocation Plan based on the public comments received. Some revisions merely clarified sections of the 2004 Allocation Plan that may have been subject to misunderstanding, while other revisions were more substantive. The substantive changes included: clarifying the application of the local match requirement, allowing the certification and application processes to be combined for the initial funding round, and deleting the requirement that a local trust fund have its own separate and distinct corporate identity.

The Authority adopted this amendment on November 5, 2003.

This amendment will become effective on December 31, 2003.

This amendment is intended to implement Iowa Code section 16.5(17) and 2003 Iowa Acts, Senate File 458, section 101.

The following amendment is adopted.

Adopt the following **new** chapter:

CHAPTER 19 STATE HOUSING TRUST FUND

265—19.1(16) Trust fund allocation plan. The trust fund allocation plan entitled Iowa Finance Authority State Housing Trust Fund 2004 Allocation Plan, effective December 31, 2003, shall be the allocation plan for the distribution of funds held within the state housing trust fund established in 2003 Iowa Acts, Senate File 458, section 101. The trust fund allocation plan includes the plan, application and application instructions. The trust fund allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

265—19.2(16) Location of copies of the plan. The trust fund allocation plan can be reviewed and copied in its entirety on the authority's Web site at www.ifahome.com. Copies of the trust fund allocation plan, application, and all related attachments and exhibits, if any, shall be deposited with the administrative rules coordinator and at the state law library. The plan incorporates by reference 2003 Iowa Acts, Senate File 458, section 101.

These rules are intended to implement Iowa Code section 16.5(17) and 2003 Iowa Acts, Senate File 458, section 101.

[Filed 11/6/03, effective 12/31/03]
[Published 11/26/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/26/03.

ARC 2974B**LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 89A.3, the Labor Commissioner hereby adopts amendments to Chapter 71, "Administration," Chapter 72, "New Installations," Chapter 73, "Existing Facilities," Chapter 75, "Fees," and Chapter 76, "Permits," Iowa Administrative Code.

The amendments update the rules; adopt the version of the building code used by the office of the Fire Marshal; make technical and editorial corrections; eliminate inspection quotas for state inspections; specify what information should be contained in accident reports; amend numerous provisions relating to special inspectors; clarify safety standards for new installations; clarify regulation of material lift elevators; increase some fees and establish at least one new fee; amend requirements for posting notices and permits near facilities; and allow the Labor Commissioner to post a notice that a facility is not to be used.

The purposes of these amendments are to make changes identified during the rules assessment mandated by Executive Order Number 8; provide the Labor Commissioner more flexibility in scheduling inspections due to reduced staffing level; update technical requirements; protect the safety of the public; implement legislative intent; provide for orderly renewal and revocation of special inspector commissions; and increase fees in order to approximately equal the projected costs of the program as required by Iowa Code section 89A.3.

Notice of Intended Action was published October 1, 2003, in the Iowa Administrative Bulletin as **ARC 2831B**. A public hearing was held on October 21, 2003, and one person commented orally. All comments received full and fair consideration. The year of the code addenda adopted by reference is changed from the 2002 edition to the 2003 edition in the introductory paragraph of paragraph 71.2(2)"c" and in rule 76.7(89A). No words were changed in response to the public comments, but the order of some sentences was changed to achieve greater clarity. In subrule 73.7(5), the exceptions are now stated at the beginning of the subrule rather than at the end. The subrule reads as follows:

"73.7(5) Except for firefighter service switches, leveling switches, and truck zone switches, no elevator shall be provided with a switch or device which makes more than one door or gate switch inoperative at any one time."

In subrules 75.1(1) and 75.1(2), rule 75.2(89A), and subrule 75.3(1), the following was a new sentence contained within the amended paragraphs. The language was not changed from the Notice, but the sentence now appears as an unnumbered paragraph at the end of subrules 75.1(1) and 75.1(2), rule 75.2(89A), and subrule 75.3(1). The unnumbered paragraph reads as follows:

"Consultative inspections may be performed at the discretion of the labor commissioner for a fee of \$100 per hour, including travel time, with a minimum charge of \$200."

No waiver provision is included in the amendments because 875—Chapter 77 contains variance procedures relating to elevators, escalators, and related equipment.

These amendments are intended to implement Iowa Code section 89A.3.

These amendments will become effective January 1, 2004.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of

these amendments [amendments to Chs 71 to 73, 75, 76] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 2831B**, IAB 10/1/03.

[Filed 11/7/03, effective 1/1/04]
[Published 11/26/03]

[For replacement pages for IAC, see IAC Supplement 11/26/03.]

ARC 2961B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Barber Examiners hereby amends Chapter 20, "Administrative and Regulatory Authority for the Board of Barber Examiners," Chapter 21, "Licensure of Barbers," Chapter 22, "Sanitation for Barbershops and Barber Schools," Chapter 23, "Barber Schools," and Chapter 24, "Continuing Education for Barbers"; rescinds Chapter 25, "Discipline for Barbers," and adopts new Chapter 25, "Discipline for Barbers, Barber Instructors, Barbershops, and Barber Schools"; and amends Chapter 26, "Fees," Iowa Administrative Code.

The amendments adopt new subrules for the conduct of persons who attend public meetings, requirements for notifying the Board of a name or address change, requirements for renewing a barbershop license, and criteria for issuing duplicate or reissued wallet cards and license certificates. The requirement for the 16-hour teaching class for barber instructors is rescinded. The amendments replace the current discipline chapter with a newly updated and revised discipline chapter that contains standard language that is consistent with other boards' discipline chapters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 20, 2003, as **ARC 2703B**. A public hearing was held on September 10, 2003, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa. There were no public comments.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective December 31, 2003.

These amendments are intended to implement Iowa Code chapters 21, 147, 158 and 272C.

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 [20.4(2), 20.4(3), 20.6, Ch 20 impl. clause, 21.2(2), 21.4(2), 21.10(6), 21.11(7), 21.12 to 21.15, 22.3, 23.5 to 23.15, 24.4(1), Ch 25, 26.1] is being omitted. These amendments are identical to those published under Notice as **ARC 2703B**, IAB 8/20/03.

[Filed 11/6/03, effective 12/31/03]
[Published 11/26/03]

[For replacement pages for IAC, see IAC Supplement 11/26/03.]

ARC 2963B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic Examiners hereby rescinds Chapter 42, "Schools for Chiropractic Physicians," and adopts new Chapter 42, "Colleges for Chiropractic Physicians," Iowa Administrative Code.

The amendment rescinds the current rules covering chiropractic colleges and adopts new rules for these colleges.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 16, 2003, as **ARC 2413B**. A public hearing was held May 13, 2003, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa. Amended Notice of Intended Action was published July 23, 2003, as **ARC 2628B**. The public comment period was extended until August 13, 2003. The following paragraph summarizes public comments received:

A commenter questioned whether schools consider students "interns" as in the definition of "chiropractic intern." One commenter questioned how coursework hours for physiotherapy were counted. Another suggested that the phrase "physiotherapy coursework" be changed to "chiropractic physiotherapy procedures coursework" wherever it appears. One comment regarding paragraph 43.4(3)"c" claimed that the provisions seemed to hold a preceptor to a different standard than a consultant.

The following changes were made to the amendments published under Notice.

In rule 42.1(151), the location of the Internet site in the definition of "Council on Chiropractic Education" was omitted in order to avoid public confusion if the site would change.

In response to public comment, proposed language in subrules 42.2(1) and 42.2(2) was not adopted. Instead, subrules 42.2(1), 42.2(2) and 42.2(3) will appear in the new chapter exactly as they do in the current chapter. The Council on Chiropractic Education will be conferring in early 2004 on standards affecting the area of college program standards, so the Board decided to wait until such deliberations were concluded before making any changes to rule 42.2(151).

This amendment was adopted by the Board of Chiropractic Examiners on October 8, 2003.

This amendment will become effective December 31, 2003.

This amendment is intended to implement Iowa Code chapter 151.

The following amendment is adopted.

Rescind 645—Chapter 42 and adopt the following **new** chapter in lieu thereof:

CHAPTER 42**COLLEGES FOR CHIROPRACTIC PHYSICIANS**

645—42.1(151) Definitions. For the purposes of these rules, the following definitions shall apply:

"Chiropractic intern" means a chiropractic student of an approved college of chiropractic in the student's last academic quarter, semester, or trimester of study, who is eligible for graduation from the college of chiropractic and is eligible to

complete a preceptorship program, as authorized by these rules.

"Chiropractic preceptor" means a chiropractic physician licensed and practicing in Iowa pursuant to Iowa Code chapter 151, who accepts a chiropractic intern or resident into the practice for the purpose of providing the chiropractic student with a clinical experience of the practice of chiropractic, and who meets the requirements of these rules.

"Chiropractic resident" means a graduate chiropractic physician who has received a doctor of chiropractic degree from a college of chiropractic approved by the board, and who is not licensed in any state, but who is practicing under a chiropractic preceptorship authorized under these rules.

"Chiropractic student" means a student of an approved college of chiropractic.

"Council on Chiropractic Education" or "CCE" means the organization that establishes the Educational Standards of Chiropractic Colleges and Bylaws. A copy of the standards may be requested from the Council on Chiropractic Education (CCE). CCE's address and Web site may be obtained from the board's Web site.

"Preceptorship practice" means the chiropractic practice of a single chiropractic physician or group of chiropractic physicians in a particular business or clinic, into which a licensed practicing chiropractic physician has accepted a chiropractic intern or chiropractic resident for the limited purpose of providing the intern or resident with a clinical experience in the practice of chiropractic.

645—42.2(151) Board-approved chiropractic colleges.

42.2(1) Rules pertaining to the practice of chiropractic at a chiropractic college clinic shall be equal to the standards established by the Council on Chiropractic Education existing as of February 1, 1991.

42.2(2) All chiropractic colleges, in order to be approved by the board of chiropractic examiners, shall first have status with the Commission on Accreditation of the Council on Chiropractic Education, as recognized by the U.S. Office of Education, existing as of February 1, 1991.

42.2(3) The following procedures are established for an institution to obtain equivalent approval by the board of chiropractic examiners:

a. Standards. The standards against which the institution will be evaluated shall be those published and utilized by the Council on Chiropractic Education existing as of February 1, 1991.

b. Self-study. A comprehensive self-study shall be required of the applying institution which measures its performance against the objectives of the institution and the standards of the board of chiropractic examiners. After review of the self-study, the board shall render a decision that the self-study is: (1) satisfactory, (2) unsatisfactory in terms of the report, or (3) unsatisfactory in terms of content. If unsatisfactory, the board will furnish the institution with a bill of particulars. An inspection of the institution shall not be made until the self-study is satisfactory.

c. Inspection. Inspection of the institution shall be conducted by an examining team selected by the board and shall consist of a minimum of five members. Two members shall have doctorates in the basic sciences; one shall have a doctorate in college administration; and two shall be doctors of chiropractic.

(1) The inspection team shall determine firsthand if the applicant institution meets the established standards and is meeting its own institutional objectives.

(2) Expenses of the inspection team shall be borne by the applicant institution.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(3) The inspection team shall furnish the board with a comprehensive report of the team findings after having provided the institution with opportunity to comment on its findings.

d. Decision. The board of chiropractic examiners will make its decision on the basis of the comprehensive report of the inspection team after providing the institution opportunity for a hearing on the report. If a member of the board has participated in the inspection, the member shall not participate in the decision-making process.

645—42.3(151) Practice by chiropractic interns and chiropractic residents. A student enrolled in a board-approved chiropractic preceptorship program in the state of Iowa may treat patients without obtaining an Iowa license, provided the requirements of these rules are met.

645—42.4(151) Approved chiropractic preceptorship program. The board shall approve a chiropractic college's preceptorship program if the program meets the following requirements:

42.4(1) The preceptorship program meets current CCE standards for consumer protection.

42.4(2) The preceptorship program is an established component of the curriculum offered by a board-approved chiropractic college.

42.4(3) Chiropractic interns who participate in the preceptorship program have met all requirements for graduation from the chiropractic college except for completion of the preceptorship period.

42.4(4) Chiropractic residents who participate in the post-graduate preceptorship program have graduated from a chiropractic college approved by the board.

42.4(5) All chiropractic physicians who serve as preceptors shall be approved under rule 645—42.5(151).

42.4(6) The chiropractic college retains ultimate responsibility for student learning and evaluations during the preceptorship.

42.4(7) The chiropractic preceptor shall supervise no more than one chiropractic intern or one chiropractic resident for the duration of a given preceptorship period.

42.4(8) If a preceptor agreement must be canceled for any reason, it is the responsibility of the chiropractic college to assign the intern or resident to another preceptor and notify the Iowa board of chiropractic examiners of the preceptorship cancellation. The notice shall include reasons for cancellation of the preceptorship.

645—42.5(151) Approved chiropractic physician preceptors.

42.5(1) The board shall approve a chiropractic physician to be a chiropractic physician preceptor if the chiropractic physician meets the following criteria:

a. The chiropractic physician holds a current Iowa chiropractic license and has continuously held licensure in the United States for the previous five years prior to preceptorship;

b. The chiropractic physician is currently fully credentialed by the sponsoring chiropractic college and approved by the board; and

c. The chiropractic physician has not had any formal disciplinary action or been a party to a malpractice settlement or judgment within the past three years.

The preceptor shall supervise no more than one chiropractic intern or one chiropractic resident for the duration of the preceptorship period.

42.5(2) The role of the chiropractic physician preceptor shall include:

a. Responsibility for supervising the practice of the chiropractic intern or chiropractic resident who is accepted into a preceptorship practice.

b. Identifying the chiropractic intern or chiropractic resident to the patients of the preceptorship practice to ensure that no patient will misconstrue the status of the intern or resident. The intern or resident shall wear a badge identifying that person as an intern or resident at all times in the presence of preceptorship patients.

c. Exercising direct, on-premises supervision of the chiropractic intern or chiropractic resident at all times that the intern or resident is engaged in any facet of patient care in the chiropractic physician preceptor's clinic.

d. Directing the chiropractic intern or chiropractic resident only in treatment care that is within the educational background and experience of the preceptor.

e. Notifying the preceptorship program within 30 days of either of the following actions:

(1) If the preceptor has any formal disciplinary action taken by any licensing entity; or

(2) If the preceptor is a party to any malpractice settlement or judgment.

645—42.6(151) Termination of preceptorship. A preceptorship shall terminate upon the occurrence of one of the following events:

42.6(1) Interns. The intern graduates from a board-approved college of chiropractic.

42.6(2) Residents. Twelve months have passed since the resident graduated from a board-approved college of chiropractic.

42.6(3) Formal disciplinary action is taken against the preceptor or the preceptor is a party to a final malpractice judgment or settlement agreement.

These rules are intended to implement Iowa Code chapter 151.

[Filed 11/6/03, effective 12/31/03]

[Published 11/26/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/26/03.

ARC 2962B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic Examiners hereby amends Chapter 43, "Practice of Chiropractic Physicians," and Chapter 44, "Continuing Education for Chiropractic Physicians," Iowa Administrative Code.

These amendments adopt definitions for "acupuncture" and "practice of acupuncture" pursuant to Iowa Code chapter 148E and rescind definitions for "peer review" and "peer review committee" because the definitions pertaining to this subject are located in rule 645—40.1(17A). The rules covering chiropractic insurance consultants and acupuncture are revised and updated, and the rule for nonprofit nutritional product sales is rescinded because the rule is outdated.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 23, 2003, as **ARC 2629B**. A public hearing was held on August 13, 2003, from 9 to

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received at the hearing. However, prior to the hearing, the following comments were received:

It was suggested that in the definition of "acupuncture" the word "oriental" be changed to either "Asian" or "Eastern." It was also noted that rule 43.4(151) does not specify who the chiropractic insurance consultants work for or account for new insurance entities such as third-party administrators that a chiropractor may work for in doing such consulting. One other comment noted that rule 43.5(151) did not seem to adequately define where the acupuncture education is to occur.

The following changes were made to the amendments published under Notice:

Subrule 43.4(1) was changed to add the words "third-party administrators or other similar entities" to address public comment received.

In rule 43.5(151), numbered paragraph "1," the word "clock" was removed to make the requirement easier to understand.

Paragraph 44.3(2)"c" was amended to add the words "per biennium" after the word "hours" to clarify the requirement.

These amendments will become effective December 31, 2003.

These amendments are intended to implement Iowa Code chapter 151.

The following amendments are adopted.

ITEM 1. Amend rule **645—43.1(151)** by rescinding definitions for "peer review" and "peer review committee," and adopting the following **new** definitions in alphabetical order:

"Acupuncture," pursuant to Iowa Code section 148E.1, means a form of health care developed from traditional and modern oriental medical concepts that employs oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease.

"Practice of acupuncture," pursuant to Iowa Code section 148E.1, means the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body based upon oriental medical diagnosis as a primary mode of therapy. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, and the recommendation of dietary guidelines and therapeutic exercise based on traditional oriental medicine concepts.

ITEM 2. Amend subrule 43.3(1) as follows:

43.3(1) The board shall establish utilization and cost control review (U.C.C.R.) committee(s). The ~~name(s) names~~ of the ~~committee(s) committee members~~ shall be on file with the board and available to the public. The designation of the ~~committee(s) committee members~~ shall be reviewed annually.

ITEM 3. Amend subrule **43.3(2)**, paragraph "a," as follows:

a. Hold a current license *in Iowa*.

ITEM 4. Rescind rules 645—43.4(151) and 645—43.5(151) and adopt the following **new** rules in lieu thereof:

645—43.4(151) Chiropractic insurance consultant.

43.4(1) A chiropractic insurance consultant advises insurance companies, third-party administrators and other similar entities of Iowa standards of (a) recognized and accepted chiropractic services and procedures permitted by the Iowa

Code and administrative rules and (b) the propriety of chiropractic diagnosis and care.

43.4(2) All licensees who review chiropractic records for the purposes of determining the adequacy or sufficiency of chiropractic treatments, or the clinical indication for those treatments, shall notify the board annually that they are engaged in those activities and of the location where those activities are performed.

43.4(3) Licensed chiropractic physicians shall not hold themselves out as chiropractic insurance consultants unless they meet the following requirements:

a. Hold a current license in Iowa.

b. Have practiced chiropractic in the state of Iowa during the immediately preceding five years.

c. Are actively involved in a chiropractic practice during the term of appointment as a chiropractic insurance consultant. Active practice includes but is not limited to maintaining an office location and providing clinical care to patients.

645—43.5(151) Acupuncture. A chiropractic physician who engages in the practice of acupuncture shall maintain documentation that shows the chiropractic physician has successfully completed the education and examination requirements required by the board and shall make such documentation available to the board upon request. Requirements include:

1. Completion of 100 hours of classroom instruction; and

2. Completion of the certification examination given by a board-approved continuing education sponsor for acupuncture.

ITEM 5. Rescind and reserve rule **645—43.6(151)**.

ITEM 6. Amend subrule **44.3(2)** by relettering paragraphs "c" to "e" as paragraphs "d" to "f" and adopting the following **new** paragraph "c":

c. A minimum of 12 hours per biennium of continuing education in the field of acupuncture. This requirement is applicable only if the chiropractic physician is engaged in the practice of acupuncture.

[Filed 11/6/03, effective 12/31/03]

[Published 11/26/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/26/03.

ARC 2956B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.17(19) and 422.68, the Department of Revenue hereby amends Chapter 39, "Filing Return and Payment of Tax," Chapter 40, "Determination of Net Income," Chapter 41, "Determination of Taxable Income," and Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVI, No. 7, p. 647, on October 1, 2003, as **ARC 2834B**.

Item 1 amends rule 39.12(422) to include persons in the armed forces of the United States who were deployed outside the U.S. in certain contingency operations as persons who would be eligible for the tax benefits described in detail in the

REVENUE DEPARTMENT[701](cont'd)

rule. The persons in the contingency operations would be eligible for the tax benefits at the time they left the operations to the extent that the time was on or after May 21, 2003.

Item 2 adopts new rules 40.61(422) to 40.64(422). Rule 40.61(422) provides that active duty pay of national guard members and armed forces reserve members for military service on or after January 1, 2003, is exempt from Iowa income tax to the extent the income is included in federal adjusted gross income and the military service is pursuant to orders for Operation Iraqi Freedom, Operation Noble Eagle or Operation Enduring Freedom. Rule 40.62(422) provides a deduction of up to \$1,500 for unreimbursed overnight transportation, meal and lodging expenses for travel away from the taxpayer's home of more than 100 miles to the extent the expenses were incurred for the performance of services on or after January 1, 2003, as a member of the national guard or armed forces military reserve. Rule 40.63(422) provides an Iowa income tax exclusion for income realized from repayment of military student loans by individuals serving on active duty in the national guard, armed forces military reserve or the armed forces of the United States to the extent the income was realized on or after January 1, 2003. Rule 40.64(422) describes the Iowa income tax exclusion of the death gratuity that was payable to an eligible survivor of a member of the armed forces including a member of a reserve component of the armed forces who died while on active duty after September 10, 2001. The purpose of the death gratuity is to provide a cash payment to assist a survivor of a deceased member of the armed forces immediately following a service member's death and before other survivor benefits, if any, become available.

Item 3 amends rule 41.5(422) by adding a new subrule that subtracts the deduction in rule 40.62(422) for unreimbursed travel expenses of national guard members or armed forces reserve members to the extent the deduction was included under miscellaneous itemized deductions of the taxpayer.

Item 4 amends subrule 52.1(6) by adding a new lettered paragraph. The paragraph provides that certain veterans' organizations are considered to be exempt from federal income tax if the organizations do not meet the requirement that 75 percent of the members need to be past or present armed forces members because the membership of the organization includes ancestors or lineal descendants.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective December 31, 2003, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 422 as amended by 2003 Iowa Acts, House File 674.

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 [39.12, 40.61 to 40.64, 41.5(11), 52.1, 52.1(6)“F”] is being omitted. These amendments are identical to those published under Notice as **ARC 2834B**, IAB 10/1/03.

[Filed 11/6/03, effective 12/31/03]
[Published 11/26/03]

[For replacement pages for IAC, see IAC Supplement 11/26/03.]

ARC 2954B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.17(19) and 422.68, the Department of Revenue hereby amends Chapter 42, “Adjustments to Computed Tax,” Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” and Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues,” Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVI, No. 7, p. 650, on October 1, 2003, as **ARC 2832B**.

Item 1 adopts new rule 42.19(15), which provides tax credits for businesses approved by the Iowa Department of Economic Development under the New Capital Investment Program for individual income tax.

Item 2 adopts new rule 52.22(15), which provides tax credits for businesses approved by the Iowa Department of Economic Development under the New Capital Investment Program for corporation income tax. This change is similar to the one in Item 1.

Item 3 adopts new rule 58.12(15), which provides tax credits for businesses approved by the Iowa Department of Economic Development under the New Capital Investment Program for franchise tax.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective December 31, 2003, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement 2003 Iowa Acts, House File 677, sections 1 to 7, and Iowa Code section 15.333 as amended by 2003 Iowa Acts, House File 677, section 8.

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 [42.19, 52.22, 58.12] is being omitted. These amendments are identical to those published under Notice as **ARC 2832B**, IAB 10/1/03.

[Filed 11/6/03, effective 12/31/03]
[Published 11/26/03]

[For replacement pages for IAC, see IAC Supplement 11/26/03.]

ARC 2955B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code section 452A.59, the Department of Revenue hereby amends Chapter 67, “Administration,” Chapter 68, “Motor Fuel and Undyed Special Fuel,” and Chapter 69, “Liquefied Petroleum Gas—Compressed Natural Gas,” Iowa Administrative Code.

The rule changes incorporate the provisions of 2003 Iowa Acts, House File 344 and Senate File 458.

Item 1 adds a new definition for “nonterminal storage facility.”

REVENUE DEPARTMENT[701](cont'd)

Item 2 amends the implementation clause for rule 67.1(452A).

Item 3 requires dealers to maintain records similar to others in the fuel distribution chain.

Item 4 reflects the change in the tax rate for gasoline from 20.1¢ to 20.3¢ for the 2003-2004 fiscal year.

Item 5 creates a refund for the tax paid on fuel used by benefited fire districts for public purposes.

Item 6 corrects a reference to a subrule.

Notice of Intended Action was published in IAB Vol. XXVI, No. 7, p. 653, on October 1, 2003, as **ARC 2833B**.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective December 31, 2003, after filing with the administrative rules coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 452A as amended by 2003 Iowa Acts, House File 344 and Senate File 458.

The following amendments are adopted.

ITEM 1. Amend rule **701—67.1(452A)** by adding the following **new** definition in alphabetical order:

“Nonterminal storage facility” means a facility where motor fuel or special fuel, other than liquefied petroleum gas, is stored that is not supplied by a pipeline or a marine vessel. “Nonterminal storage facility” includes a facility that manufactures products such as alcohol, biofuel, blend stocks, or additives which may be used as motor fuel or special fuel, other than liquefied petroleum gas, for operating motor vehicles or aircraft.

ITEM 2. Amend rule **701—67.1(452A)**, implementation clause, as follows:

This rule is intended to implement Iowa Code section 452A.2 as amended by ~~2002~~ 2003 Iowa Acts, ~~House Senate~~ File ~~2622~~ 458.

ITEM 3. Amend rule 701—67.3(452A) by renumbering subrules **67.3(9)** to **67.3(12)** as subrules **67.3(10)** to **67.3(13)** and adopting the following **new** subrule 67.3(9):

67.3(9) Dealer. Every dealer (retailer) is required to keep and preserve the following records:

- a. Purchase invoices.
- b. Purchase records.
- c. Delivery tickets.
- d. Sales invoices.
- e. Sales records.
- f. Canceled checks and check register.

ITEM 4. Amend subrule 68.2(1) as follows:

68.2(1) The following rates of tax apply to the use of fuel in operating motor vehicles and aircraft:

Gasoline	20.1 20.3¢ per gallon (for July 1, 2002 2003, through June 30, 2003 2004)
LPG	20¢ per gallon
Ethanol-blended gasoline	19¢ per gallon (for July 1, 2002 2003, through June 30, 2003 2004)
Aviation gasoline	8¢ per gallon
Special fuel (diesel)	22½¢ per gallon
Special fuel (aircraft)	3¢ per gallon
CNG	16¢ per 100 cu. ft.

ITEM 5. Amend rule 701—68.8(452A) as follows:

Adopt the following **new** subrule:

68.8(20) Benefited fire districts if the fuel is used for public purposes.

Amend the implementation sentence as follows:

This rule is intended to implement Iowa Code section 452A.17 as amended by ~~2001~~ 2003 Iowa Acts, House File ~~736~~ 344, and Iowa Code section 452A.71.

ITEM 6. Amend subrule 69.4(3) as follows:

69.4(3) Type of security. See 701—subrule ~~62~~ 67.21(2).

[Filed 11/6/03, effective 12/31/03]

[Published 11/26/03]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/26/03.

AGENCY	RULE	DELAY
Human Services Department[441]	130.3(3)“ab”; amendments to Ch 201 [IAB 10/29/03, ARC 2900B]	Effective date of January 1, 2004, delayed 70 days by the Administrative Rules Review Committee at its meeting held November 10, 2003. [Pursuant to §17A.4(5)]



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

*** EXECUTIVE ORDER NUMBER TWENTY-NINE**

WHEREAS, this office announced the creation of the IOWA FOOD POLICY COUNCIL, on March 31, 2000, in EXECUTIVE ORDER NUMBER SIXTEEN, and continued its existence in EXECUTIVE ORDER NUMBER NINETEEN; and

WHEREAS, the Council held the first Iowa Food Policy conference in April 2002, and Council members continued to meet during 2002 to identify policy recommendations for creating opportunities in Iowa's food system; and

WHEREAS, in February 2003, the Council presented recommendations to this office, outlining steps that Iowa can take to improve the operation of the state's food assistance programs; and

WHEREAS, Drake University's Agricultural Law Center, in examining how state and local food policy councils can be used, with financial support from Congress and the United States Department of Agriculture, continues to provide leadership to the State of Iowa and other states by examining how state and local food policy councils can be used to create more opportunities for farmers, consumers and communities; and

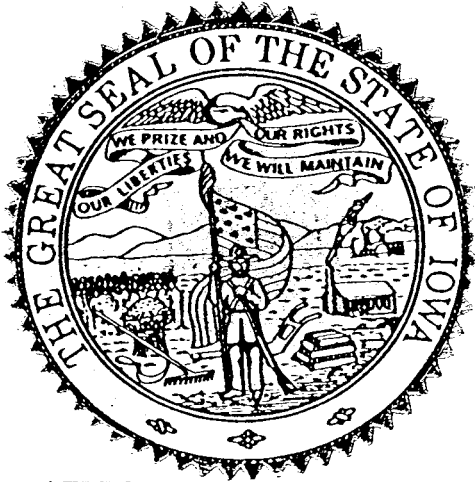
WHEREAS, the Council continues to serve a need by providing the people of this state with a vehicle to meet and discuss opportunities for using policy actions by state and local governments to promote a stronger and more diverse food system; and

WHEREAS, the Council has determined that further review is necessary in order to make additional recommendations for comprehensive food policy proposals for the State of Iowa; and

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa do hereby order the continuation of the IOWA FOOD POLICY COUNCIL, as established and set forth in Executive Orders Sixteen and Nineteen with the same powers and authority.

The provisions outlined in EXECUTIVE ORDER NUMBER NINETEEN shall continue to govern the activities of the Council, with the following amendments:

1. The Council will hold, as scheduled, the Second Iowa Food Policy Conference for September 5, 2003.
2. The Council shall reinstate two "inter-agency task forces," composed of representatives from various state agencies, to recommend improvements in state activities as they relate to food security, and the promotion of Iowa-grown food products. Each task force shall report its findings and conclusions to the Council before the Council submits its final report to this office for review.
3. The Council shall continue to examine ways to improve the opportunities of Iowa farmers and the state to mitigate the risks associated with food production and marketing, in a manner consistent with the support received from the United States Department of Agriculture Risk Management Agency.
4. The Council shall work with interested communities to develop support for a state-wide Buy Fresh Buy Local campaign, modeled after the initiative of the University of Northern Iowa and Practical Farmers of Iowa, in order to create more identity and demand for Iowa grown food.
5. The Council shall submit a report outlining its findings and recommendations to the Governor's Office for review no later than July 1, 2004. The Council shall be dissolved after the final report has been submitted, unless an application to continue its activities has been approved by the Governor before June 30, 2004.
6. The Council will create a task force to develop a blueprint for expanding the food industry in Iowa and identify a plan for using community-based food processing as the basis for economic development in rural Iowa.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 15th day of August, in the year of our Lord two thousand three.

THOMAS J. VILSACK
GOVERNOR

ATTEST:

CHESTER J. CULVER
SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

*** EXECUTIVE ORDER NUMBER THIRTY**

WHEREAS, this office announced the creation of the Iowa Education Roundtable, on June 27, 2001, through the issuance of Executive Order Number Sixteen; and

WHEREAS, EXECUTIVE ORDER NUMBER SIXTEEN directed the newly-formed Council to examine the current structure of educational service delivery within the state of Iowa; and

WHEREAS, the Council advised the governor's office on workable strategies for developing a well-coordinated and seamless service delivery system, where educators and administrators at all levels work together in a more cohesive manner to deliver and assess needed academic services; and

WHEREAS, on July 1, 2002, the Council submitted its report to this office, which contained recommendations to move towards a coherent set of learning opportunities that responds to the needs of all Iowans; and

WHEREAS, the Council recommended that a working group of key statewide educational leaders meet on a regular basis as a P-16 steering committee whose purpose should extend beyond regularly communicating activities and issues of mutual interest and engage education stakeholders in discussions that enhance community development; and

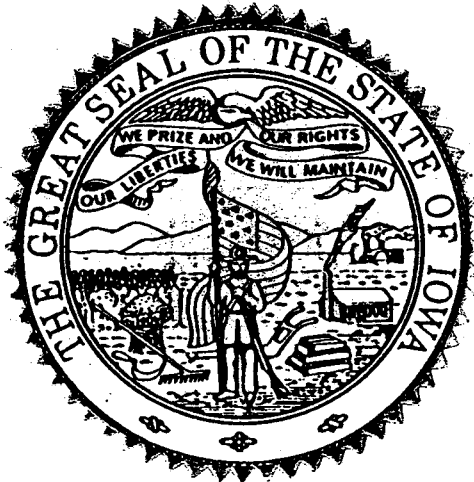
WHEREAS, the children and the economic development of the State of Iowa will benefit from the recommendation of a P-16 steering committee; and

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa, do hereby order the creation of the IOWA LEARNS COUNCIL.

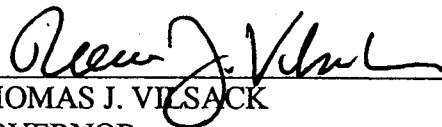
- I. **Purpose:** The Iowa Learns Council shall work towards the ambitious goal of 90% of Iowa children having a quality pre-school experience, and 90% of Iowa high school graduates will go on to complete at least two years of college; shall promote, gather, and share information regarding Iowa's progress to ensure seamless pathways across education sectors and the workplace; shall identify the necessary steps to ensure that Iowans--from pre-school to graduate school--are supported by a well coordinated seamless system of learning and support to provide for successes from early childhood through higher education, and into the workforce in our communities.
- II. **Membership:** The Iowa Learns Council shall be chaired by the Governor. The Council shall be made up by members representing the following entities: Regents, Independent Colleges, Community Colleges, Administrators, Counselors, School Board of Education, Elementary Teachers, Secondary Teachers, AEAs, the Department of Education, Business, Early Childhood Groups, and Community Empowerment.
- III. **Structure:** The membership shall make up a body called the steering committee. The steering committee shall coordinate and review the progress of the subgroups. Members of the steering committee will chair and may participate in subgroups. Each subgroup shall have a staff team assigned to assist them in their duties. The subgroups are as follows:
 - a. **Focus on Early Childhood:** this subgroup shall focus on the following goals:
 - i. Identify learning outcomes necessary for success
 - ii. Determine a definition of "quality preschool" and the impact of quality child care and learning environments on readiness to learn and success beyond school
 - iii. Identify strategies to support parents of young children and to assist them in being their child's first and best teacher
 - iv. Aid connections between educators, parents and caregivers
 - b. **Focus on k-12 Students**
 - i. Examine and recommend changes in high school exit requirements and in postsecondary entrance requirements
 - ii. Recommend strategies to better align these exit and entrance requirements
 - iii. Identify strategies to support parents and students in good decision making
 - c. **Strengthening the Education-Economic Growth Connection**
 - i. Develop strategies to connect education experience and meaningful Iowa employment opportunities
 - ii. Identify strategies to support students in making thoughtful career decisions
 - iii. Identify skill sets critical for success in the Iowa Economy.

IV. Timeline:

- a. The Steering Committee shall meet at the call of the Governor. Subgroups shall determine their own meeting schedule. Objectives should be finalized within one year of the date of this executive order.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 25th day of September, in the year of our Lord two thousand three.



THOMAS J. VILSACK
GOVERNOR

ATTEST:



CHESTER J. CULVER
SECRETARY OF STATE



State of Iowa
Executive Department
IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

*** EXECUTIVE ORDER NUMBER THIRTY-ONE**

- WHEREAS,** the national economic situation has presented serious challenges to the people of Iowa and their government resulting in lower employment levels and a continued decline in state revenues; and
- WHEREAS,** many states across the country have experienced significant reductions in revenue as a result of this economic downturn; and
- WHEREAS,** on October 10th, the state's Revenue Estimating Conference (REC) reduced its projection of state revenue for fiscal year 2004 by \$142.2 million—far exceeding the ending balance for the fiscal year of approximately \$81.7 million; and
- WHEREAS,** the underlying reasons for reduced revenues include continued drops in corporate income tax receipts, significant increases in tax refunds, and the State Auditor's determination that accelerated insurance premium tax collections cannot be counted as receipts in the current fiscal year; and
- WHEREAS,** Iowa Code § 8.31 states that "If the governor determines that the estimated budget resources during the fiscal year are insufficient to pay all appropriations in full, the reductions shall be uniform and prorated between all departments, agencies and establishments upon the basis of their respective appropriations"; and
- WHEREAS,** prudent fiscal management necessitates the creation of an economic buffer in budget allotments in the event that REC projections are higher than the actual revenue collected by the state at the end of the fiscal year; and
- WHEREAS,** on October 10th, I publicly ordered an across the board reduction pursuant to Iowa Code § 8.31; and
- WHEREAS,** a 2.5 percent reduction in appropriations would reduce state expenditures by approximately \$82.5 million and help the state avoid an overdraft or deficit; and
- WHEREAS,** I am confident that Iowans are up to this challenge, and I am confident in Iowa's comprehensive plan for economic growth despite these difficulties:

NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the Constitution and laws of the State of Iowa, do hereby order and direct a uniform modification of allotment requests, pursuant to Iowa Code § 8.31, to achieve an annual 2.5 percent budget reduction for fiscal year 2004. The Department of Management shall take all necessary steps under Iowa law to effectuate the annual 2.5 percent budget reduction for fiscal year 2004, directed to all state departments and establishments with the exception of departments designated as charter agencies, which are exempted from across the board cuts because they are already taking action to achieve savings or increase revenue to the general fund, pursuant to Iowa Code § 7J.2(d). Actions taken by the Department of Management and all state departments and establishments described above, to implement this order, shall commence on October 10, 2003.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 14th day of October, in the year of our Lord two thousand three.

[Handwritten Signature]

 THOMAS J. VILSACK
 GOVERNOR

ATTEST:

[Handwritten Signature]

 CHESTER J. CULVER
 SECRETARY OF STATE
by J. Klaassen, Deputy

IOWA ADMINISTRATIVE BULLETIN
Customer Service Center
Department of Administrative Services
Hoover State Office Building, Level A
Des Moines, Iowa 50319

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