



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 and rules adopted by state agencies.

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [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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Dec. 31 '04	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05
Jan. 14 '05	Feb. 2	Feb. 22	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 28	Feb. 16	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 11	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 25	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sept. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sept. 26
Mar. 25	Apr. 13	May 3	May 18	***May 18***	June 8	July 13	Oct. 10
Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	***June 29***	July 20	Aug. 24	Nov. 21
May 18	June 8	June 28	July 13	July 15	Aug. 3	Sept. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sept. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '06
June 29	July 20	Aug. 9	Aug. 24	***Aug. 24***	Sept. 14	Oct. 19	Jan. 16 '06
July 15	Aug. 3	Aug. 23	Sept. 7	Sept. 9	Sept. 28	Nov. 2	Jan. 30 '06
July 29	Aug. 17	Sept. 6	Sept. 21	Sept. 23	Oct. 12	Nov. 16	Feb. 13 '06
Aug. 12	Aug. 31	Sept. 20	Oct. 5	Oct. 7	Oct. 26	Nov. 30	Feb. 27 '06
Aug. 24	Sept. 14	Oct. 4	Oct. 19	Oct. 21	Nov. 9	Dec. 14	Mar. 13 '06
Sept. 9	Sept. 28	Oct. 18	Nov. 2	Nov. 4	Nov. 23	Dec. 28	Mar. 27 '06
Sept. 23	Oct. 12	Nov. 1	Nov. 16	***Nov. 16***	Dec. 7	Jan. 11 '06	Apr. 10 '06
Oct. 7	Oct. 26	Nov. 15	Nov. 30	Dec. 2	Dec. 21	Jan. 25 '06	Apr. 24 '06
Oct. 21	Nov. 9	Nov. 29	Dec. 14	***Dec. 14***	Jan. 4 '06	Feb. 8 '06	May 8 '06
Nov. 4	Nov. 23	Dec. 13	Dec. 28	Dec. 30	Jan. 18 '06	Feb. 22 '06	May 22 '06
Nov. 16	Dec. 7	Dec. 27	Jan. 11 '06	Jan. 13 '06	Feb. 1 '06	Mar. 8 '06	June 5 '06
Dec. 2	Dec. 21	Jan. 10 '06	Jan. 25 '06	Jan. 27 '06	Feb. 15 '06	Mar. 22 '06	June 19 '06
Dec. 14	Jan. 4 '06	Jan. 24 '06	Feb. 8 '06	Feb. 10 '06	Mar. 1 '06	Apr. 5 '06	July 3 '06
Dec. 30	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
5	Friday, August 12, 2005	August 31, 2005
6	Wednesday, August 24, 2005	September 14, 2005
7	Friday, September 9, 2005	September 28, 2005

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

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

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The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, August 9, 2005, at 9 a.m. and Wednesday, August 10, 2005, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the July 20, 2005, Iowa Administrative Bulletin.

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"

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CORRECTIONS DEPARTMENT[201]

Sex offender risk assessment, 38.2, 38.3, Notice **ARC 4404B**, also Filed Emergency **ARC 4403B** 8/3/05

CULTURAL AFFAIRS DEPARTMENT[221]

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ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Organization, ch 1, Notice **ARC 4419B**, also Filed Emergency **ARC 4374B** 8/3/05

Grow Iowa values fund assistance, adopt ch 2,

Notice **ARC 4420B**, also Filed Emergency **ARC 4370B** 8/3/05

Iowa jobs training program; workforce training and economic development funds;

accelerated career education program, 7.1, 7.3, 7.4, 7.5(6), 7.9(4), 7.15(3), 7.28, 7.29, 9.2,

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Tax credits for economic development region revolving loan fund,

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IOWA FINANCE AUTHORITY[265]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]"umbrella"

State housing trust fund, 19.1, 19.2, <u>Notice</u> ARC 4422B	8/3/05
Transitional housing revolving loan program, adopt ch 23, <u>Notice</u> ARC 4405B	8/3/05
Home and community-based services rent subsidy program, adopt ch 24, <u>Notice</u> ARC 4406B	8/3/05

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

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PUBLIC HEALTH DEPARTMENT[641]"umbrella"

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RACING AND GAMING COMMISSION[491]

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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
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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
CORRECTIONS DEPARTMENT[201]		
Sex offender management and treatment, 38.2, 38.3 IAB 8/3/05 ARC 4404B (See also ARC 4403B herein)	Second Floor Conference Room 420 Watson Powell Jr. Way Des Moines, Iowa	August 23, 2005 11 a.m. to 1 p.m.
CULTURAL AFFAIRS DEPARTMENT[221]		
Cultural and entertainment districts, 9.1 to 9.8 IAB 8/3/05 ARC 4392B	Tone Board Room, Third Floor West Historical Bldg. 600 E. Locust St. Des Moines, Iowa	August 23, 2005 9 to 10 a.m.
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Economic development board, amendments to ch 1 IAB 8/3/05 ARC 4419B (See also ARC 4374B herein)	UNI Regional Business Center 212 E. 4th St. Waterloo, Iowa	August 23, 2005 5 to 7 p.m.
	Scott County Administrative Center 428 Western Ave. Davenport, Iowa	August 24, 2005 5 to 7 p.m.
	Iowa Wesleyan College Mt. Pleasant, Iowa	August 25, 2005 5 to 7 p.m.
	Atlantic Public Library 507 Poplar St. Atlantic, Iowa	August 30, 2005 5 to 7 p.m.
	Clay County Regional Events Center 800 W. 18th Street Spencer, Iowa	August 31, 2005 5 to 7 p.m.
	NIACC, Pappajohn Center, Rm. 117 500 College Dr. Mason City, Iowa	September 1, 2005 5 to 7 p.m.
	IDED 200 E. Grand Ave., Second Floor Des Moines, Iowa	September 7, 2005 4 to 6 p.m.
Grow Iowa values fund assistance, ch 2 IAB 8/3/05 ARC 4420B (See also ARC 4370B herein)	For locations, dates and times of public hearings, see ARC 4419B above.	
Jobs training program; training and economic development funds; ACE program, amendments to chs 7, 9, 20 IAB 8/3/05 ARC 4421B (See also ARC 4368B herein)	For locations, dates and times of public hearings, see ARC 4419B above.	
Economic development region initiatives, ch 31 IAB 8/3/05 ARC 4413B	For locations, dates and times of public hearings, see ARC 4419B above.	

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

(Cont'd)

- Tax credits for economic development region revolving loan fund, ch 32
IAB 8/3/05 **ARC 4414B** For locations, dates and times of public hearings, see **ARC 4419B** above.
- Endow Iowa grants program, amendments to ch 46
IAB 8/3/05 **ARC 4415B** For locations, dates and times of public hearings, see **ARC 4419B** above.
- Endow Iowa tax credits, amendments to ch 47
IAB 8/3/05 **ARC 4416B** For locations, dates and times of public hearings, see **ARC 4419B** above.
- Community economic betterment program, 53.2, 53.3, 53.6(1), 53.11(1)
IAB 8/3/05 **ARC 4417B** For locations, dates and times of public hearings, see **ARC 4419B** above.
(See also **ARC 4371B** herein)
- NJIP and NCIP; high quality job creation program, 58.16, 64.8, ch 68
IAB 8/3/05 **ARC 4409B** For locations, dates and times of public hearings, see **ARC 4419B** above.
(See also **ARC 4372B** herein)
- Enterprise zones, amendments to ch 59
IAB 8/3/05 **ARC 4418B** For locations, dates and times of public hearings, see **ARC 4419B** above.
- Loan and credit guarantee program, amendments to ch 69
IAB 8/3/05 **ARC 4410B** For locations, dates and times of public hearings, see **ARC 4419B** above.
(See also **ARC 4373B** herein)
- Program wage thresholds calculations, 168.201 to 168.203
IAB 8/3/05 **ARC 4411B** For locations, dates and times of public hearings, see **ARC 4419B** above.
(See also **ARC 4412B** herein)

DENTAL EXAMINERS BOARD[650]

- | | | |
|--|---|---------------------------|
| Renewal and reinstatement procedures for local anesthesia permit, 11.7
IAB 7/20/05 ARC 4364B | Board Conference Room, Suite D
400 SW Eighth St.
Des Moines, Iowa | August 9, 2005
10 a.m. |
| License renewal,
13.1, 14.1, 15.1, 15.2,
15.4, 15.5, 25.2
IAB 7/20/05 ARC 4362B | Board Conference Room, Suite D
400 SW Eighth St.
Des Moines, Iowa | August 9, 2005
10 a.m. |

ENVIRONMENTAL PROTECTION COMMISSION[567]

- | | | |
|--|---|--------------------------|
| Financial responsibility for underground storage tanks, 136.1, 136.6(3), 136.8(2), 136.18(1), 136.22
IAB 7/20/05 ARC 4353B | Fourth Floor Conference Room East
Wallace State Office Bldg.
Des Moines, Iowa | August 9, 2005
1 p.m. |
|--|---|--------------------------|

IOWA FINANCE AUTHORITY[265]

State housing trust fund, 19.1, 19.2 IAB 8/3/05 ARC 4422B (ICN Network)	State Library Ola Babcock Miller Bldg., Third Floor East 12th and Grand Ave. Des Moines, Iowa	August 23, 2005 9 to 10 a.m.
	ICCC, Library Bldg., Room 206 330 Ave. M Fort Dodge, Iowa	August 23, 2005 9 to 10 a.m.
	Community School District Administration Bldg. 346 Second Ave. SW Cedar Rapids, Iowa	August 23, 2005 9 to 10 a.m.
	Human Services Dept. 417 E. Kanessville Blvd. Council Bluffs, Iowa	August 23, 2005 9 to 10 a.m.
	Carnegie-Stout Public Library 360 W. 11th St. Dubuque, Iowa	August 23, 2005 9 to 10 a.m.
	NIACC, Activity Ctr., Room 106 500 College Dr. Mason City, Iowa	August 23, 2005 9 to 10 a.m.
	Indian Hills Comm. College Advance Tech. Ctr., 107 525 Grandview Ave. Ottumwa, Iowa	August 23, 2005 9 to 10 a.m.
	Southwestern Comm. College Instructional Center, Room 211 1501 W. Townline Rd. Creston, Iowa	August 23, 2005 9 to 10 a.m.
	Kimberly Center, Room 119 (use west front door) 1002 W. Kimberly Davenport, Iowa	August 23, 2005 9 to 10 a.m.
	Western Iowa Tech. Comm. College D202, Bldg. A 4647 Stone Ave. Sioux City, Iowa	August 23, 2005 9 to 10 a.m.
	UNI, Schindler 130A Hudson Rd. and 23rd St. Cedar Falls, Iowa	August 23, 2005 9 to 10 a.m.
Transitional housing revolving loan program, ch 23 IAB 8/3/05 ARC 4405B	For locations, time and date of public hearing, see ARC 4422B above.	
Home and community-based services rent subsidy program, ch 24 IAB 8/3/05 ARC 4406B	For locations, time and date of public hearing, see ARC 4422B above.	

NATURAL RESOURCE COMMISSION[571]

Cabin rental fee at Stone State Park, 61.4(1) IAB 7/20/05 ARC 4348B (See also ARC 4349B)	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 11, 2005 10:30 a.m.
Quota for nonresident antlerless- deer-only licenses, 94.6(1) IAB 7/20/05 ARC 4350B (See also ARC 4351B)	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 11, 2005 1 p.m.

PUBLIC SAFETY DEPARTMENT[661]

Iowa sex offender registry, 83.2 to 83.4 IAB 7/20/05 ARC 4357B (See also ARC 4358B)	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 10, 2005 10 a.m.
DNA database, ch 156 IAB 7/20/05 ARC 4360B (See also ARC 4361B)	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 12, 2005 9:30 a.m.

RACING AND GAMING COMMISSION[491]

License revocation; state fire and building codes; trifecta wagering, amendments to chs 1, 4, 5, 8 IAB 8/3/05 ARC 4391B	717 E. Court Ave. Suite B Des Moines, Iowa	August 23, 2005 9 a.m.
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RECORDS COMMISSION[671]

E-mail retention, ch 15 IAB 8/3/05 ARC 4393B	Tone Board Room, Third Floor West Historical Bldg. 600 E. Locust St. Des Moines, Iowa	August 23, 2005 10 a.m.
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TRANSPORTATION DEPARTMENT[761]

Waiver of administrative rules, amendments to chs 11, 112, 115, 500, 505, 524, 529 IAB 8/3/05 ARC 4367B	First Floor South Conference Room Administration Bldg. 800 Lincoln Way Ames, Iowa	August 25, 2005 10 a.m. (If requested)
Signing manual, 130.1 IAB 8/3/05 ARC 4366B	First Floor South Conference Room Administration Bldg. 800 Lincoln Way Ames, Iowa	August 25, 2005 11 a.m. (If requested)
Vehicles and loads of excess size and weight, 511.8(1)"e," 511.16(4) IAB 8/3/05 ARC 4376B	DOT Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	August 25, 2005 10 a.m. (If requested)

UTILITIES DIVISION[199]

Certification of eligibility for wind energy and renewable energy tax credits, 15.18
IAB 7/20/05 **ARC 4341B**
(See also **ARC 4342B**)

Hearing Room
350 Maple St.
Des Moines, Iowa

September 21, 2005
10 a.m.

CITATION of Administrative Rules

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

- 441 IAC 79 (Chapter)
- 441 IAC 79.1(249A) (Rule)
- 441 IAC 79.1(1) (Subrule)
- 441 IAC 79.1(1)“a” (Paragraph)
- 441 IAC 79.1(1)“a”(1) (Subparagraph)

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

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

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

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

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

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

The following list will be updated as changes occur:

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 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]
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 Professional Licensing and Regulation Division[193]
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 Engineering and Land Surveying Examining Board[193C]
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 Educational Examiners Board[282]
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 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
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 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
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 Status of Women Division[435]

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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]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
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 County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
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]
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PUBLIC DEFENSE DEPARTMENT[601]
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REGENTS BOARD[681]
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REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
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SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
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VETERANS AFFAIRS COMMISSION[801]
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VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
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 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 4390B

ARCHITECTURAL EXAMINING BOARD[193B]

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 544A.29, the Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 2, "Registration," Iowa Administrative Code.

The amendments amend the definition for "inactive" and adopt a new definition for "retired"; provide a process by which a registrant may renew the architecture registration as inactive; and establish a fee.

This amendment is subject to waiver or variance pursuant to 193—Chapter 5.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before August 23, 2005. Comments should be addressed to Glenda Loving, Architectural Examining Board, 1920 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to glenda.loving@iowa.gov.

These amendments are intended to implement Iowa Code chapters 17A and 544A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **193B—2.1(544A,17A)** as follows:

Amend the definition of "inactive" as follows:

~~"Inactive" means retired from the practice of architecture in all states of registration that an architect is not engaged in Iowa in any practice for which a certificate of registration is required.~~

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

"Retired" means that an architect is not engaged in the practice of architecture or earning monetary compensation by providing professional architectural services in any licensing jurisdiction of the United States or a foreign country.

ITEM 2. Amend rule 193B—2.5(17A,272C,544A) as follows:

193B—2.5(17A,272C,544A) Renewal of certificates of registration.

2.5(1) Active status. Certificates of registration expire biennially on June 30. In order to maintain authorization to practice in Iowa, ~~registrants are a registrant is~~ required to renew ~~their the~~ certificate of registration prior to the expiration date. ~~Registrants A registrant who fail fails~~ to renew by the expiration date ~~are is~~ not authorized to practice architecture in Iowa until the certificate is reinstated as provided in rule 193B—2.6(544A,17A).

2.5(1) a. ~~Registrants A registrant~~ whose last ~~names begin~~ name begins with the letters letter A through K shall renew in even-numbered years, and ~~registrants a registrant~~ whose last

names begin name begins with the letters letter L through Z shall renew in odd-numbered years.

2.5(2) b. It is the policy of the board to mail to each registrant a ~~notices notice~~ of the pending expiration dates date to registrants at ~~their the~~ the registrant's last-known address approximately one month prior to the date the certificate of registration is scheduled to expire. Failure to receive this notice does not relieve the registrant of the responsibility to timely renew the certificate and pay the renewal fee. ~~Registrants A registrant~~ should contact the board office if ~~they do~~ the registrant does not receive a renewal notice prior to the date of expiration.

2.5(3) c. Upon the board's receipt of a timely and sufficient renewal application as provided in 193—subrule 7.40(3), the board's executive secretary shall issue a new certificate of registration reflecting the next expiration date, unless grounds exist for denial of the application.

2.5(4) d. If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant by restricted certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the registrant failed to satisfy the continuing education as required as a condition for registration. If the basis for denial is pending disciplinary action or disciplinary investigation which is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

2.5(5) e. When a registrant appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546,272C), offer a registrant the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation,; establish deadlines for compliance,; and require that the registrant complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the registrant. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A registrant is free to accept or reject the offer. If the offer of settlement is accepted, the registrant will be issued a renewed certificate of registration and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the applicant pursuant to 193—subrule 7.40(1).

2.5(6) f. The board may notify ~~registrants a registrant~~ whose ~~certificates certificate~~ certificate of registration ~~have has~~ expired. The failure of the board to provide this courtesy notification or the failure of the registrant to receive the notification shall not extend the date of expiration.

2.5(7) g. ~~Registrants A registrant~~ who ~~continue continues~~ to practice architecture in Iowa after ~~their the~~ the registration has expired shall be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a registrant's application for reinstatement.

2.5(2) Inactive status. This subrule establishes a procedure under which a person issued a certificate of registration as an architect may apply to the board to register as inactive. Registration under this subrule is available to a certificate

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

holder residing within or outside the state of Iowa who is not engaged in Iowa in any practice for which a certificate of registration as an architect is required. A person eligible to register as inactive may, as an alternative to such registration, allow the person's certificate of registration to lapse. During any period of inactive status, a person shall not use the title "architect" or any other title that might imply that the person is offering services as an architect by such an action in violation of Iowa Code section 544A.15. The board will continue to maintain a data base of persons registered as inactive, including information which is not routinely maintained after a certificate has lapsed through the person's failure to renew. A person who registers as inactive will accordingly receive renewal applications, board newsletters and other mass communications from the board.

a. Affirmation. The renewal application form shall contain a statement in which the applicant affirms that the applicant will not engage in any of the practices in Iowa that are listed in Iowa Code section 544A.16 without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to rule 193B—2.7(544A,17A).

b. Renewal. A person registered as inactive may renew the person's certificate of registration on the biennial schedule described in 193B—2.5(544A,17A). This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in 193B—2.9(544A,17A). An inactive certificate of registration shall lapse if not timely renewed.

c. Permitted practices. A person may, while registered as inactive, perform for a client, business, employer, government body, or other entity those services which may lawfully be provided by a person to whom a certificate of registration has never been issued. Such services may be performed as long as the person does not in connection with such services use the title "architect" or any other title restricted for use only by architects pursuant to Iowa Code section 544A.15 (with or without additional designations such as "inactive"). Restricted titles may be used only by active architects who are subject to continuing education requirements to ensure that the use of such titles is consistently associated with the maintenance of competency through continuing education.

d. Prohibited practices. A person who, while registered as inactive, engages in any of the practices described in Iowa Code sections 544A.15 and 544A.16 is subject to disciplinary action.

2.5(3) Retired status. A person registered as retired who does not reasonably expect to return to the workforce in any capacity for which a certificate of registration is required due to bona fide retirement or disability may use the title "architect retired" in the context of non-income-producing personal activities.

ITEM 3. Amend rule 193B—2.6(544A,17A), catchwords, as follows:

193B—2.6(544A,17A) Reinstatement of lapsed certificate of registration.

ITEM 4. Renumber rules **193B—2.7(544A)** and **193B—2.8(544A,17A)** as **193B—2.8(544A)** and **193B—2.9(544A,17A)** and adopt the following **new** rule 193B—2.7(544A) as follows:

193B—2.7(544A) Reinstatement from inactive status or retired status to active status.

2.7(1) An individual may reinstate an inactive registration or retired registration to active registration as follows:

a. Pay the current active registration fee. If reinstating to active status at a date that is less than 12 months from the next biennial renewal date, one-half of the current active registration fee shall be paid.

b. Submit documented evidence of completion of 24 contact hours (16 contact hours in public protection subjects) of continuing education in compliance with requirements in 193B—Chapter 3. The hours used to reinstate to active status cannot again be used to renew.

(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of registration to active status, the person shall not be required to report continuing education.

(2) At the first biennial renewal date of July 1 which is more than 12 months, but less than 24 months, from the date of the filing of the application to restore the certificate of registration to active status, the person shall report 12 hours of previously unreported continuing education.

2.7(2) An individual shall not be allowed to reinstate to inactive status from retired status.

ITEM 5. Amend renumbered rule 193B—2.9(544A,17A) as follows:

193B—2.9(544A,17A) Fee schedule. Under the authority provided in Iowa Code chapter 544A, the following fees are hereby adopted:

Examination fees:	
Initial application fee paid to board	\$100
Fees for examination subjects shall be paid directly to the testing service selected by NCARB	
Initial registration fee	\$ 50
(plus \$5 per month until renewal)	
Reciprocal application and registration fee	\$200
Biennial renewal of Authorization to Practice as a Business Entity	\$100
Biennial renewal fee (Internet renewal)	\$200
Biennial renewal fee (paper renewal)	\$250
Biennial renewal fee (inactive)	\$100
Biennial renewal fee (retired-active)	\$ 50
Reinstatement of lapsed individual registration (per month)	\$ 25
Duplicate wall certificate fee	\$ 50
Authorization to Practice as a Business Entity (initial application)	\$ 50
Reinstatement of a lapsed Authorization to Practice as a Business Entity	\$100

ARC 4404B

CORRECTIONS DEPARTMENT[201]

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 2005 Iowa Acts, House File 619, section 30, the Department of Corrections hereby gives Notice of Intended Action to amend Chapter 38, "Sex Offender Management and Treatment," Iowa Administrative Code.

CORRECTIONS DEPARTMENT[201](cont'd)

The purpose for these amendments is to ensure that the Department's administrative rules are consistent with 2005 Iowa Acts, House File 619, which makes statutory changes to the Iowa sex offender registry process. 2005 Iowa Acts, House File 619, took effect on July 1, 2005. For purposes of the Iowa Sex Offender Registry, the Department of Corrections, the Department of Human Services, and the Department of Public Safety will now assess the risk that a particular offender will reoffend. The Department of Corrections assists with the processing of offenders required to register information with the Department of Public Safety, pursuant to Iowa Code chapter 692A, commonly referred to as the Iowa Sex Offender Registry.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 23, 2005. Such written materials should be directed to the Legal and Policy Department, Iowa Department of Corrections, 420 Watson Powell Jr. Way, Des Moines, Iowa 50309; fax (515)281-7345.

A public hearing will be held on August 23, 2005, from 11 a.m. to 1 p.m. in the Second Floor Conference Room, Department of Corrections, 420 Watson Powell Jr. Way, Des Moines, Iowa 50309, 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 persons who will attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Corrections and advise of special needs.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 4403B**. The content of that submission is incorporated by reference.

These amendments are intended to implement 2005 Iowa Acts, House File 619, section 30.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 4392B**CULTURAL AFFAIRS
DEPARTMENT[221]****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 303.1 and 303.1A, the Department of Cultural Affairs hereby gives Notice of Intended Action to amend Chapter 9, "Cultural and Entertainment Districts," Iowa Administrative Code.

The proposed amendments implement the Cultural and Entertainment District Program as authorized by 2005 Iowa Acts, House File 868, section 19. The amendments clarify the definition of a certified cultural and entertainment district and affirm the availability of rehabilitation tax credit incentives for the program.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on August 23, 2005. Interested persons may submit written or oral comments by contacting Kathy Gourley, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)282-0502; kathy.gourley@iowa.gov. Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-6913.

Also, there will be a public hearing on August 23, 2005, from 9 to 10 a.m. at the above address in the Tone Board Room, 3rd Floor West, 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 amendments. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department and advise of specific needs.

These amendments are intended to implement 2005 Iowa Acts, House File 868, section 19.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend the parenthetical implementation statutes in **221—Chapter 9** by striking "80GA, HF692" and "80GA, HF683, HF692" and inserting in lieu thereof "81GA, HF868".

ITEM 2. Amend rule **221—9.2(81GA, HF868)**, definition of "certified cultural and entertainment district," as follows:

"Certified cultural and entertainment district" means a cultural and entertainment district that has been certified by the Iowa department of cultural affairs pursuant to these rules. A certified cultural and entertainment district must be a *well-defined, compact, contiguous geographic area of no more than one square mile that includes both residential and commercial property and a high concentration of cultural facilities*. Only certified cultural and entertainment districts are eligible for the incentives set forth in these rules.

ITEM 3. Amend subrule 9.7(1) as follows:

9.7(1) Owners of property located in certified cultural and entertainment districts may request tax benefits for substantial rehabilitation work on historic buildings. Property owners desiring these tax benefits shall make application under 223—Chapters 47 and 48 and shall comply with all requirements therein. Tax credits approved pursuant to Iowa Code section 404A.4 for projects located in certified cultural and entertainment districts are available for the fiscal years beginning July 1, 2005, and July 1, 2006. Tax credits allocated for certified cultural and entertainment district projects that are not approved during a fiscal year may be carried over to the succeeding fiscal year.

ITEM 4. Amend **221—Chapter 9** by striking the implementation sentence and inserting in lieu thereof the following **new** implementation sentence:

These rules are intended to implement 2005 Iowa Acts, House File 868, section 19.

ARC 4419B
ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]

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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 1, “Organization,” Iowa Administrative Code.

The proposed amendments update the description of the Iowa Economic Development Board to incorporate changes to this Board pursuant to 2005 Iowa Acts, House File 868. The amendments add descriptions of three new committees that the IDEB Board is directed under the Act to establish: the Due Diligence Committee, the Loan and Credit Guarantee Committee, and the Technology Commercialization Committee. Additional proposed rule revisions include updating the chapter to include information about Board meeting procedures and processes, updating the Department’s Web site address, and other technical corrections to Iowa Code references.

Public comments concerning the proposed amendments will be accepted until 8 p.m. on September 7, 2005. Interested persons may submit written or oral comments by contacting Melanie Johnson, General Counsel, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

The Board has scheduled seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department’s proposed rule makings that are intended to implement 2005 legislation. The proposed rule makings amend existing rules and adopt new chapters to implement legislation relating to the Grow Iowa Values Fund, tax credit programs and other programs administered by the Department. At these hearings, comments will be accepted about all of the proposed rule makings, all of which are published herein.

The dates, times and locations of the public hearings are as follows:

Tuesday, August 23 – Cedar Falls/Waterloo, Iowa

Time: 5 to 7 p.m.
 Location: University of Northern Iowa
 Regional Business Center
 212 E. 4th Street, Waterloo

Wednesday, August 24 – Davenport, Iowa

Time: 5 to 7 p.m.
 Location: Scott County Administrative Center
 428 Western Avenue

Thursday, August 25 – Mt. Pleasant, Iowa

Time: 5 to 7 p.m.
 Location: Iowa Wesleyan College

Tuesday, August 30 – Atlantic, Iowa

Time: 5 to 7 p.m.
 Location: Atlantic Public Library
 507 Poplar Street

Wednesday, August 31 – Spencer, Iowa

Time: 5 to 7 p.m.
 Location: Clay County Regional Events Center
 800 West 18th Street

Thursday, September 1 – Mason City, Iowa

Time: 5 to 7 p.m.
 Location: North Iowa Area Community College
 500 College Drive
 Pappajohn Center, Room 117

Wednesday, September 7 – Des Moines, Iowa

Time: 4 to 6 p.m.
 Location: Iowa Dept. of Economic Development
 200 E. Grand Avenue, 2nd Floor

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 4374B**. The content of that submission is incorporated by reference.

These rules are intended to implement 2005 Iowa Acts, House File 868.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

ARC 4420B

ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]

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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to adopt new Chapter 2, “Grow Iowa Values Fund Assistance,” Iowa Administrative Code.

The proposed new chapter is intended to implement 2005 Iowa Acts, House File 868 and House File 809, which establish and provide funding to the Grow Iowa Values Fund. The rules describe the allocation of moneys in the Grow Iowa Values Fund (IVF), the allowable uses of IVF assistance, application procedures, IVF wage requirements, approval procedures and contract administration provisions.

Public comments concerning the proposed rules will be accepted until 8 p.m. on September 7, 2005. Interested persons may submit written or oral comments by contacting Melanie Johnson, General Counsel, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

The Board has scheduled seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department’s proposed rule makings that are intended to implement 2005 legislation. The proposed rule makings amend existing rules and adopt new chapters to implement legislation relating to the Grow Iowa Values Fund, tax credit programs and other

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

programs administered by the Department. At these hearings, comments will be accepted about all of the proposed rule makings, all of which are published herein.

The dates, times and locations of the public hearings are as follows:

Tuesday, August 23 – Cedar Falls/Waterloo, Iowa

Time: 5 to 7 p.m.
Location: University of Northern Iowa
Regional Business Center
212 E. 4th Street, Waterloo

Wednesday, August 24 – Davenport, Iowa

Time: 5 to 7 p.m.
Location: Scott County Administrative Center
428 Western Avenue

Thursday, August 25 – Mt. Pleasant, Iowa

Time: 5 to 7 p.m.
Location: Iowa Wesleyan College

Tuesday, August 30 – Atlantic, Iowa

Time: 5 to 7 p.m.
Location: Atlantic Public Library
507 Poplar Street

Wednesday, August 31 – Spencer, Iowa

Time: 5 to 7 p.m.
Location: Clay County Regional Events Center
800 West 18th Street

Thursday, September 1 – Mason City, Iowa

Time: 5 to 7 p.m.
Location: North Iowa Area Community College
500 College Drive
Pappajohn Center, Room 117

Wednesday, September 7 – Des Moines, Iowa

Time: 4 to 6 p.m.
Location: Iowa Dept. of Economic Development
200 E. Grand Avenue, 2nd Floor

These rules were also Adopted and Filed Emergency and are published herein as **ARC 4370B**. The content of that submission is incorporated by reference.

These rules are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 4421B**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****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 15.104 and 15.106, the Iowa Department of Economic Development

hereby gives Notice of Intended Action to amend Chapter 7, "Iowa Jobs Training Program," Chapter 9, "Workforce Training and Economic Development Funds," and Chapter 20, "Accelerated Career Education (ACE) Program," Iowa Administrative Code.

The amendments to Chapters 7, 9, and 20 update statutory references and replace Values Fund Board references with IDED Board references. The amendments to Chapter 7 revise language related to 2005 Iowa Acts, House File 868, such as Board designations and statutory references. These amendments, following consultation with the community colleges, include minor revisions related to how the funds are distributed to accounts within the program, allow the community colleges to establish accounts for administration and payment of funds for training provided, and allow prospective employee training to meet limited short-term training for individuals to be hired upon completion of the training. The amendments to Chapter 9 also add a provision to permit operational expenses associated with vocational technical training.

Public comments concerning the proposed amendments will be accepted until 8 p.m. on September 7, 2005. Interested persons may submit written or oral comments by contacting Melanie Johnson, General Counsel, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

The Board has scheduled seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. The proposed rule makings amend existing rules and adopt new chapters to implement legislation relating to the Grow Iowa Values Fund, tax credit programs and other programs administered by the Department. At these hearings, comments will be accepted about all of the proposed rule makings, all of which are published herein.

The dates, times and locations of the public hearings are as follows:

Tuesday, August 23 – Cedar Falls/Waterloo, Iowa

Time: 5 to 7 p.m.
Location: University of Northern Iowa
Regional Business Center
212 E. 4th Street, Waterloo

Wednesday, August 24 – Davenport, Iowa

Time: 5 to 7 p.m.
Location: Scott County Administrative Center
428 Western Avenue

Thursday, August 25 – Mt. Pleasant, Iowa

Time: 5 to 7 p.m.
Location: Iowa Wesleyan College

Tuesday, August 30 – Atlantic, Iowa

Time: 5 to 7 p.m.
Location: Atlantic Public Library
507 Poplar Street

Wednesday, August 31 – Spencer, Iowa

Time: 5 to 7 p.m.
Location: Clay County Regional Events Center
800 West 18th Street

Thursday, September 1 – Mason City, Iowa

Time: 5 to 7 p.m.
Location: North Iowa Area Community College
500 College Drive
Pappajohn Center, Room 117

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

Wednesday, September 7 – Des Moines, Iowa

Time: 4 to 6 p.m.
Location: Iowa Dept. of Economic Development
200 E. Grand Avenue, 2nd Floor

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 4368B**. The content of that submission is incorporated by reference.

These amendments are intended to implement 2005 Iowa Acts, House File 868.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 4413B

**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]**

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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to adopt Chapter 31, “Economic Development Region Initiatives,” Iowa Administrative Code.

The proposed new chapter is intended to implement 2005 Iowa Acts, House File 868 and House File 809, which establish and provide funding for economic development region activities through the Grow Iowa Values Fund. The rules describe the economic development region activities for which funding is available, application procedures, and approval procedures.

Public comments concerning the proposed amendments will be accepted until 8 p.m. on September 7, 2005. Interested persons may submit written or oral comments by contacting Melanie Johnson, General Counsel, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

The Board has scheduled seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. The proposed rule makings amend existing rules and adopt new chapters to implement legislation relating to the Grow Iowa Values Fund, tax credit programs and other programs administered by the Department. At these hearings, comments will be accepted about all of the proposed rule makings, all of which are published herein.

The dates, times and locations of the public hearings are as follows:

Tuesday, August 23 – Cedar Falls/Waterloo, Iowa

Time: 5 to 7 p.m.
Location: University of Northern Iowa
Regional Business Center
212 E. 4th Street, Waterloo

Wednesday, August 24 – Davenport, Iowa

Time: 5 to 7 p.m.
Location: Scott County Administrative Center
428 Western Avenue

Thursday, August 25 – Mt. Pleasant, Iowa

Time: 5 to 7 p.m.
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Location: Atlantic Public Library
507 Poplar Street

Wednesday, August 31 – Spencer, Iowa

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Location: Clay County Regional Events Center
800 West 18th Street

Thursday, September 1 – Mason City, Iowa

Time: 5 to 7 p.m.
Location: North Iowa Area Community College
500 College Drive
Pappajohn Center, Room 117

Wednesday, September 7 – Des Moines, Iowa

Time: 4 to 6 p.m.
Location: Iowa Dept. of Economic Development
200 E. Grand Avenue, 2nd Floor

These rules are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following new chapter is proposed.

CHAPTER 31

ECONOMIC DEVELOPMENT REGION INITIATIVES

261—31.1(81GA, HF868, HF809) Purpose. Department resources shall be available to assist an economic development region that has established a focused economic development effort. This effort shall include a regional development plan relating to one or more of the following areas:

1. Regional marketing strategies.
2. Development of the information solutions sector.
3. Development of the advanced manufacturing sector.
4. Development of the life sciences and biotechnology sector.
5. Development of the insurance or financial services sector.
6. Physical infrastructure including, but not limited to, horizontal infrastructure, water and sewer infrastructure, and telecommunications infrastructure.
7. Entrepreneurship.

261—31.2(81GA, HF868, HF809) Types of assistance. The following types of assistance are governed by the divisions of this chapter:

1. Establishment of economic development regions.
2. Economic development revolving loan funds.
3. Business accelerators.
4. Small business development center assistance.
5. Iowa business resource assistance.

261—31.3(81GA, HF868, HF809) Financial assistance. For the fiscal year period beginning July 1, 2005, and ending

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

June 30, 2015, \$1 million is made available each fiscal year for the economic development region initiative. 261—subrule 2.4(7) describes how the \$1 million is allocated.

261—31.4(81GA, HF868, HF809) Definitions.

“Economic development region” shall consist of not less than three counties, unless two contiguous counties have a combined population of at least 300,000 based on the most recent federal decennial census.

“Economic development region revolving fund” means a fund established to benefit development efforts in an economic development region.

“Regional economic development revenue sharing pilot project” means a pilot project for one or more approved regions.

DIVISION I

ECONOMIC DEVELOPMENT REGION
INITIATIVE—FINANCIAL ASSISTANCE

261—31.5(81GA, HF868, HF809) Uses of funds under the economic development region initiative. Financial assistance from the grow Iowa values fund may be used for the following:

31.5(1) Physical infrastructure. The installation of physical infrastructure needs including, but not limited to, horizontal infrastructure, water and sewer infrastructure, and telecommunications infrastructure, related to the development of fully served business and industrial sites by one or more of the region’s economic development partners or for the installation of infrastructure related to a new business location or expansion. Match is one dollar of local funds for every two dollars received from the grow Iowa values fund. The economic development region must demonstrate all of the following:

- a. The ability to provide matching moneys on a basis of dollars received from the grow Iowa values fund.
- b. The commitment of the specific business partner including, but not limited to, a letter of intent defining a capital commitment or a percentage of equity.
- c. That all other funding alternatives have been exhausted.

31.5(2) Regional economic development revenue sharing pilot project. Establishment and administration of a regional economic development revenue sharing pilot project for one or more regions.

31.5(3) Entrepreneurial initiative. Establishment of an approved entrepreneurial initiative. Match is one dollar of local funds for every two dollars received from the grow Iowa values fund.

31.5(4) Business closure due to consolidation. An existing business threatened with closure due to a potential consolidation to an out-of-state location. The economic development region may apply for financial assistance from the grow Iowa values fund for the purchase, rehabilitation, or marketing of a building that has become available due to the closing of an existing business as a result of a consolidation to an out-of-state location. Match is one dollar of local funds for every three dollars received from the grow Iowa values fund.

31.5(5) Business succession assistance program. Match is one dollar of local funds for every two dollars received from the grow Iowa values fund.

31.5(6) Unique or innovative regional projects. Match is on a one-to-one basis.

261—31.6(81GA, HF868, HF809) Application process. The department shall develop and make available a standard-

ized application. Applications will be accepted on an open-window basis until funds are exhausted.

261—31.7(81GA, HF868, HF809) Reporting requirements. Award recipients in economic development regions shall provide an annual report to the department outlining how the funds were invested in Iowa’s future. The department shall develop the reporting format for all required annual reports.

DIVISION II

ECONOMIC ENTERPRISE AREAS

261—31.8(81GA, HF868, HF809) Description. An “economic enterprise area” shall consist of at least one county containing no city with a population of more than 23,500 and shall meet at least three of the following criteria:

1. A per capita income of 80 percent or less than the national average.
2. A household median income of 80 percent or less than the national average.
3. Twenty-five percent or more of the population of the economic enterprise area with an income level of 150 percent or less of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services.
4. A population density in the economic enterprise area of less than ten people per square mile.
5. A loss of population as shown by the 2000 certified federal census when compared with the 1990 certified federal census.
6. An unemployment rate greater than the national rate of unemployment.
7. More than 20 percent of the population of the economic enterprise area consisting of people over the age of 65.

261—31.9(81GA, HF868, HF809) Funding.

31.9(1) Approved areas may apply for up to \$75,000 each fiscal year until June 30, 2015. The actual amount available each year will be established by the department in the annual allocation of funds for economic development region initiatives described in 261—paragraph 2.4(7)“b.” No more than ten economic development regions may be approved by IDED as economic enterprise areas.

31.9(2) In order to receive financial assistance under this division, an economic enterprise area must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every three dollars received from the grow Iowa values fund.

261—31.10(81GA, HF868, HF809) Eligible use of funds. Funds available for economic enterprise areas may be used as follows:

1. Economic development-related strategic planning and marketing for the region as a whole.
2. Economic development of fully served business sites.
3. The construction of speculative buildings on a fully served lot.
4. The rehabilitation of an existing building to marketable standards.

261—31.11(81GA, HF868, HF809) Application process. The department shall develop and make available a standardized application form. The application process shall be conducted on an open-window, ongoing basis until all funds are obligated.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

261—31.12(81GA, HF868, HF809) Reporting requirements. Award recipients shall provide an annual report to the department outlining how funds were invested in Iowa's future.

DIVISION III
BUSINESS ACCELERATORS

261—31.13(81GA, HF868, HF809) Description and purpose. The department shall establish and administer a business accelerator program to provide financial assistance for the establishment and operation of a business accelerator for technology-based, value-added agricultural, information solutions, or advanced manufacturing start-up businesses or for a satellite of an existing business accelerator. The program shall be designed to foster the accelerated growth of new and existing businesses through the provision of technical assistance.

261—31.14(81GA, HF868, HF809) Definitions.

"Business accelerator" means an organization that fosters the accelerated growth of new and existing Iowa businesses.

261—31.15(81GA, HF868, HF809) Requirements and qualifications for business accelerator entities. Business accelerator applicants must meet all of the following criteria:

1. The business accelerator must be a not-for-profit organization affiliated with an area chamber of commerce, a community or county organization, or an economic development region.

2. The geographic area served by a business accelerator must include more than one county.

3. The business accelerator must possess the ability to provide service to a specific type of business as well as to meet the broad-based needs of other types of start-up entrepreneurs.

4. The business accelerator must possess the ability to market business accelerator services in the region and the state.

5. The business accelerator must possess the ability to communicate with and cooperate with other business accelerators and similar service providers in the state.

6. The business accelerator must possess the ability to engage various funding sources for start-up entrepreneurs.

7. The business accelerator must possess the ability to communicate with and cooperate with various entities for purposes of locating suitable facilities for clients of the business accelerator.

8. The business accelerator must possess the willingness to accept referrals from the Iowa department of economic development.

9. The business accelerator must refer 20 businesses per year to the Venture Network of Iowa.

261—31.16(81GA, HF868, HF809) Other considerations. In determining whether a business accelerator qualifies for financial assistance, the department may consider any of the following:

1. The business experience of the business accelerator's professional staff.

2. The business plan review capacity of the business accelerator's professional staff.

3. The business accelerator's professional staff with demonstrated disciplines in all aspects of business experience.

4. The business accelerator's professional staff with access to external service providers including legal, accounting, marketing, and financial services.

261—31.17(81GA, HF868, HF809) Application procedures.

31.17(1) Applicants may apply on an open-window basis. A request for proposal (RFP) will be posted on IDED's Web site www.iowalifechanging.com as funding is available.

31.17(2) All requests for financial assistance must demonstrate the ability to provide matching moneys on the basis of a two dollar contribution of recipient moneys for every one dollar received in financial assistance from the department.

261—31.18(81GA, HF868, HF809) Reporting. Business accelerators receiving financial assistance under this rule must submit an annual report to IDED documenting progress.

DIVISION IV
SMALL BUSINESS DEVELOPMENT CENTERS

261—31.19(81GA, HF 868, HF 809) Small business development center assistance. Beginning on July 1, 2005, and ending June 30, 2015, the department shall transfer \$350,000 to Iowa State University of Science and Technology for the purpose of providing financial assistance to establish small business development centers in areas of the state previously served by a small business development center and to maintain existing small business development centers. Financial assistance for a small business development center shall not be awarded unless the city or county where the center is located demonstrates the ability to obtain local matching funds on a dollar-for-dollar basis. An award of financial assistance to a small business development center under this rule shall not exceed \$20,000.

DIVISION V
IOWA BUSINESS RESOURCE CENTERS

261—31.20(81GA, HF868, HF809) Iowa business resource centers. The department may use up to \$50,000 each fiscal year beginning July 1, 2005, and ending June 30, 2015, for the purposes of providing training, materials, and assistance to Iowa business resource centers.

These rules are intended to implement 2005 Iowa Acts, House File 868, sections 8, 9, 10, 11 and 12, and House File 809, section 19(6).

ARC 4414B

**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]**

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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to adopt new Chapter 32, "Tax Credits for Economic Development Region Revolving Loan Fund," Iowa Administrative Code.

The proposed new chapter is intended to implement 2005 Iowa Acts, House File 868 and House File 809, which authorize tax credits for investments in region economic development revolving loan funds. The rules describe the amount of

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

tax credits available, application procedures and other requirements applicable to this new tax credit program.

Public comments concerning the proposed rules will be accepted until 8 p.m. on September 7, 2005. Interested persons may submit written or oral comments by contacting Melanie Johnson, General Counsel, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

The Board has scheduled seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. The proposed rule makings amend existing rules and adopt new chapters to implement legislation relating to the Grow Iowa Values Fund, tax credit programs and other programs administered by the Department. At these hearings, comments will be accepted about all of the proposed rule makings, all of which are published herein.

The dates, times and locations of the public hearings are as follows:

Tuesday, August 23 – Cedar Falls/Waterloo, Iowa

Time: 5 to 7 p.m.
Location: University of Northern Iowa
Regional Business Center
212 E. 4th Street, Waterloo

Wednesday, August 24 – Davenport, Iowa

Time: 5 to 7 p.m.
Location: Scott County Administrative Center
428 Western Avenue

Thursday, August 25 – Mt. Pleasant, Iowa

Time: 5 to 7 p.m.
Location: Iowa Wesleyan College

Tuesday, August 30 – Atlantic, Iowa

Time: 5 to 7 p.m.
Location: Atlantic Public Library
507 Poplar Street

Wednesday, August 31 – Spencer, Iowa

Time: 5 to 7 p.m.
Location: Clay County Regional Events Center
800 West 18th Street

Thursday, September 1 – Mason City, Iowa

Time: 5 to 7 p.m.
Location: North Iowa Area Community College
500 College Drive
Pappajohn Center, Room 117

Wednesday, September 7 – Des Moines, Iowa

Time: 4 to 6 p.m.
Location: Iowa Dept. of Economic Development
200 E. Grand Avenue, 2nd Floor

These rules are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following **new** chapter is proposed.

CHAPTER 32

TAX CREDITS FOR ECONOMIC DEVELOPMENT
REGION REVOLVING LOAN FUND

261—32.1(81GA, HF868, HF809) Purpose. The purpose of economic development region tax credits is to encourage and assist in the formation and development of economic development regions, including marketing efforts, business development, infrastructure and entrepreneurship.

261—32.2(81GA, HF868, HF809) Definitions.

“Economic development region” means a group of not less than three counties, unless two contiguous counties have a combined population of at least 300,000 based on the most recent federal decennial census.

“Economic development region revolving loan fund” means a fund established to benefit the development efforts in an economic development region.

261—32.3(81GA, HF868, HF809) Allocation of funds.

The department shall authorize tax credits to individuals, nongovernmental entities and certain allowable nonprofit entities that make qualifying contributions to an economic development region revolving loan fund.

261—32.4(81GA, HF868, HF809) Credit amount. The total amount of tax credits and payments to contributors authorized during a fiscal year shall not exceed \$2 million dollars plus any unused credit carried forward from previous years.

32.4(1) Any credit amount which remains unused in a fiscal year may be carried forward to the succeeding fiscal year.

32.4(2) The maximum credit amount that may be authorized for a specific economic development region revolving loan fund is equal to \$2 million plus any unused credit amount carried forward from previous years divided by the number of economic development region revolving loan funds existing in the state.

261—32.5(81GA, HF868, HF809) Eligible contributions.

Nongovernmental entities, including organizations exempt from federal income taxation pursuant to Section 501(c)3 of the Internal Revenue Code, may contribute to an economic development revolving loan fund.

32.5(1) A nongovernmental entity may claim a tax credit equal to 20 percent of the amount contributed to the revolving loan fund.

32.5(2) A tax credit shall be allowed against taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.24.

32.5(3) An individual may claim the tax credit of a partnership, limited liability company, S corporation, estate, or trust electing to have income directly taxed to the individual. The amount claimed by the individual shall be based upon the individual's pro rata share of the entity.

32.5(4) Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax credit liability for the following ten tax years or until depleted, whichever occurs first.

32.5(5) A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit.

32.5(6) A tax credit under this rule is not transferable.

32.5(7) An organization exempt from federal income tax pursuant to Section 501(c)3 of the Internal Revenue Code making a contribution to an economic development region revolving loan fund shall be paid from the general fund of the state of Iowa an amount equal to 20 percent of such contrib-

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

uted amount within 30 days after the end of the fiscal year during which the contribution was made.

261—32.6(81GA, HF868, HF809) Requests for tax credits. Requests for tax credits will be accepted on an ongoing basis. The department will make public by June 1 and December 1 of each calendar year the total number of requests for tax credits that have been submitted. The department will review these requests and issue tax credits within a reasonable period of time following the June 1 and December 1 announcements. Tax credits shall be authorized pursuant to this rule for contributions made to a qualified economic development region revolving loan fund after December 1, 2005.

These rules are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

ARC 4415B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 46, “Endow Iowa Grants Program,” Iowa Administrative Code.

The proposed amendments add a new definition of “endow Iowa qualified community foundation,” include Endow Iowa Qualified Community Foundations as eligible applicants, and update Iowa Code references.

Public comments concerning the proposed amendments will be accepted until 8 p.m. on September 7, 2005. Interested persons may submit written or oral comments by contacting Melanie Johnson, General Counsel, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

The Board has scheduled seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department’s proposed rule makings that are intended to implement 2005 legislation. The proposed rule makings amend existing rules and adopt new chapters to implement legislation relating to the Grow Iowa Values Fund, tax credit programs and other programs administered by the Department. At these hearings, comments will be accepted about all of the proposed rule makings, all of which are published herein.

The dates, times and locations of the public hearings are as follows:

Tuesday, August 23 – Cedar Falls/Waterloo, Iowa

Time: 5 to 7 p.m.
Location: University of Northern Iowa
Regional Business Center
212 E. 4th Street, Waterloo

Wednesday, August 24 – Davenport, Iowa

Time: 5 to 7 p.m.
Location: Scott County Administrative Center
428 Western Avenue

Thursday, August 25 – Mt. Pleasant, Iowa

Time: 5 to 7 p.m.
Location: Iowa Wesleyan College

Tuesday, August 30 – Atlantic, Iowa

Time: 5 to 7 p.m.
Location: Atlantic Public Library
507 Poplar Street

Wednesday, August 31 – Spencer, Iowa

Time: 5 to 7 p.m.
Location: Clay County Regional Events Center
800 West 18th Street

Thursday, September 1 – Mason City, Iowa

Time: 5 to 7 p.m.
Location: North Iowa Area Community College
500 College Drive
Pappajohn Center, Room 117

Wednesday, September 7 – Des Moines, Iowa

Time: 4 to 6 p.m.
Location: Iowa Dept. of Economic Development
200 E. Grand Avenue, 2nd Floor

These amendments are intended to implement 2005 Iowa Acts, House File 868.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rules **261—46.1(80GA, HF692)** to **261—46.6(80GA, HF692)**, parenthetical implementation, as follows:

80GA, HF692 81GA, HF868

ITEM 2. Amend rule 261—46.2(81GA, HF868) as follows:

261—46.2(81GA, HF868) Definitions.

“Act” means the endow Iowa program Act, ~~2003 Iowa Acts, First Extraordinary Session, House File 692, division VIII Iowa Code sections 15E.301 to 15E.306 as amended by 2005 Iowa Acts, House File 868.~~

“Board” means the governing board of the lead philanthropic entity identified by the department pursuant to ~~2003 Iowa Acts, First Extraordinary Session, House File 692, section 91 Iowa Code section 15E.304.~~

“Business” means an entity operating within the state and includes individuals operating a sole proprietorship or having rental, royalty, or farm income in this state and includes a consortium of businesses.

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

“Department” or “IDED” means the Iowa department of economic development.

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

“Lead philanthropic entity” means the entity identified by the department pursuant to ~~2003 Iowa Acts, First Extraordinary Session, House File 692, section 91 Iowa Code section 15E.304.~~

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

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

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

ITEM 3. Amend subrule 46.3(1) as follows:

46.3(1) Endow Iowa grants awarded to new and existing *endow Iowa* qualified community foundations and to community affiliate organizations shall not exceed \$25,000 per foundation or organization unless a foundation or organization demonstrates a multiple county or regional approach.

ITEM 4. Amend 261—46.4(81GA,HF868) as follows:

261—46.4(81GA,HF868) Eligible applicants. Eligible applicants for endow Iowa grants include new and existing *endow Iowa* qualified community foundations and community affiliate organizations. Endow Iowa grant funds may be awarded to *endow Iowa* qualified community foundations and community affiliate organizations that do all of the following:

1. to 3. No change.

4. Provide a plan to the board demonstrating the method for distributing grant moneys received from the board to organizations within the community or geographic area as defined by the *endow Iowa* qualified community foundation or the community affiliate organization.

ITEM 5. Amend rule 261—46.6(81GA,HF868) as follows:

261—46.6(81GA,HF868) Reporting requirements. By January 31 of each year, pursuant to ~~2003 Iowa Acts, First Extraordinary Session, House File 692, division VIII~~ *Iowa Code section 15E.306*, the lead philanthropic entity, in cooperation with the department, shall publish an annual report of the activities conducted during the previous calendar year and shall submit the report to the governor and general assembly. The annual report shall include a detailed listing of endow Iowa grant funds awarded by the lead philanthropic entity and the amount of endow Iowa tax credits authorized by the department.

ITEM 6. Amend **261—Chapter 46**, implementation clause, as follows:

These rules are intended to implement ~~2003 Iowa Acts, First Extraordinary Session, House File 692, sections 88 to 93~~ *Iowa Code sections 15E.301 to 15E.306 as amended by 2005 Iowa Acts, House File 868*.

ARC 4416B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261

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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 47, “Endow Iowa Tax Credits,” Iowa Administrative Code.

The proposed amendments add new definitions of “community affiliate organization” and “endow Iowa qualified community foundation.” revise the allocation amount from an aggregate of \$2 million to a total of \$2 million annually, set aside 25 percent of the annual amount available for tax credits for those permanent endowment gifts made to community affiliate organizations or made in conjunction with the endow Iowa grants program, update Iowa Code references, and make other technical corrections to correspond to recent legislative revisions.

Public comments concerning the proposed amendments will be accepted until 8 p.m. on September 7, 2005. Interested persons may submit written or oral comments by contacting Melanie Johnson, General Counsel, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

The Board has scheduled seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department’s proposed rule makings that are intended to implement 2005 legislation. The proposed rule makings amend existing rules and adopt new chapters to implement legislation relating to the Grow Iowa Values Fund, tax credit programs and other programs administered by the Department. At these hearings, comments will be accepted about all of the proposed rule makings, all of which are published herein.

The dates, times and locations of the public hearings are as follows:

Tuesday, August 23 – Cedar Falls/Waterloo, Iowa

Time: 5 to 7 p.m.
Location: University of Northern Iowa
Regional Business Center
212 E. 4th Street, Waterloo

Wednesday, August 24 – Davenport, Iowa

Time: 5 to 7 p.m.
Location: Scott County Administrative Center
428 Western Avenue

Thursday, August 25 – Mt. Pleasant, Iowa

Time: 5 to 7 p.m.
Location: Iowa Wesleyan College

Tuesday, August 30 – Atlantic, Iowa

Time: 5 to 7 p.m.
Location: Atlantic Public Library
507 Poplar Street

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF [261(cont'd)]

Wednesday, August 31 – Spencer, Iowa

Time: 5 to 7 p.m.
Location: Clay County Regional Events Center
800 West 18th Street

Thursday, September 1 – Mason City, Iowa

Time: 5 to 7 p.m.
Location: North Iowa Area Community College
500 College Drive
Pappajohn Center, Room 117

Wednesday, September 7 – Des Moines, Iowa

Time: 4 to 6 p.m.
Location: Iowa Dept. of Economic Development
200 E. Grand Avenue, 2nd Floor

These amendments are intended to implement 2005 Iowa Acts, House File 868.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rules **261—47.1(80GA, HF683)** to **261—47.5(80GA, HF683)**, parenthetical implementation, as follows:

~~80GA, HF683~~ *81GA, HF868*

ITEM 2. Amend rule 261—47.2(81GA, HF868) as follows:

261—47.2(81GA, HF868) Definitions.

“Act” means ~~2003 Iowa Acts, First Extraordinary Session, House File 683~~ *Iowa Code sections 15E.301 to 15E.306 as amended by 2005 Iowa Acts, House File 868.*

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

“Department” or “IDED” means the Iowa department of economic development.

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

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

“Qualified *Endow Iowa* qualified community foundation” means a community foundation organized or operating in this state that ~~meets or exceeds~~ *substantially complies with* the national standards for *U.S. community foundations* established by the Council on Foundations *as determined by the department in collaboration with the Iowa Council on Foundations.*

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

ITEM 3. Amend rule 261—47.3(81GA, HF868) as follows:

261—47.3(81GA, HF868) Allocation of funds. The department shall authorize tax credits to qualified individuals who

provide an endowment gift to a *an endow Iowa* qualified community foundation *or a community affiliate organization affiliated with an endow Iowa qualified community foundation* for a permanent endowment fund within the state of Iowa in accordance with the following provisions:

47.3(1) No change.

47.3(2) Approved tax credits will be equal to 20 percent of a taxpayer's gift to a permanent endowment held in a *an endow Iowa* qualified community foundation.

47.3(3) The aggregate amount of tax credits authorized pursuant to this rule shall not exceed ~~an aggregate~~ *a total of \$2 million annually.* The maximum amount of tax credits granted to a single taxpayer shall not exceed 5 percent of the ~~aggregate annual~~ amount of tax credits authorized. If the department receives applications for tax credits in excess of the ~~aggregate~~ amount available, the applications shall be prioritized by the date the department received the applications.

47.3(4) to 47.3(6) No change.

47.3(7) Tax credits shall be authorized pursuant to this rule for gifts made to a permanent endowment held in a *an endow Iowa* qualified community foundation after January 1, 2003 2005, and before December 31, 2005 2008.

ITEM 4. Amend rule 261—47.4(81GA, HF868) as follows:

261—47.4(81GA, HF868) Distribution process and review criteria. The department shall develop and make available a standardized application pertaining to the ~~distribution~~ *allocation* of endow Iowa tax credits.

47.4(1) ~~Ten~~ *Twenty-five* percent of the ~~aggregate annual~~ amount available for tax credits shall be reserved for those permanent endowment gifts ~~corresponding to~~ *made to community affiliate organizations or made in conjunction with* the endow Iowa grants program. If by September 1, ~~2005,~~ *of any year* the entire ~~10~~ *25* percent reserved for permanent endowment gifts corresponding to the endow Iowa grants program *or to community affiliate organizations* is not allocated, the amount remaining shall be available for other applicants.

47.4(2) Ten percent of the ~~aggregate annual~~ amount available for tax credits shall be reserved for those permanent endowment gifts totaling \$30,000 or less. If by September 1, ~~2005,~~ *of any year* the entire 10 percent reserved for permanent endowment gifts totaling \$30,000 or less is not allocated, the amount remaining shall be available for other applicants.

47.4(3) Applications will be accepted *and awarded* on an ongoing basis. The department will make public by June 1 and December 1 of each calendar year the total number of requests for tax credits and the total amount of requested tax credits that have been submitted *and awarded.* ~~The department will review these requests and issue tax credits within a reasonable period of time following the June 1 and December 1 announcements.~~

ITEM 5. Amend **261—Chapter 47**, implementation sentence, as follows:

These rules are intended to implement ~~2003 Iowa Acts, First Extraordinary Session, House File 683, sections 83 to 89~~ *Iowa Code sections 15E.301 to 15E.306 as amended by 2005 Iowa Acts, House File 868.*

ARC 4417B
ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]

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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 53, “Community Economic Betterment Program,” Iowa Administrative Code.

The proposed amendments remove a reference to the Community Economic Betterment Review Committee and replace it with a cross reference to the Due Diligence Committee created by the IDED Board to review financial applications; clarify the wage requirements for projects receiving over \$500,000; and revise the wage requirements for the modernization projects.

Public comments concerning the proposed amendments will be accepted until 8 p.m. on September 7, 2005. Interested persons may submit written or oral comments by contacting Melanie Johnson, General Counsel, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

The Board has scheduled seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department’s proposed rule makings that are intended to implement 2005 legislation. The proposed rule makings amend existing rules and adopt new chapters to implement legislation relating to the Grow Iowa Values Fund, tax credit programs and other programs administered by the Department. At these hearings, comments will be accepted about all of the proposed rule makings, all of which are published herein.

The dates, times and locations of the public hearings are as follows:

Tuesday, August 23 – Cedar Falls/Waterloo, Iowa

Time: 5 to 7 p.m.
 Location: University of Northern Iowa
 Regional Business Center
 212 E. 4th Street, Waterloo

Wednesday, August 24 – Davenport, Iowa

Time: 5 to 7 p.m.
 Location: Scott County Administrative Center
 428 Western Avenue

Thursday, August 25 – Mt. Pleasant, Iowa

Time: 5 to 7 p.m.
 Location: Iowa Wesleyan College

Tuesday, August 30 – Atlantic, Iowa

Time: 5 to 7 p.m.
 Location: Atlantic Public Library
 507 Poplar Street

Wednesday, August 31 – Spencer, Iowa

Time: 5 to 7 p.m.
 Location: Clay County Regional Events Center
 800 West 18th Street

Thursday, September 1 – Mason City, Iowa

Time: 5 to 7 p.m.
 Location: North Iowa Area Community College
 500 College Drive
 Pappajohn Center, Room 117

Wednesday, September 7 – Des Moines, Iowa

Time: 4 to 6 p.m.
 Location: Iowa Dept. of Economic Development
 200 E. Grand Avenue, 2nd Floor

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 4371B**. The content of that submission is incorporated by reference.

These amendments are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

ARC 4409B

ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]

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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 58, “New Jobs and Income Program,” and Chapter 64, “New Capital Investment Program,” and adopt a new Chapter 68, “High Quality Job Creation Program,” Iowa Administrative Code.

The new rules address:

- The applicability of contracts and awards made under the New Jobs and Income Program and the New Capital Investment Program, both of which were repealed effective July 1, 2005.

- The eligibility requirements; the application review process, the determination of award amounts; and the agreement, compliance, and repayment provisions of the new High Quality Job Creation Program.

Public comments concerning the proposed rules will be accepted until 8 p.m. on September 7, 2005. Interested persons may submit written or oral comments by contacting Melanie Johnson, General Counsel, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

The Board has scheduled seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department’s proposed rule makings that are intended to implement 2005

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

legislation. The proposed rule makings amend existing rules and adopt new chapters to implement legislation relating to the Grow Iowa Values Fund, tax credit programs and other programs administered by the Department. At these hearings, comments will be accepted about all of the proposed rule makings, all of which are published herein.

The dates, times and locations of the public hearings are as follows:

Tuesday, August 23 – Cedar Falls/Waterloo, Iowa

Time: 5 to 7 p.m.
Location: University of Northern Iowa
Regional Business Center
212 E. 4th Street, Waterloo

Wednesday, August 24 – Davenport, Iowa

Time: 5 to 7 p.m.
Location: Scott County Administrative Center
428 Western Avenue

Thursday, August 25 – Mt. Pleasant, Iowa

Time: 5 to 7 p.m.
Location: (To be determined)

Tuesday, August 30 – Atlantic, Iowa

Time: 5 to 7 p.m.
Location: Atlantic Public Library
507 Poplar Street

Wednesday, August 31 – Spencer, Iowa

Time: 5 to 7 p.m.
Location: Clay County Regional Events Center
800 West 18th Street

Thursday, September 1 – Mason City, Iowa

Time: 5 to 7 p.m.
Location: North Iowa Area Community College
500 College Drive
Pappajohn Center, Room 117

Wednesday, September 7 – Des Moines, Iowa

Time: 4 to 6 p.m.
Location: Iowa Dept. of Economic Development
200 E. Grand Avenue, 2nd Floor

These rules were also Adopted and Filed Emergency and are published herein as **ARC 4372B**. The content of that submission is incorporated by reference.

These rules are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 4418B

**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]**

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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 59, "Enterprise Zones," Iowa Administrative Code.

The proposed amendments add a definition of "annual base rent"; extend the time period for zone certification from July 1, 2005, to March 1, 2006; require amortization of the investment tax credit over five years; remove the limitations concerning when the Department may negotiate an award; rescind references to the New Jobs Tax Credit; and update provisions applicable to the housing enterprise zone component.

Public comments concerning the proposed amendments will be accepted until 8 p.m. on September 7, 2005. Interested persons may submit written or oral comments by contacting Melanie Johnson, General Counsel, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

The Board has scheduled seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. The proposed rule makings amend existing rules and adopt new chapters to implement legislation relating to the Grow Iowa Values Fund, tax credit programs and other programs administered by the Department. At these hearings, comments will be accepted about all of the proposed rule makings, all of which are published herein.

The dates, times and locations of the public hearings are as follows:

Tuesday, August 23 – Cedar Falls/Waterloo, Iowa

Time: 5 to 7 p.m.
Location: University of Northern Iowa
Regional Business Center
212 E. 4th Street, Waterloo

Wednesday, August 24 – Davenport, Iowa

Time: 5 to 7 p.m.
Location: Scott County Administrative Center
428 Western Avenue

Thursday, August 25 – Mt. Pleasant, Iowa

Time: 5 to 7 p.m.
Location: Iowa Wesleyan College

Tuesday, August 30 – Atlantic, Iowa

Time: 5 to 7 p.m.
Location: Atlantic Public Library
507 Poplar Street

Wednesday, August 31 – Spencer, Iowa

Time: 5 to 7 p.m.
Location: Clay County Regional Events Center
800 West 18th Street

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

Thursday, September 1 – Mason City, Iowa

Time: 5 to 7 p.m.
Location: North Iowa Area Community College
500 College Drive
Pappajohn Center, Room 117

Wednesday, September 7 – Des Moines, Iowa

Time: 4 to 6 p.m.
Location: Iowa Dept. of Economic Development
200 E. Grand Avenue, 2nd Floor

These amendments are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **261—59.2(15E)** as follows:

Rescind the definitions of “development business” and “DRF”

Amend the following definitions:

“Act” means Iowa Code (2003 2005) sections 15E.191 through 15E.196 as amended by 2003 2005 Iowa Acts, House File 576 868, House File 882, and Senate File 365.

“Tax credit certificate” means a document issued by the department to an eligible business which indicates the amount of unused investment tax credit that the business is requesting to receive in the form of a refund. A tax credit certificate shall contain the taxpayer's name, address, and tax identification number, the date of project completion, the amount of the tax credit certificate, the tax year for which the credit will be claimed, and any other information required by ~~DRF~~ *the department of revenue* or the department.

Add the following **new** definitions in alphabetical order:

“Annual base rent” means the business's annual lease payment minus taxes, insurance and operating or maintenance expenses.

“Biotechnology-related processes” means the use of cellular and biomolecular processes to solve problems or make products. Farming activities shall not be included for purposes of this definition.

ITEM 2. Amend rule 261—59.3(15E), introductory paragraph, as follows:

261—59.3(15E) Enterprise zone certification. An eligible county or an eligible city may request the board to certify an area meeting the requirements of the Act and these rules as an enterprise zone. Certified enterprise zones will remain in effect for a period of ten years from the date of certification by the board. A county may request zone certification under subrule 59.3(1) at any time prior to December 1, 2003. A county or city may request zone certification under subrule 59.3(2) or 59.3(3) at any time prior to ~~July 1, 2005~~ *March 1, 2006*.

ITEM 3. Amend subrule **59.3(4)**, paragraph “a,” subparagraph (3), as follows:

(3) Resolution of the city council or board of supervisors, as appropriate, requesting certification of the enterprise zone(s). Included within this resolution may be a statement of the schedule of value-added property tax exemptions that will be offered to all eligible businesses ~~and eligible development businesses~~ that are approved for incentives and assistance. If a property tax exemption is made applicable only to a portion of the property within the enterprise zone, a description of the uniform criteria which further some planning objective that has been established by the city or county en-

terprise zone commission and approved by the eligible city or county must be submitted to the department. Examples of acceptable “uniform criteria” that may be adopted include, but are not limited to, wage rates, capital investment levels, types and levels of employee benefits offered, job creation requirements, and specific targeted industries. “Planning objectives” may include, but are not limited to, land use, rehabilitation of distressed property, or brownfields remediation.

The city or county shall forward a copy of the official resolution listing the property tax exemption schedule(s) to the department and to the local assessor.

ITEM 4. Amend subrule **59.3(4)**, paragraph “d,” as follows:

d. Amendments. A certified enterprise zone may be amended at the request of the city or county that originally applied for the zone certification. Requests must be in writing and be received by the department prior to December 1, 2003, if the county is eligible pursuant to subrule 59.3(1) or ~~July 1, 2005~~ *March 1, 2006*, if the county or city is eligible pursuant to subrule 59.3(2) or 59.3(3). Requests must include the enterprise zone name and number, as established by the department when the zone was certified, the date the zone was originally certified, the reason an amendment is being requested, the number of acres the zone will contain if the amendment is approved, and a resolution of the city council or board of supervisors, as appropriate, requesting the amendment. A legal description of the amended enterprise zone and a map which shows both the original enterprise zone boundaries and the proposed changes to those boundaries shall accompany the written request.

A city requesting an amendment that consists of an area being added to the enterprise zone must include documentation that demonstrates that the area being added meets the eligibility requirements of subrule 59.3(3). A city requesting an amendment that consists of an area being removed from the enterprise zone must include documentation that demonstrates that the remaining area still meets the eligibility requirements of subrule 59.3(3).

An amendment shall not extend the zone's ten-year expiration date, as established when the zone was initially certified by the board. The board will review the request and may approve, deny, or defer the proposed amendment. *A county or city shall not be allowed to remove a portion of an enterprise zone that contains an eligible business or eligible housing business that has received incentives and assistance under this program.*

ITEM 5. Amend subrule **59.3(4)**, paragraph “e,” as follows:

e. Decertification. A county or city may request decertification of an enterprise zone. Requests must be in writing and be received by the department prior to December 1, 2003, if the county is eligible pursuant to subrule 59.3(1) or ~~July 1, 2005~~ *March 1, 2006*, if the county or city is eligible pursuant to subrule 59.3(2) or 59.3(3). Requests must include the enterprise zone name and number, as established by the department when the zone was certified, the date the zone was originally certified and resolution of the city council or board of supervisors, as appropriate, requesting the decertification. Requests for enterprise zone decertification will be reviewed by the board and may be approved, denied or deferred. If the county or city requesting decertification designates a subsequent enterprise zone, the expiration date of the subsequent enterprise zone shall be the same as the expiration date of the decertified enterprise zone. A county or city shall not be allowed to decertify an enterprise zone that con-

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tains an eligible business, ~~or eligible housing business, or eligible development business~~ that has received incentives and assistance under this program.

ITEM 6. Amend subrule 59.5(1) as follows:

59.5(1) Program categories. To participate in the enterprise zone program, a business must qualify under one of ~~three~~ *two* categories: an eligible business, ~~or an eligible housing business, or an eligible development business.~~ Refer to rule 261—59.6(15E) for a description of the eligibility requirements and benefits available to a qualified “eligible business.” Refer to rule 261—59.8(15E) for a description of the eligibility requirements and benefits available to a qualified “eligible housing business.” ~~Refer to rule 261—59.9(15E) for a description of the eligibility requirements and benefits available to a qualified “eligible development business.”~~

ITEM 7. Rescind and reserve subrule **59.5(3)**.

ITEM 8. Amend subrule **59.6(3)**, paragraph “a,” subparagraph (1), as follows:

(1) An approved business shall receive a new jobs supplemental credit from withholding in an amount equal to 1½ percent of the gross wages paid by the business, as provided in Iowa Code section ~~45.334~~ *15E.197*. The supplemental new jobs credit available under this program is in addition to and not in lieu of the program and withholding credit of 1½ percent authorized under Iowa Code chapter 260E. Additional new jobs created by the project, beyond those that were agreed to in the original agreement as described in 261—59.12(15E), are eligible for the additional 1½ percent withholding credit as long as those additional jobs meet the local enterprise zone wage eligibility criteria and are an integral part or a continuation of the new location or expansion. Approval and administration of the supplemental new jobs credit shall follow existing procedures established under Iowa Code chapter 260E. Businesses eligible for the new jobs training program are those businesses engaged in interstate commerce or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but exclude retail, health or professional services.

ITEM 9. Amend subrule **59.6(3)**, paragraph “a,” subparagraph (3), as follows:

(3) A business may enter into an agreement with the county or city designating the enterprise zone pursuant to Iowa Code ~~Supplement~~ section 15E.194 to borrow initial moneys to fund a housing assistance program. The county or city may appropriate from the general fund of the county or city for the assistance program an amount not to exceed an amount estimated by the department of revenue and finance to be equal to the total amount of credit from withholding for employees determined by the business to be enrolled in the program during the first two years. The business shall pay the principal and interest on the loan out of moneys received from the credit from withholding provided for in subparagraph (1). The terms of the loan agreement shall include the principal amount, the interest rate, the terms of repayment, and the term of the loan. The agreement shall require that the down payment assistance or rental assistance provided for employees in new jobs be repaid, in whole or in part, in the event an employee is no longer employed by the business or defaults under the agreement between the business and an employee. The terms of the loan agreement shall not extend beyond the period during which the enterprise zone is certified. The employer shall certify to the department of revenue

and finance that the credit from withholding is in accordance with an agreement and shall provide other information the department of revenue may require.

The business shall enter into an agreement with each employee receiving down payment or rental assistance. The agreements shall include terms and conditions of the receipt of the assistance and repayment provisions should the employee no longer work for the business or default under the terms of the agreement.

ITEM 10. Amend subrule **59.6(3)**, paragraph “c,” subparagraph (1), as follows:

(1) Investment tax credit. An eligible business may claim an investment tax credit as provided in Iowa Code section 15.333. A corporate income tax credit may be claimed of up to a maximum of 10 percent of the new investment which is directly related to new jobs created by the location or expansion of the business in the enterprise zone. *For projects approved on or after July 1, 2005, the tax credit shall be amortized equally over a five-year period which the department will, in consultation with the eligible business, define. The five-year amortization period will be specified in the agreement referenced in rule 261—59.13(15E).* If the business is a partnership, subchapter S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 or 501A and filing as a partnership for federal tax purposes, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. Any credit in excess of tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first. Subject to prior approval by the department in consultation with ~~DRF~~ *the department of revenue*, an eligible business whose project primarily involves the production of value-added agricultural products *or biotechnology-related processes* may elect to apply for a refund for all or a portion of an unused tax credit. For purposes of this paragraph, an eligible business includes a cooperative as described in Section 521 of the United States Internal Revenue Code which is not required to file an Iowa corporate income tax return. The refund may be used against a tax liability imposed for individual income tax, corporate income tax, or franchise tax. The business participating in the enterprise zone may not claim an investment tax credit for capital expenditures above the amount stated in the agreement described in 261—59.12(15E). An eligible business may instead, prior to project completion, seek to amend the contract, allowing the business to receive an investment tax credit for additional capital expenditures.

ITEM 11. Amend subrule **59.6(3)**, paragraph “c,” subparagraph (3), as follows:

(3) Eligible capital expenditures. For purposes of this rule, the capital expenditures eligible for the investment tax credit or the insurance premium tax credit under the enterprise zone program are the:

1. *The costs of machinery and equipment as defined in Iowa Code section 427A.1(1)“e” and “j” purchased for use in the operation of the eligible business, the purchase prices of which have been depreciated in accordance with generally accepted accounting principles. ~~For the investment tax credit and for the insurance premium tax credit, the;~~*
2. *The cost of improvements made to real property which is used in the operation of the eligible business ~~is an eligible capital expenditure;~~ and*
3. *The annual base rent paid to a third-party developer for a period equal to the term of lease agreement but not to exceed ten years, provided that the cumulative costs of the base rent payments for that period do not exceed the cost of*

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the land and the third-party developer's costs to build or renovate the building. Annual base rent shall be considered only when the project includes the construction of a new building or the major renovation of an existing building. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years.

ITEM 12. Amend subrule **59.6(3)**, paragraph "**c**," subparagraph **(5)**, as follows:

(5) Refunds. An eligible business whose project primarily involves the production of value-added agricultural products and whose application was approved by the department on or after May 26, 2000, or whose project primarily involves biotechnology-related processes and whose application was approved by the department on or after July 1, 2005, may elect to receive a refund of all or a portion of an unused tax credit.

1. The department will determine whether a business's project primarily involves the production of value-added agricultural products or biotechnology-related processes. Effective July 1, 2001, an eligible business that elects to receive a refund shall apply to the department for a tax credit certificate.

2. to 5. No change.

ITEM 13. Amend subrule **59.6(3)**, paragraph "**d**," by adding the following **new** unnumbered paragraph at the end thereof:

For projects approved on or after July 1, 2005, "research activities" includes the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa. A renewable energy generation component will no longer be considered innovative when more than 200 megawatts of installed effective nameplate capacity has been achieved. Research activities credits awarded under this program and the high quality job creation program for innovative renewable energy generation components shall not exceed a total of \$1 million.

ITEM 14. Amend subrule **59.6(3)**, paragraph "**e**," as follows:

e. Refund of sales, service and use taxes paid to contractors or subcontractors.

(1) A business is eligible for a refund of sales, service and use taxes paid to contractors and subcontractors as authorized in Iowa Code section 15.331A.

(1) 1. An eligible business may apply for a refund of the sales, service and use taxes paid under Iowa Code chapters 422 and 423 for gas, electricity, water or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility within the enterprise zone.

(2) 2. Taxes attributable to intangible property and furniture and furnishings shall not be refunded. To receive a refund of the sales, service and use taxes paid to contractors or subcontractors, the eligible business must, within one year after project completion, make an application to ~~DRF~~ *the department of revenue*. For new manufacturing facilities, "project completion" means the first date upon which the average annualized production of finished product for the preceding 90-day period at the manufacturing facility operated by the eligible business within the enterprise zone is at least 50 percent of the initial design capacity of the facility. For existing facilities, "project completion" means the date of completion of all improvements included in the enterprise zone project.

(2) *If the project is the location or expansion of a warehouse or distribution center in the enterprise zone, the approved business may be entitled to a refund of sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall, within one year of project completion, make written application to the department for a refund. The application must include the refund amount being requested and documentation such as invoices, contracts or other documents which substantiate the requested amount. The department, in consultation with the department of revenue, will validate the refund amount and instruct the department of revenue to issue the refund.*

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the department to businesses approved for high quality job creation program, new capital investment program, new jobs and income program, and enterprise zone program benefits shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business's application does not receive a refund or tax credits due to the limitation of \$500,000 per fiscal year, the approved business's application shall be considered in the succeeding fiscal year.

ITEM 15. Rescind subrule **59.6(3)**, paragraph "**f**."

ITEM 16. Rescind subrule **59.6(3)**, paragraph "**g**."

ITEM 17. Amend subrule **59.8(1)**, paragraph "**d**," by adopting the following **new** subparagraph **(6)**:

(6) The names of the partners if the business is a partnership, the names of the shareholders if the business is an S corporation, or the names of the members if the business is a limited liability company. The amount of each partner's, shareholder's or member's expected share of the percentage of benefits should be included.

ITEM 18. Amend subrule **59.8(2)**, paragraph "**a**," as follows:

a. Investment tax credit. An eligible housing business may claim a tax credit up to a maximum of 10 percent of the new investment which is directly related to the building or rehabilitating of a minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone.

(1) New investment which is directly related to the building or rehabilitating of homes includes, but is not limited to, the following costs: land, surveying, architectural services, building permits, inspections, interest on a construction loan, building materials, roofing, plumbing materials, electrical materials, amounts paid to subcontractors for labor and material provided, concrete, labor, landscaping, appliances normally provided with a new home, heating and cooling equipment, millwork, drywall and drywall materials, nails, bolts, screws, and floor coverings.

(2) New investment does not include the machinery, equipment, or hand or power tools necessary to build or rehabilitate homes.

(3) In determining the amount of tax credits to be awarded to a project, the department shall not include the portion of the project cost financed through federal, state, and local government tax credits, grants, and forgivable loans.

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(4) The tax credit shall not exceed 10 percent of \$140,000 for each home or individual unit in a multiple dwelling unit building.

(5) This tax credit may be used to reduce the tax liability imposed under Iowa Code chapter 422, division II, III, or V, or chapter 432. The tax credit may be taken on the tax return for the tax year in which the project is certified for occupancy. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. If the business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share or the individual's earnings of the partnership, S corporation, limited liability company or estate or trust, *except in projects using low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the housing development. The approved housing business using federal Section 42 tax credits may designate each owner's or participant's share or percentage of the benefits.*

(6) *The department shall issue tax credit certificates once per year or when the department determines it to be necessary and appropriate to approve housing businesses eligible to receive the housing enterprise zone tax credit. The eligible housing business may claim the tax credit by attaching the certificate to the business's tax return for the year in which the housing units are completed.*

(7) *If the approved housing business is using federal low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the project, the department shall issue a transferable tax credit certificate to the eligible housing business. The amount of any replacement tax credit certificates requested by the housing business will be based on documentation provided to the department by the applicant or by the Iowa finance authority and should be consistent with the amount contained in the project's 8609 CPA Certification on file with the Iowa finance authority.*

~~If the approved housing business is using low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the project, the department shall, upon project completion, issue a tax credit certificate to the eligible housing business. The denomination of the tax credit certificate will be based on documentation provided to the department by the Iowa finance authority at the time the eligible housing business's IRS Form 8609 is issued. The department shall issue tax credit certificates once per year or when the department determines it to be necessary and appropriate. The eligible housing business shall not claim the tax credit unless a tax credit certificate issued by the department is attached to the taxpayer's return for the tax year in which the tax credit is claimed.~~

(8) Housing enterprise zone tax credit certificates issued to eligible housing businesses also using low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the project may be transferred to any person. Within 90 days of the sale of the housing enterprise zone tax credit, the eligible housing business must return the tax credit certificate issued by the department so that replacement tax credit certificate(s) can be issued. The original tax credit certificate shall be accompanied by a written statement from the eligible housing business which contains the names, tax identification numbers, and addresses of the taxpayers to which the tax credits are be-

ing transferred, along with the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within 30 days of receiving the eligible housing business's tax credit certificate and written statement, the department shall issue replacement tax credit certificate(s). The department shall not issue replacement tax credit certificates in an amount less than \$25,000.

(9) *The tax credit certificate shall also be transferable if the housing development is located in a brownfield site as defined in Iowa Code section 15.291 or if the housing development is located in a blighted area as defined in Iowa Code section 403.17. Not more than \$3 million worth of tax credits for housing developments that are located in a brownfield site as defined in Iowa Code section 15.291 or housing developments located in a blighted area as defined in Iowa Code section 403.17 shall be transferred in a calendar year. The \$3 million annual limit does not apply to tax credits awarded to an eligible business having low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the housing development. The department may approve an application for tax credit certificates for transfer from an eligible housing business located in a brownfield site as defined in Iowa Code section 15.291 or in a blighted area as defined in Iowa Code section 403.17 that would result in the issuance of more than \$3 million of tax credit certificates for transfer, provided that the department, through negotiation with the eligible housing business, allocates those tax credit certificates for transfer over more than one calendar year. The department shall not issue more than \$1,500,000 in tax credit certificates for transfer to any one eligible housing business located in a brownfield site as defined in Iowa Code section 15.291 or in a blighted area as defined in Iowa Code section 403.17. If \$3 million in tax credit certificates for transfer have not been issued at the end of a calendar year, the remaining tax credit certificates for transfer may be issued in advance to an eligible housing business scheduled to receive a tax credit certificate for transfer in a later calendar year. Anytime the department issues a tax credit certificate for transfer which has not been allocated at the end of a calendar year, the department may prorate the remaining certificates to more than one eligible applicant. If the entire \$3 million of tax credit certificates for transfer is not issued in a given calendar year, the remaining amount may be carried over to a succeeding calendar year.*

(10) *The department will process requests for transfer of the tax credit and issuance of the replacement tax credit certificates from housing developments that are located in brownfield sites as defined in Iowa Code section 15.291 or blighted areas as defined in Iowa Code section 403.17 at the time of application or in writing each calendar year. Eligible requests for transfer of these credits will be considered in the order they are received. The transfer of the credit by replacement tax credit certificate will be limited to \$3 million per calendar year and \$1,500,000 per development per calendar year. Requests received after the \$3 million limit is reached will be considered for the following year's allocation after any previously approved requests or negotiated allocations of the credit remaining from the current or previous years have been processed. When housing enterprise zone benefits are awarded to one housing business in an amount exceeding the annual transferable limit of \$1,500,000 per year, the housing business may negotiate with the department to receive the tax credit benefits from future years' limits when possible. These limits do not apply to housing tax credits authorized by Section 42 of the Internal Revenue Code or to other housing enterprise zone developments not located in*

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brownfield sites as defined in Iowa Code section 15.291 or blighted areas as defined in Iowa Code section 4033.17.

ITEM 19. Rescind and reserve rule **261—59.9(79GA, ch141)**.

ITEM 20. Amend rule 261—59.13(15E) as follows:

261—59.13(15E) Agreement. After the department negotiates and approves the application and the amount of incentives and assistance that the eligible business, *or* eligible housing business, ~~or eligible development business~~ shall receive, the department and the city or county, as applicable, shall enter into an agreement with the eligible business, *or* eligible housing business, ~~or eligible development business~~. This three-party agreement shall include, but is not limited to, provisions governing the requirements of the Act as described in the approved application, reporting requirements such as an annual certification by the eligible business, *or* eligible housing business, ~~or eligible development business~~ that it is in compliance with the Act, the amount or level of tax incentives and assistance that the eligible business, *or* eligible housing business, ~~or eligible development business~~ shall receive as negotiated by the department, and the method for determining the amount of incentives or assistance received by the eligible business, *or* eligible housing business, ~~or eligible development business~~ which will be repaid in the event of failure to maintain the requirements of the Act and these rules. In addition, the agreement will specify that an eligible business, *or* eligible housing business, ~~or eligible development business~~ that fails to maintain the requirements of the Act and these rules shall not receive incentives or assistance for each year during which the business is not in compliance.

ITEM 21. Amend subrule 59.14(2) as follows:

59.14(2) Repayment. If an eligible business, *or* eligible housing business, ~~or eligible development business~~ has received incentives or assistance under the Act and fails to meet and maintain any one of the requirements of the Act or these rules to be an eligible business, *or* eligible housing business, ~~or eligible development business~~, the business is subject to repayment of all or a portion of the incentives and assistance that it has received.

ITEM 22. Rescind and reserve subrule **59.14(4)**.

ITEM 23. Amend subrule 59.14(5) as follows:

59.14(5) DRE *Department of revenue*; county/city recovery. Once it has been established, through the business's annual certification, monitoring, audit or otherwise, that the business is required to repay all or a portion of the incentives received, the department of revenue ~~and finance~~ and the city or county, as appropriate, shall collect the amount owed. The city or county, as applicable, shall have the authority to take action to recover the value of taxes not collected as a result of the exemption provided by the community to the business. The department of revenue ~~and finance~~ shall have the authority to recover the value of state taxes or incentives provided under Iowa Code section 15E.193A or 15E.196. The value of state incentives provided under Iowa Code section 15E.193A or 15E.196 includes applicable interest and penalties.

ITEM 24. Amend subrule 59.14(7) as follows:

59.14(7) Extensions. If an eligible business, *or* eligible housing business, ~~or eligible development business~~ fails to meet its requirements under the Act, these rules, or the agreement described in rule 261—59.13(15E), the department, in consultation with the city or county, may elect to grant the

business a one-year extension period to meet the requirements.

ARC 4410B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 69, “Loan and Credit Guarantee Program,” Iowa Administrative Code.

The proposed amendments add microenterprises as eligible applicants, remove references to the Loan and Credit Guarantee Advisory Board and replace them with references to the Loan and Credit Guarantee Committee established by the IDED Board, clarify that the IDED Board has final decision-making authority on applications, and add a provision applicable to the loan and credit guarantee authorization fee for projects involving a line of credit.

Public comments concerning the proposed amendments will be accepted until 8 p.m. on September 7, 2005. Interested persons may submit written or oral comments by contacting Melanie Johnson, General Counsel, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

The Board has scheduled seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. The proposed rule makings amend existing rules and adopt new chapters to implement legislation relating to the Grow Iowa Values Fund, tax credit programs and other programs administered by the Department. At these hearings, comments will be accepted about all of the proposed rule makings, all of which are published herein.

The dates, times and locations of the public hearings are as follows:

Tuesday, August 23 – Cedar Falls/Waterloo, Iowa

Time: 5 to 7 p.m.
Location: University of Northern Iowa
Regional Business Center
212 E. 4th Street, Waterloo

Wednesday, August 24 – Davenport, Iowa

Time: 5 to 7 p.m.
Location: Scott County Administrative Center
428 Western Avenue

Thursday, August 25 – Mt. Pleasant, Iowa

Time: 5 to 7 p.m.
Location: Iowa Wesleyan College

Tuesday, August 30 – Atlantic, Iowa

Time: 5 to 7 p.m.
Location: Atlantic Public Library
507 Poplar Street

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Wednesday, August 31 – Spencer, Iowa

Time: 5 to 7 p.m.
Location: Clay County Regional Events Center
800 West 18th Street

Thursday, September 1 – Mason City, Iowa

Time: 5 to 7 p.m.
Location: North Iowa Area Community College
500 College Drive
Pappajohn Center, Room 117

Wednesday, September 7 – Des Moines, Iowa

Time: 4 to 6 p.m.
Location: Iowa Dept. of Economic Development
200 E. Grand Avenue, 2nd Floor

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 4373B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code sections 15E.221 to 15E.227 and 2005 Iowa Acts, House File 868.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 4411B

**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]**

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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 168, “Additional Program Requirements,” Iowa Administrative Code.

Pursuant to 2005 Iowa Acts, House File 868, section 50(4), the Department is required to update program wage thresholds on a quarterly basis under the High Quality Job Creation Act (HQJCA). For purposes of consistency among other Department-administered financial assistance programs, the quarterly program wage thresholds calculations under HQJCA will be used for all IDED financial assistance programs. This amendment establishes a new Division IV, Program Wage Thresholds Calculations. The amendment describes the Department's process for updating program wage thresholds, clarifies that the thresholds apply to other Department-administered programs, and provides a transition period for pending applications.

Public comments concerning the proposed amendment will be accepted until 8 p.m. on September 7, 2005. Interested persons may submit written or oral comments by contacting Melanie Johnson, General Counsel, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

The Board has scheduled seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. The proposed rule makings amend existing rules and adopt new chapters to implement legislation relating to the Grow Iowa Values Fund, tax credit programs and other programs administered by the Department. At these hearings, comments will be accepted about all of the proposed rule makings, all of which are published herein.

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Time: 5 to 7 p.m.
Location: Iowa Wesleyan College

Tuesday, August 30 – Atlantic, Iowa

Time: 5 to 7 p.m.
Location: Atlantic Public Library
507 Poplar Street

Wednesday, August 31 – Spencer, Iowa

Time: 5 to 7 p.m.
Location: Clay County Regional Events Center
800 West 18th Street

Thursday, September 1 – Mason City, Iowa

Time: 5 to 7 p.m.
Location: North Iowa Area Community College
500 College Drive
Pappajohn Center, Room 117

Wednesday, September 7 – Des Moines, Iowa

Time: 4 to 6 p.m.
Location: Iowa Dept. of Economic Development
200 E. Grand Avenue, 2nd Floor

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 4412B**. The content of that submission is incorporated by reference.

This amendment is intended to implement 2005 Iowa Acts, House File 868.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 4399B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4 and 2005 Iowa Acts, House File 841, section 66, the Department of Human Services proposes to amend Chapter 92, “Iowa-Care,” Iowa Administrative Code.

2005 Iowa Acts, House File 841, created a new Medicaid program called “IowaCare,” offering limited benefits from a limited provider network to persons otherwise ineligible for Medicaid. Rules to implement this program were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 6, 2005, as **ARC 4325B**. These amendments make changes to those rules to address issues that have arisen during training and in negotiations with the Centers for Medicare and Medicaid Services over approval of the waivers necessary to operate this program with federal financial participation.

Changes are as follows:

- IowaCare members are required to cooperate with the quality control unit and with the DIA Investigations Unit.
- Persons who have an application pending for Supplemental Security Income or for social security disability may be eligible for IowaCare.
- The post office box and the zip code for mailing premiums have been changed.
- To have the premium reduced to zero due to a hardship, the member’s signed statement declaring a hardship must be received by the premium due date.
- Women whose income is at or below 300 percent of the federal poverty level and whose family medical expenses cause their income to fall to or below 200 percent of the federal poverty level and their newborn children are eligible for IowaCare enrollment in addition to expanded access to maternity and newborn care.

These amendments do not provide for waivers in specified situations. Individuals may request a waiver under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before August 24, 2005. Comments should be directed to Mary Ellen Imlau, 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 were also Adopted and Filed Emergency and are published herein as **ARC 4398B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement 2005 Iowa Acts, House File 841, divisions I and II, and section 15, subsection 1.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)

281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

ARC 4401B**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 and 2005 Iowa Acts, House File 825, sections 14 and 29, the Department of Human Services proposes to amend Chapter 170, “Child Care Services,” Iowa Administrative Code.

These amendments:

- Increase the maximum gross income limit for Child Care Assistance eligibility to 145 percent of the federal poverty guidelines for basic care and 200 percent of the federal poverty guidelines for special-needs care.
- Update eligibility and waiting list language to include the new guidelines.
- Update the provider reimbursement ceilings to reflect the 2002 provider rate survey.
- Revise the fee chart to reflect the new income levels.
- Clarify unclear and obsolete language.

These amendments do not provide for waivers in specified situations because individuals may request a waiver under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before August 24, 2005. Comments should be directed to Mary Ellen Imlau, 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 were also Adopted and Filed Emergency and are published herein as **ARC 4400B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code sections 237A.13 and 239B.24 and 2005 Iowa Acts, House File 825, sections 14 and 29.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

ARC 4422B**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(17) and 16.181, the Iowa Finance Authority hereby gives Notice of Intended Action to amend Chapter 19, “State Housing Trust Fund,” Iowa Administrative Code.

The proposed amendment replaces the current allocation plan for the state housing trust fund with the 2006 allocation plan. Through the state housing trust fund, the Authority seeks to further its mission with respect to affordable housing. The plan outlines the application procedure, program guidelines, and other necessary requirements of the state housing trust fund. The amendment proposes to adopt the 2006 trust fund allocation plan, which plan is incorporated by reference in rule 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 2006 trust fund allocation plan by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority’s rules.

The Authority will receive written comments on the proposed plan until 4:30 p.m. on August 23, 2005. Comments may be addressed to Donna Davis, Iowa Finance Authority, 100 East Grand, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to (515)242-4957 or E-mailed to donna.davis@ifa.state.ia.us. Persons who wish to comment orally should contact Donna Davis at (515)242-4990.

The Authority will hold a public hearing on August 23, 2005, to receive public comments on this amendment. The public hearing will be held over the Iowa Communications Network (ICN) from 9 to 10 a.m., with the originating site at the Iowa State Library, Ola Babcock Miller Building, Third Floor, East 12th and Grand, Des Moines, Iowa, (515)281-4316.

The following are the ten remote ICN sites where members of the public may attend the public hearing and make comments on this amendment:

Fort Dodge

Iowa Central Community College
330 Avenue M
Fort Dodge, Iowa 50501
(515)576-7201

Room Location: Library Bldg., Room 206

Cedar Rapids

Cedar Rapids Comm. School District
346 2nd Avenue SW
Cedar Rapids, Iowa 52404
(319)558-2000

Room Location: Administration Bldg.

Council Bluffs

Department of Human Services
417 East Kanesville Blvd.
Council Bluffs, Iowa 51503
(712)328-4736

Creston

Southwestern Comm. College - 1
1501 West Townline Road
Creston, Iowa 50801
(641)782-7081

Room Location: Instructional Center, Room 211

Davenport

Kimberly Center
1002 West Kimberly
Davenport, Iowa 52806
(563)391-9161

Room Location: Room 119 (use west front door)

Dubuque

Carnegie-Stout Public Library
360 West 11th Street
Dubuque, Iowa 52001
(563)589-4313

Mason City

North Iowa Area Comm. College - 1
500 College Drive
Mason City, Iowa 50401
(641)423-1264

Room Location: Room 106, Activity Center

Ottumwa

Indian Hills Comm. College - 1
525 Grandview Avenue
Ottumwa, Iowa 52501
(641)683-5228

Room Location: 107, Advance Tech. Center

Sioux City

Western Iowa Tech Comm. College - 1
4647 Stone Avenue
Sioux City, Iowa 51106
(712)274-6400

Room Location: D202, Building A

Cedar Falls

University of Northern Iowa - 2
Schindler 130A (Hudson Rd. & 23rd St.)
Cedar Falls, Iowa 50614
(319)273-6295

The Authority anticipates that it may make changes to the 2006 trust fund allocation plan based on comments received from the public.

IOWA FINANCE AUTHORITY[265](cont'd)

This amendment is intended to implement Iowa Code sections 16.5(17) and 16.181.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rules 265—19.1(16) and 265—19.2(16) as follows:

265—19.1(16) Trust fund allocation plan. The trust fund allocation plan entitled Iowa Finance Authority State Housing Trust Fund 2005 2006 Allocation Plan, effective ~~December 1, 2004~~ November 2, 2005, shall be the allocation plan for the distribution of funds held within the state housing trust fund established in Iowa Code Supplement section 16.181. 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 Iowa Code section 16.181.

ARC 4405B

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17) and 2005 Iowa Acts, House File 825, section 55, the Iowa Finance Authority hereby gives Notice of Intended Action to adopt new Chapter 23, “Transitional Housing Revolving Loan Program,” Iowa Administrative Code.

This amendment proposes a new chapter concerning the Transitional Housing Revolving Loan Program operated by the Authority. Through the Transitional Housing Revolving Loan Program, the Authority seeks to assist in the development of affordable housing for parents who are reuniting with their children while completing or participating in substance abuse treatment. The rules outline the purpose, application procedure, program guidelines, and other necessary requirements of the Transitional Housing Revolving Loan Program.

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority's rules.

The Authority will receive written comments on the proposed rules until 4:30 p.m. on August 23, 2005. Comments may be addressed to Donna Davis, Iowa Finance Authority,

100 East Grand, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to (515)242-4957 or E-mailed to donna.davis@ifa.state.ia.us. Persons who wish to comment orally should contact Donna Davis at (515)242-4990.

The Authority will hold a public hearing on August 23, 2005, to receive public comments on this amendment. The public hearing will be held over the Iowa Communications Network (ICN) from 10 to 11 a.m., with the originating site at the Iowa State Library, Ola Babcock Miller Building, Third Floor, East 12th and Grand, Des Moines, Iowa, (515)281-4316.

The following are the ten remote ICN sites where members of the public may attend the public hearing and make comments on this amendment:

Fort Dodge

Iowa Central Community College
330 Avenue M
Fort Dodge, Iowa 50501
(515)576-7201

Room Location: Library Bldg., Room 206

Cedar Rapids

Cedar Rapids Comm. School District
346 2nd Avenue SW
Cedar Rapids, Iowa 52404
(319)558-2000

Room Location: Administration Bldg.

Council Bluffs

Department of Human Services
417 East Kaneshville Blvd.
Council Bluffs, Iowa 51503
(712)328-4736

Creston

Southwestern Comm. College - 1
1501 West Townline Road
Creston, Iowa 50801
(641)782-7081

Room Location: Instructional Center, Room 211

Davenport

Kimberly Center
1002 West Kimberly
Davenport, Iowa 52806
(563)391-9161

Room Location: Room 119 (use west front door)

Dubuque

Carnegie-Stout Public Library
360 West 11th Street
Dubuque, Iowa 52001
(563)589-4313

Mason City

North Iowa Area Comm. College - 1
500 College Drive
Mason City, Iowa 50401
(641)423-1264

Room Location: Room 106, Activity Center

IOWA FINANCE AUTHORITY[265](cont'd)

Ottumwa

Indian Hills Comm. College - 1
525 Grandview Avenue
Ottumwa, Iowa 52501
(641)683-5228

Room Location: 107, Advance Tech. Center

Sioux City

Western Iowa Tech Comm. College - 1
4647 Stone Avenue
Sioux City, Iowa 51106
(712)274-6400

Room Location: D202, Building A

Cedar Falls

University of Northern Iowa - 2
Schindler 130A (Hudson Rd. & 23rd St.)
Cedar Falls, Iowa 50614
(319)273-6295

The Authority anticipates that it may make changes to these rules based on comments received from the public.

These rules are intended to implement Iowa Code section 16.5(17) and 2005 Iowa Acts, House File 825, section 55.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following **new** chapter is proposed.

CHAPTER 23
TRANSITIONAL HOUSING
REVOLVING LOAN PROGRAM

265—23.1(16) Purpose. Through its transitional housing revolving loan program (program), the authority seeks to assist in the development of affordable housing for parents who are reuniting with their children while completing or participating in substance abuse treatment. This chapter implements 2005 Iowa Acts, House File 825, section 55, which adds Iowa Code section 16.184 to the authority's enabling statute.

265—23.2(16) Priority of loan awards. It is the authority's intent to award loans under the program to those applicants that meet all of the requirements of this chapter and satisfy all threshold and underwriting requirements of the applicable qualified allocation plan adopted by the authority pursuant to 265—12.1(16). The authority intends to award the available funds under this program each year if applicants meet all applicable requirements, provided, however, that the authority shall give preference in the manner it deems most appropriate to projects that reunite mothers with their children. The authority will announce its expected amount of funds available prior to each tax credit application deadline. To the extent that sufficient funds are not available to fully fund all applications, awards under this program will be funded in the following order of priority:

1. Applicants awarded tax credits under the service-enriched set-aside;
2. Applicants awarded tax credits under any other set-aside; and
3. Applicants awarded tax credits outside of a set-aside. Applicants within set-asides will compete based on points awarded under the qualified allocation plan.

265—23.3(16) Application process. Applications will be reviewed as part of an annual competition. Applications must be submitted in conjunction with the applicant's application for low-income housing tax credits, as set forth in the applicable qualified allocation plan. Once funds have been allocated, the authority will not accept for review any applications seeking funding until the next low-income housing tax credit application deadline. Applications for assistance under this program must be made on forms and in the manner provided by the authority. Inquiries with respect to this program should be made to those persons identified on the authority's Web site at www.ifahome.com as contacts for this program.

265—23.4(16) Program guidelines. For-profit and non-profit sponsors are eligible to apply for assistance under this program based on the following program guidelines:

23.4(1) A project eligible for assistance must meet the following criteria:

a. A project must be geographically located in close proximity to a substance abuse treatment program, licensed pursuant to Iowa Code sections 125.13 and 125.21. Close proximity is defined as within a ten-mile radius of the substance abuse treatment program.

b. A project must be developed using low-income housing tax credits.

c. Applicants must satisfy all of the requirements of the applicable qualified allocation plan, including the plan, application and application instructions, all applicable attachments and exhibits, and applicable provisions of the Internal Revenue Code and the accompanying Treasury regulations.

d. Assistance provided under this program must enable the project to maintain financial feasibility and affordability for at least the term of the assistance.

e. Operating and replacement reserve funds must be adequately funded in the amounts required by the applicable qualified allocation plan.

23.4(2) The following types of activities are eligible for assistance:

a. Acquisition and rehabilitation.

b. New construction.

c. Such other similar activities as may be determined by the authority to fall within the guidelines and purposes established for this program.

23.4(3) Assistance will be provided upon the following terms and conditions:

a. Generally, the minimum loan amount is \$100,000, and the maximum loan amount is \$700,000. The maximum loan term and amortization period are each 20 years. Notwithstanding the above loan term and amortization period, the authority may, in its sole discretion, extend the loan term and amortization period to no more than 30 years.

b. The debt service ratio must be at least 1.25:1, as calculated by the authority. In addition, the loan-to-value ratio of the project, as calculated by the authority, will be considered. Notwithstanding the above debt service ratio, the authority may, in its sole discretion, accept a lower debt service ratio based on the final underwriting of the project.

c. Interest rates will be set by the authority, in its sole discretion.

d. Loans shall be secured by a first mortgage. Construction financing may be awarded to projects.

e. Recipients of assistance must agree to observe several covenants and restrictions, including but not limited to recorded affordability and transfer restrictions, all in accordance with such loan and mortgage documents as may be required by the authority under this program.

IOWA FINANCE AUTHORITY[265](cont'd)

f. The recipient must provide adequate evidence that its title in the real estate on which the project is to be located is a marketable title pursuant to Iowa Land Title Examination Standards, or other applicable law. Adequate evidence of marketable title is demonstrated by either (1) a title opinion of an attorney authorized to practice law in Iowa showing that the loan recipient has marketable title, or (2) a title guaranty certificate issued by the title guaranty division of the Iowa finance authority showing the recipient as the guaranteed.

g. Recipients must execute such documents and instruments and must provide such information, certificates and other items as determined necessary by the authority, in its sole discretion, in connection with any assistance.

23.4(4) Loan fees.

a. Loan fees are as follows:

(1) Commitment fee (construction period) - 1.0 percent of loan amount.

(2) Commitment fee (permanent loan) - 2.0 percent of loan amount.

(3) Inspection fee (construction loan) - 0.5 percent of loan amount.

b. The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program. Such decision will be made in the sole discretion of the authority.

265—23.5(16) Authority analysis of applications. Authority staff will analyze and underwrite each potential project and will make recommendations for funding assistance to the board of the authority. Authority staff will use such procedures and processes in its underwriting and analysis as it deems necessary and appropriate in connection with furthering the purposes of this program. In addition, the authority anticipates that, because of the complex nature of each transaction and the particular sets of circumstances attributable to each particular application/transaction, the terms and conditions of loans will vary from project to project. The authority will make available its general operating procedures and guidelines for this program.

265—23.6(16) Discretion of authority board. The authority board of directors has the sole and final discretion to award or not award assistance and to approve final loan terms.

265—23.7(16) Closing/advance of funds. If all requirements of the authority are not met in accordance with any time frames set by the authority and to the complete satisfaction of the authority, all in the sole discretion of the authority, the authority may determine to cease work on an approved project and, accordingly, not advance any funds for such project.

These rules are intended to implement Iowa Code section 16.5(17) and 2005 Iowa Acts, House File 825, section 55.

ARC 4406B

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17), the Iowa Finance Authority hereby gives Notice of Intended Action to adopt new Chapter 24, “Home and Community-Based Services Rent Subsidy Program,” Iowa Administrative Code.

This amendment proposes a new chapter concerning the Home and Community-Based Services Rent Subsidy Program (program) to be operated by the Authority. Through the program the Authority seeks to provide rent subsidy for persons who participate in a home- and community-based service (HCBS) waiver program and who meet the nursing facility level of care for HCBS waiver services as established on or after July 1, 2005. This program is designed to provide rent assistance to these persons to help them live successfully in their own home and community until they become eligible for any other local, state or federal rent assistance. The rules outline the purpose, application procedure, program guidelines, and other necessary requirements of the program.

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority’s rules.

The Authority will receive written comments on the proposed rules until 4:30 p.m. on August 23, 2005. Comments may be addressed to Donna Davis, Iowa Finance Authority, 100 East Grand, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to (515)242-4957 or E-mailed to donna.davis@ifa.state.ia.us. Persons who wish to comment orally should contact Donna Davis at (515)242-4990.

The Authority will hold a public hearing on August 23, 2005, to receive public comments on this amendment. The public hearing will be held over the Iowa Communications Network (ICN) from 11 a.m. to 12 noon, with the originating site at the Iowa State Library, Ola Babcock Miller Building, Third Floor, East 12th and Grand, Des Moines, Iowa; (515) 281-4316.

The following are the ten remote ICN sites where members of the public may attend the public hearing and make comments on these rules:

Fort Dodge

Iowa Central Community College
330 Avenue M
Fort Dodge, Iowa 50501
(515)576-7201

Room Location: Library Bldg., Room 206

Cedar Rapids

Cedar Rapids Comm. School District
346 2nd Avenue SW
Cedar Rapids, Iowa 52404
(319)558-2000

Room Location: Administration Bldg.

IOWA FINANCE AUTHORITY[265](cont'd)

Council Bluffs

Department of Human Services
417 East Kanesville Blvd.
Council Bluffs, Iowa 51503
(712)328-4736

Creston

Southwestern Comm. College - 1
1501 West Townline Road
Creston, Iowa 50801
(641)782-7081

Room Location: Instructional Center, Room 211**Davenport**

Kimberly Center
1002 West Kimberly
Davenport, Iowa 52806
(563)391-9161

Room Location: Room 119 (use west front door)**Dubuque**

Carnegie-Stout Public Library
360 West 11th Street
Dubuque, Iowa 52001
(563)589-4313

Mason City

North Iowa Area Comm. College - 1
500 College Drive
Mason City, Iowa 50401
(641)423-1264

Room Location: Room 106, Activity Center**Ottumwa**

Indian Hills Comm. College - 1
525 Grandview Avenue
Ottumwa, Iowa 52501
(641)683-5228

Room Location: 107, Advance Tech. Center**Sioux City**

Western Iowa Tech Comm. College - 1
4647 Stone Avenue
Sioux City, Iowa 51106
(712)274-6400

Room Location: D202, Building A**Cedar Falls**

University of Northern Iowa - 2
Schindler 130A (Hudson Rd. & 23rd St.)
Cedar Falls, Iowa 50614
(319)273-6295

The Authority anticipates that it may make changes to these rules based on comments received from the public.

These rules are intended to implement Iowa Code section 16.5(17) and 2005 Iowa Acts, House File 825, section 45.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following **new** chapter is proposed.

CHAPTER 24

HOME AND COMMUNITY-BASED SERVICES
RENT SUBSIDY PROGRAM

265—24.1(16) Purpose. This chapter defines and structures the rent subsidy program for persons who participate in a home- and community-based service (HCBS) waiver program and who meet the nursing facility level of care for HCBS waiver services as established on or after July 1, 2005. This program is designed to provide rent assistance to these persons to help them live successfully in their own home and community until they become eligible for any other local, state or federal rent assistance.

265—24.2(16) Definitions.

“Adult” means a person aged 18 or over.

“Authority” means the Iowa finance authority.

“Child” or “children” means a person or persons under 18 years of age.

“Dependent relative” or “dependent relatives” means a person or persons as defined by the department of human services under the provisions set forth in 441—subrule 51.4(4).

“Home- and community-based waiver program” or “HCBS” means any of the waiver programs administered by the department of human services under the provisions set forth in 441—Chapter 83 including, but not limited to, the ill and handicapped waiver, the elderly waiver, the AIDS/HIV waiver, the mental retardation waiver, the brain injury waiver, and the physical disabilities waiver.

“Qualified rental unit” means an apartment, mobile home, or private room for which a signed written lease exists and which is governed by Iowa Code chapter 562A. A qualified rental unit does not include a home owned by a family member.

“Residential-based supported community living services” means residential-based supported community living services as defined in 441—subrule 78.41(10).

265—24.3(16) Eligibility requirements. All of the following criteria shall be met.

24.3(1) HCBS recipient. The person shall be an adult recipient of one of the HCBS waiver programs or a child receiving residential-based supported community living services under the mental retardation HCBS waiver program.

24.3(2) Demonstrated need. To demonstrate need, adult applicants must provide evidence that they are responsible for paying more than 30 percent of their gross income for rent and that they are not receiving and are ineligible for other rental assistance. In the case of children receiving residential-based supported community living services under the mental retardation HCBS waiver program, they or their families or guardians must provide evidence that the children are not receiving and are ineligible for other rental assistance and that more than 30 percent of the children's gross income is obligated for rent. A minimum contribution of \$25 toward the cost of rent is expected from all applicants. This program may not be used to substitute for any other rent subsidy that a person had been receiving at the time of or immediately prior to the time of application to this program. Persons receiving rental assistance at the time of or immediately prior to the time of application to this program shall not be eligible.

24.3(3) Risk of nursing facility care. Applicants must be able to demonstrate both of the following:

a. That they have been assessed as needing, at a minimum, nursing facility level of care for HCBS waiver services; and

IOWA FINANCE AUTHORITY[265](cont'd)

b. That they have insufficient funds to pay their community housing costs and that insufficient funds will cause them to enter a facility that provides, at a minimum, nursing facility level of care.

24.3(4) Ineligible for other rent subsidies. The person shall have been determined ineligible or be on the waiting list for rent subsidy programs under the U.S. Department of Housing and Urban Development (HUD) and any other available rent subsidy programs.

24.3(5) Responsible for rent. Adult program participants shall be financially responsible for rent. In the case of children receiving residential-based supported community living services under the mental retardation HCBS waiver program, they or their families must demonstrate this financial responsibility.

265—24.4(16) Application. Applications for the HCBS rent subsidy program may be obtained on the authority's Web site at www.ifahome.com. Applications shall be submitted to the Iowa Finance Authority, HCBS Rent Subsidy Program, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309.

24.4(1) Application process. A person who wishes to apply shall complete the Application for HCBS Rent Subsidy and provide verification of the following:

a. The applicant's estimated monthly gross income for the 12 months following application, including written evidence from the income sources used to determine that income.

b. Written evidence from sources of local rental assistance available in the applicant's community that the applicant has applied for that rental assistance and that the applicant has been determined ineligible or placed on a waiting list for that rental assistance. If the waiting list for rental assistance has been closed, a copy of that notice is considered written documentation if signed and dated by a representative of the local rental assistance program.

c. The total amount of the monthly rent for the qualified rental unit.

d. The total number of bedrooms in the qualified rental unit.

e. The applicant's number of dependent relatives living full-time in the qualified rental unit.

24.4(2) Date of application. The date of the application shall be the date the completed application is received by the authority, including written verification of gross income, written verification of application to other rental assistance programs or a signed, dated copy of the waiting list closure notice, and written verification that the applicant needs nursing facility level of care for HCBS waiver services.

24.4(3) Eligibility determination. The applicant, the applicant's legal guardian, or the applicant's case manager shall be notified of the amount of monthly rent subsidy within 25 business days of the authority's receipt of a complete application. The notice shall be sent on or about the date when the authority determines that funding is available to approve the applicant's rent subsidy.

24.4(4) Waiting list. After funds appropriated for this purpose are obligated, the authority shall deny pending applications.

a. A denial shall be accompanied by a notice of decision, which will be sent within 25 business days of the authority's receipt of a complete application. The notice shall state that no funds are available and that the applicant will be placed on the waiting list, or that the applicant does not meet eligibility requirements.

b. Applicants not awarded funding shall be placed on a statewide waiting list according to the order in which the

completed applications and verification were received by the authority. In the event that more than one application is received on the same day, the person shall be entered on the waiting list on the basis of the day of the month of the person's birthday, lowest number being first on the waiting list. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

c. When funding allows additional persons to be added to the rent subsidy program, they shall be taken from the statewide waiting list, and their eligibility shall be determined at that time. If the completed application and verification of eligibility are not received by the time line specified by the authority, the person's name shall be dropped from consideration for receipt of the rent subsidy payment.

265—24.5(16) Amount of rent subsidy.

24.5(1) Use of subsidy. Assistance shall be used for rental expense.

24.5(2) Maximum monthly payment for rent. Assistance for rent shall be equal to the rent paid, not to exceed 100 percent of the current fair market rent under guidelines of the applicable HUD low-rent housing program in the area where the person's residence is located, less 30 percent of the gross income of the applicant. The fair market rent used shall be that for a one-bedroom unit or a proportionate share of the fair market rent in living units containing more than one bedroom. When the applicant resides with a dependent relative(s), the proportionate share may consist of additional bedrooms, applying the same maximum monthly payment standard.

24.5(3) Monthly payment. Applicants approved for rent subsidy payments shall receive an ongoing monthly payment which is equal to the amount determined pursuant to subrule 24.5(2), provided, however, that the authority will not send any payments that amount to less than \$25 but will accrue subsidy payments until such time as at least \$25 is accumulated. An approved rent subsidy shall be payable on a monthly basis following approval.

265—24.6(16) Redetermination of eligibility.

24.6(1) Time of completion. A redetermination of eligibility for rent subsidy payments shall be completed:

a. At least once every 12 months.

b. When a change in circumstances occurs that affects eligibility in accordance with rule 265—24.3(16).

c. If the person moves from the residence stated on the application.

d. When there is a change greater than \$40 in estimated gross monthly income.

24.6(2) Renewal notice. The authority shall send a renewal notice at least 60 calendar days before the deadline date for annual redetermination of eligibility.

a. The recipient shall submit the completed Application for HCBS Rent Subsidy and required verification materials to the Iowa Finance Authority, HCBS Rent Subsidy Program, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309.

b. If the authority does not receive the completed application and verification of continuing eligibility by the thirtieth day following the date of notification, the person's rent subsidy shall be terminated.

265—24.7(16) Termination of rent subsidy payments.

24.7(1) Reasons for termination. The rent subsidy shall terminate at the end of the month in which any of the following occur, and a notice shall be sent which states the reason for the termination:

IOWA FINANCE AUTHORITY[265](cont'd)

- a. The person does not meet one or more of the eligibility criteria listed in rule 265—24.3(16).
- b. The person dies.
- c. Completion of the required documentation is not received.
- d. No further funds are available for the rent subsidy program.

24.7(2) Reporting of changes. The person is required to report to the authority within ten business days any changes that may affect eligibility. Failure to do so may result in responsibility for repayment of funds and termination of the rent subsidy. (See rule 265—24.8(16)).

24.7(3) Insufficient funding. If funds are not sufficient to cover payments for all persons on the rent subsidy, persons shall be terminated from the rent subsidy in inverse order based on the date of initial application. The person terminated shall move back to the waiting list with the person's original application date dictating the person's position on the waiting list as stated at subrule 24.4(4). The authority is responsible for notifying the persons who will be removed from the rent subsidy for this reason.

265—24.8(16) Fraudulent practices relating to the rent subsidy program. A person is guilty of a fraudulent practice if that person, or the person's representative, with the intent to gain financial assistance for which that person is not eligible, knowingly makes or causes to be made a false statement or representation, or knowingly fails to report to an employee of the authority any change in circumstances affecting that person's eligibility for financial assistance. In cases of found fraudulent practices, the authority may require, as a condition of continued participation in the rent subsidy program, repayment of the amount that was received by the recipient while the recipient was ineligible.

265—24.9(16) Appeals.

24.9(1) An applicant whose application has been timely filed may appeal the authority's decision by filing a written notice of appeal within 14 days of the decision before the Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309. To be considered timely, the notice of appeal must actually be received at the above address within the time frame specified.

24.9(2) The notice of appeal shall state the grounds upon which the applicant challenges the decision.

24.9(3) An appeal shall be heard by the executive director of the authority. The executive director shall grant the appellant reasonable opportunity to gather information and inquire as to why the decision in question was made. The executive director shall allow the appellant to present all the relevant facts supporting the appellant's position. Such presentation shall be held not later than 30 days after the filing of an appeal, unless the parties agree to hold the presentation on a later date.

24.9(4) Within 7 days of the presentation, the executive director shall issue a written decision which clearly states whether or not the authority's decision was appropriate. Such decision shall be delivered to the appellant and the board of directors of the authority.

24.9(5) If the executive director determines that the authority's decision was not appropriate, the executive director shall recommend to the board of the authority a proper remedy.

24.9(6) Final agency action. After receiving a written decision from the executive director, the board must either approve or decline to approve the executive director's recommendation no later than the next regularly scheduled board

meeting. Such action by the board shall be the final decision of the agency.

24.9(7) Judicial review. Judicial review of the authority's final decisions may be sought in accordance with Iowa Code section 17A.19.

These rules are intended to implement Iowa Code sections 16.5(17) and 2005 Iowa Acts, House File 825, section 45.

ARC 4389B**LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]****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 544B.5, the Landscape Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 2, "Examinations and Licensing," and Chapter 3, "Continuing Education," Iowa Administrative Code.

The proposed amendments to Chapter 2 outline a process that allows the Board, in lieu of proceeding to a contested case hearing on the denial of a renewal application for a first-time offense, to offer a consent order on stipulated charges when a registrant appears to be in violation of the mandatory continuing education requirements. This process has already been adopted by the other boards within the Professional Licensing and Regulation Division.

The proposed amendments to Chapter 3 provide guidance as to the types of evidence the Board will accept to verify attendance of continuing education hours claimed if the registrant is selected for review of compliance with the continuing education requirements.

These amendments are subject to waiver pursuant to 193—Chapter 5.

Any interested party may make written or oral comments on the proposed amendments on or before August 23, 2005. Comments should be addressed to Glenda Loving, Landscape Architectural Examining Board, 1920 S.E. Hulsizer, Ankeny, Iowa 50021, telephone (515)281-7362 or fax (515) 281-7411. E-mail may be sent to glenda.loving@iowa.gov.

These amendments are intended to implement Iowa Code chapters 17A, 272C and 544B.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind rule 193D—2.8(544B,17A) and adopt the following **new** rule 193D—2.8(17A,272C,544B) in lieu thereof:

193D—2.8(17A,272C,544B) Renewal of certificates of registration. Certificates of registration expire biennially on June 30. In order to maintain authorization to practice in Iowa, a registrant is required to renew the certificate of registration prior to the expiration date. A registrant who fails to

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D](cont'd)

renew by the expiration date is not authorized to practice architecture in Iowa until the certificate is reinstated as provided in rule 193D—2.9(544B,17A).

2.8(1) It is the policy of the board to mail to each registrant a notice of the pending expiration date at the registrant's last-known address approximately one month prior to the date the certificate of registration is scheduled to expire. Failure to receive this notice does not relieve the registrant of the responsibility to timely renew the certificate and pay the renewal fee. A registrant should contact the board office if the registrant does not receive a renewal notice prior to the date of expiration.

2.8(2) If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant by restricted certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the registrant failed to satisfy the continuing education as required as a condition for registration. If the basis for denial is pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

2.8(3) When a registrant appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.39(546,272C), offer a registrant the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the registrant complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the registrant. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A registrant is free to accept or reject the offer. If the offer of settlement is accepted, the registrant will be issued a renewed certificate of registration and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the registrant pursuant to 193—subrule 7.40(1).

2.8(4) The board may notify registrants whose certificates of registration have expired. The failure of the board to provide this courtesy notification or the failure of the registrant to receive the notification shall not extend the date of expiration.

2.8(5) A registrant who continues to practice landscape architecture in Iowa after the registration has expired shall be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a registrant's application for reinstatement.

ITEM 2. Amend rule **193D—3.3(544B,17A)**, last paragraph, as follows:

Professional landscape architects' forms may be selected for review by the board for verification of compliance with these requirements. Evidence of compliance shall be maintained by the professional landscape architect for two years after the period for which the form was submitted *and shall*

include written verification of attendance by someone other than the licensee. Examples of evidence may include, but are not limited to, a certificate of completion presented by the program sponsor or a letter from an employer verifying attendance at an in-firm training session. Cancelled checks or receipts for payments of fees to attend a program are not evidence of actual attendance and are not acceptable. If the board disallows any continuing education hours, unless the board finds, following notice and hearing, that the professional landscape architect willfully disregarded continuing education requirements, then the professional landscape architect shall have six months from notice of such disallowance to make up the deficiency by acquiring the required number of contact hours. Such hours shall not again be used for the next renewal.

ARC 4391B**RACING AND GAMING
COMMISSION[491]****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 99D.7 and 99F.4, the Iowa Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 1, “Organization and Operation,” Chapter 4, “Contested Cases and Other Proceedings,” Chapter 5, “Track and Excursion Gambling Boat Licensees’ Responsibilities,” and Chapter 8, “Wagering and Simulcasting,” Iowa Administrative Code.

Item 1 changes the Commission's Web site address.

Item 2 allows a gaming representative to revoke the license of a person who has a confirmed positive drug test for a controlled substance.

Item 3 adds a legislative change to a rule.

Item 4 changes two incorrect cross references.

Item 5 adds a subrule pertaining to state fire and building code rules.

Item 6 changes the number of betting interests for trifecta wagering.

Any person may make written suggestions or comments on the proposed amendments on or before August 23, 2005. Written material should be directed to the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on August 23, 2005, at 9 a.m. in the office of the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

RACING AND GAMING COMMISSION[491](cont'd)

The following amendments are proposed.

ITEM 1. Amend subrule **1.2(2)**, paragraph “a,” as follows:

a. The commission meets periodically throughout the year and shall meet in July of each year. Notice of a meeting is published on the commission’s Web site at ~~www3.state.ia.us/irgc/~~ www.iowa.gov/irgc/ at least five days in advance of the meeting or will be mailed to interested persons upon request. The notice shall contain the specific date, time, and place of the meeting. Agendas are available to any interested persons not less than five days in advance of the meeting.

ITEM 2. Rescind subrule 4.4(4) and insert in lieu thereof the following **new** subrule:

4.4(4) The gaming representative shall revoke the license of a person reported to the commission as having a confirmed positive drug test result for a controlled substance, for a drug test conducted pursuant to Iowa Code section 730.5 or 99F.4(20).

ITEM 3. Amend rule 491—5.2(99D,99F), introductory paragraph, as follows:

491—5.2(99D,99F) Annual reports. Licensees shall submit audits to the commission as required by Iowa Code sections 99D.20 and 99F.13. The audit of financial transactions and condition of licensee’s operation shall include an internal control letter, *documentation that the county board of supervisors selected the auditing firm*, a balance sheet, and a profit-and-loss statement pertaining to the licensee’s activities in the state, including a breakdown of expenditures and subsidies. If the licensee’s fiscal year does not correspond to the calendar year, a supplemental schedule indicating financial activities on a calendar year basis shall be included in the report. In the event of a license termination, change in business entity, or material change in ownership, the administrator may require the filing of an interim report, as of the date of occurrence of the event. The filing due date shall be the later of 30 calendar days after notification to the licensee or 30 calendar days after the date of the occurrence of the event, unless an extension is granted.

ITEM 4. Amend subrule 5.4(7) as follows:

5.4(7) Video recording. Licensees are required to conduct continuous surveillance with the capability of video recording all gambling activities under Iowa administrative rules 661—Chapter 23 *141*, promulgated by the department of public safety. A commission representative may allow a gambling game to be placed in operation pending approval under 661—paragraph ~~23.9(11)“e.”~~ *141.10(11)“c.”*

ITEM 5. Amend rule 491—5.4(99D,99F) by adding the following **new** subrule:

5.4(18) State fire and building codes.

a. Barges, as defined in 5.6(1)“c,” and other land-based gaming facilities and such facilities that undergo major renovation shall comply with the state building code created by Iowa Code chapter 103A, if there is no local building code in force in the local jurisdiction in which the facility is located. A licensee shall submit construction documents and plans to the state building code commissioner and receive approval prior to construction.

b. If there is no enforcement of fire safety requirements by a local fire department, a licensee shall also submit construction plans and documents to the state fire marshal and receive approval prior to construction.

c. If a proposed new or renovated facility is subject to both paragraphs “a” and “b,” a single submission of

construction plans and documents to the building code commissioner, with a cover letter stating that review and approval are required with respect to both the state building code and rules of the fire marshal, is sufficient to meet both requirements.

ITEM 6. Amend subrule **8.2(13)**, paragraph “g,” introductory paragraph, as follows:

g. Shall prohibit trifecta wagering on any contest with ~~six~~ five or fewer betting interests scheduled to start, except in greyhound racing, or as provided in (1) below.

ARC 4393B

RECORDS COMMISSION[671]

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 305.8, the Records Commission hereby gives Notice of Intended Action to adopt new Chapter 15, “E-mail Retention,” Iowa Administrative Code.

The proposed rules clarify the duties and responsibilities of the state agencies as they manage electronic mail messages. These rules establish the principles agencies must use when retaining E-mail messages.

Public comments concerning the proposed rules will be accepted until 4:30 p.m. on August 23, 2005. Interested persons may submit written or oral comments by contacting Kathy Gourley, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)282-0502; kathy.gourley@iowa.gov. Persons who wish to convey their views orally should contact the Records Commission at (515)281-6913.

Also, there will be a public hearing on August 23, 2005, at 10 a.m. at the above address in the Tone Board Room, Third Floor West, 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 persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Records Commission and advise of specific needs.

These rules are intended to implement Iowa Code chapter 305.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following **new** chapter is proposed.

CHAPTER 15

E-MAIL RETENTION

671—15.1(17A,305) Definitions.

“E-mail” is a computer-generated message transmitted or received by means of a computer network. An E-mail may

RECORDS COMMISSION[671](cont'd)

contain any combination of text, Internet Uniform Resource Locator (URL) links, attached files and associated metadata.

"E-mail messages" are individual E-mail transmissions sent or received.

"Metadata" is the contextual information (i.e., sender, recipient, creation date, transmission information) that is used to understand and access other information.

"Record" means a document, book, paper, electronic record, photograph, sound recording, or other material regardless of physical form or characteristics, made, produced, executed, or received pursuant to law in connection with the transaction of official business of state government. "Record" does not include library and museum material made or acquired and preserved solely for reference or exhibition purposes, additional copies of records maintained or distributed for reference purposes, or stocks of publications and unprocessed forms.

671—15.2(17A,305) E-mail messages as records.

15.2(1) E-mail messages are records as defined in rule 671—15.1(17A,305) when sent or received in the course of conducting state business.

15.2(2) In order to determine the proper retention and disposition, E-mail messages must be evaluated for content and purpose. E-mail messages that meet the definition of "record," must be retained and disposed of in accordance with records series retention and disposition schedules which have been approved by the records commission.

15.2(3) Approved record series retention and disposition schedules for state government records of Iowa are available through the state records manual. Agencies may request additions and changes to the schedules by submitting a request to the records commission in accordance with 671—Chapter 3.

15.2(4) To protect the integrity of information contained in E-mail messages that meet the definition of "record," they must be maintained as authentic, reliable and trustworthy records for their entire retention period. Unauthorized users must not be able to modify, destroy or distribute E-mail messages from an E-mail storage system.

These rules are intended to implement Iowa Code chapter 305.

ARC 4408B**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 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 40, "Determination of Net Income," Chapter 41, "Determination of Taxable Income," Chapter 42, "Adjustments to Computed Tax," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Chapter 53, "Determination of Net Income," and Chapter 59, "Determination of Net Income," Iowa Administrative Code.

These amendments are proposed as a result of 2005 Iowa Acts, House Files 186 and 801, and 2005 Iowa Acts, Senate

File 413.

Item 1 amends rule 701—40.1(422) to reference new rule 701—40.66(422).

Item 2 amends rule 701—40.62(422) to eliminate the limitation of \$1,500 for the deduction for overnight expenses not reimbursed for travel away from home of more than 100 miles for performance of service as a member of the national guard or armed forces military reserve. These are now covered by federal law.

Item 3 proposes new rule 701—40.66(422) to provide for a deduction for individual income tax for certain unreimbursed expenses relating to a human organ transplant.

Item 4 amends subrule 41.3(1) to provide that federal income taxes paid for a tax year in which an Iowa individual income tax return was not required to be filed are not allowed as a deduction in the year the federal taxes were paid. To clarify this provision, examples are included.

Item 5 amends subrule 41.3(2) to provide that federal income tax refunds received for a tax year in which an Iowa individual income tax return was not required to be filed are not required to be reported in the year the federal refund was received. To clarify this provision, examples are included.

Item 6 proposes new subrule 41.5(2) to provide that state sales and use tax is allowed as an itemized deduction for Iowa individual income tax only if the state sales and use tax was allowed as an itemized deduction for federal income tax purposes.

Item 7 amends subrule 41.5(7) to provide that the deduction for individual income tax for multipurpose vehicle registration fees is the same as allowed for federal income tax purposes for tax years beginning on or after January 1, 2005.

Item 8 amends subrule 41.5(9) to provide that the deduction for individual income tax for older motor vehicle registration fees is the same as allowed for federal income tax purposes for tax years beginning on or after January 1, 2005.

Item 9 amends subrule 41.5(11) by striking the current subrule and replacing it with the deduction allowed on the 2004 Iowa return in certain circumstances for charitable contributions made in January 2005 for relief of victims of the Indian Ocean tsunami.

Item 10 amends subrule 42.2(11) to include federal revisions made in 2004 and January 2005 in the research activities credit for individual income tax.

Items 11 and 12 amend subrules 52.7(3) and 52.7(5) to include federal revisions made in 2004 and January 2005 in the research activities credit for corporation income tax.

Item 13 amends rule 701—53.18(422) to provide that the deduction for corporation income tax for multipurpose vehicle registration fees is the same as allowed for federal income tax purposes for tax years beginning on or after January 1, 2005.

Item 14 amends rule 701—59.19(422) to provide that the deduction for franchise tax for multipurpose vehicle registration fees is the same as allowed for federal income tax purposes for tax years beginning on or after January 1, 2005.

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 re-

REVENUE DEPARTMENT[701](cont'd)

quest is filed by delivery or by mailing postmarked no later than September 6, 2005, 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 August 23, 2005. 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 August 26, 2005.

These amendments are intended to implement Iowa Code sections 15.335, 15A.9, 422.3, 422.7, 422.9, 422.10, 422.32, 422.33 and 422.35 as amended by 2005 Iowa Acts, House Files 186 and 801, and 2005 Iowa Acts, Senate File 413.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 701—40.1(422) as follows:

701—40.1(422) Net income defined. Net income for state individual income tax purposes shall mean federal adjusted gross income as properly computed under the Internal Revenue Code and shall include the adjustments in 40.2(422) to 40.10(422). The remaining provisions of this rule and 40.12(422) to 40.65 66(422) shall also be applicable in determining net income.

This rule is intended to implement Iowa Code section 422.7.

ITEM 2. Amend rule 701—40.62(422) as follows:

701—40.62(422) Deduction of up to \$1,500 for overnight expenses not reimbursed for travel away from home of more than 100 miles for performance of service as a member of the national guard or armed forces military reserve. A taxpayer may subtract, in computing net income, the costs not reimbursed, ~~not to exceed~~ \$1,500, that were incurred for overnight transportation, meals and lodging expenses for travel away from the taxpayer's home more than 100 miles, to the extent the travel expenses were incurred for the performance of services on or after January 1, 2003, by the taxpayer as a national guard member or an armed forces military reserve member. *The deduction for Iowa tax purposes is the same that is allowed for federal income tax purposes.*

This rule is intended to implement Iowa Code section 422.7 as amended by 2003 2005 Iowa Acts, House File 674 186.

ITEM 3. Amend 701—Chapter 40 by adopting the following new rule:

701—40.66(422) Deduction for certain unreimbursed expenses relating to a human organ transplant. For tax years

beginning on or after January 1, 2005, a taxpayer, while living, may subtract up to \$10,000 in unreimbursed expenses that were incurred relating to the taxpayer's donation of all or part of a liver, pancreas, kidney, intestine, lung or bone marrow to another human being for immediate human organ transplantation. The taxpayer can claim this deduction only once, and the deduction can be claimed in the year in which the transplant occurred. The unreimbursed expenses must not be compensated by insurance to qualify for the deduction.

The unreimbursed expenses which are eligible for the deduction include travel expenses, lodging expenses and lost wages. If the deduction is claimed for travel expenses and lodging expenses, these expenses cannot also be claimed as an itemized deduction for medical expenses under Section 213(d) of the Internal Revenue Code for Iowa tax purposes. The deduction for lost wages does not include any sick pay or vacation pay reimbursed by an employer.

This rule is intended to implement Iowa Code section 422.7 as amended by 2005 Iowa Acts, House File 801.

ITEM 4. Amend subrule **41.3(1)**, paragraph "c," as follows:

c. Any additional federal tax on a prior federal return paid during the taxable year. Where a husband and wife file separately or separately on a combined Iowa return, additional federal tax paid shall be prorated between the spouses by the ratio of net income reported by each spouse to total net income of both spouses in the year for which the additional federal tax was paid. If additional federal tax paid includes federal self-employment tax, then that amount of self-employment tax shall be deducted by the spouse who earned the self-employment income. *Any federal tax paid for a tax year in which an Iowa individual income tax return was not required to be filed is not allowed as a deduction in the year the federal taxes were paid.*

EXAMPLE 1. Individual A earned \$8,500 in income for the 2004 tax year and paid \$200 in federal tax with the filing of the federal return in 2005. Individual A was not required to file an Iowa return for 2004 because the Iowa net income was under \$9,000. Individual A cannot claim a deduction for the \$200 in federal tax paid on the 2005 Iowa return because an Iowa return was not required to be filed for the 2004 tax year.

EXAMPLE 2. Individual B moved into Iowa on January 1, 2005, and filed an initial Iowa individual income tax return for the 2005 tax year. Individual B paid \$1,000 in additional federal income tax with the filing of the 2004 federal income tax return in 2005. Individual B cannot claim a deduction for the \$1,000 in federal tax paid on the 2005 Iowa return because an Iowa return was not filed for the 2004 tax year.

ITEM 5. Amend subrule **41.3(2)**, paragraph "a," and the implementation clause for rule **701—41.3(422)**, as follows:

a. Any refund of federal income tax received during the taxable year must be used to reduce the amount deducted for federal income tax to the extent the refunded amount was deducted on the Iowa return in a prior year. When a husband and wife file separately or separately on a combined Iowa return, the federal income tax refund to be reported shall be prorated between the spouses by the ratio of net income reported by each spouse to total net income reported by both spouses. If an amount of self-employment tax is required to be added back to Iowa net income, then the spouse who earned the self-employment income which generated the self-employment tax shall report that amount as an addition to net income. *Any federal tax refunds received for a tax year in which an Iowa individual income tax return was not re-*

REVENUE DEPARTMENT[701](cont'd)

quired to be filed is not required to be reported in the year the federal refund was received.

EXAMPLE 1. Individual A earned \$7,500 in income for the 2004 tax year and had \$1,000 in federal income tax withheld. Individual A received a refund of the entire \$1,000 federal tax withheld with the filing of the federal return in 2005. Individual A was not required to file an Iowa return for 2004 because the Iowa net income was under \$9,000. Individual A does not have to report the \$1,000 federal refund received on the 2005 Iowa return because an Iowa return was not required to be filed for the 2004 tax year.

EXAMPLE 2. Individual B moved into Iowa on July 1, 2005, and filed an initial Iowa individual income tax return for the 2005 tax year. Individual B received a \$2,000 federal income tax refund with the filing of the 2004 federal income tax return in 2005. Individual B does not have to report the \$2,000 federal refund on the 2005 Iowa return because an Iowa return was not filed for the 2004 tax year.

This rule is intended to implement Iowa Code section 422.9 as amended by 2005 Iowa Acts, Senate File 413.

ITEM 6. Amend rule 701—41.5(422) by adopting the following **new** subrule:

41.5(2) For the tax years beginning on or after January 1, 2004, and before January 1, 2006, the itemized deduction for state sales and use taxes is allowed on the Iowa return only if the taxpayer elected to deduct state sales and use taxes as an itemized deduction in lieu of the deduction for state income taxes on the federal return under Section 164 of the Internal Revenue Code.

If the taxpayer elected to deduct state income taxes as an itemized deduction on the federal return, taxpayer cannot claim an itemized deduction for state sales and use taxes on the Iowa return. In addition, if taxpayer claimed the standard deduction in accordance with Section 63 of the Internal Revenue Code on the federal return, taxpayer cannot claim an itemized deduction for state sales and use taxes on the Iowa return.

If the taxpayer is allowed to deduct state sales and use taxes as an itemized deduction on the Iowa return, taxpayer cannot claim an itemized deduction on the Iowa return for either the school district surtax imposed under Iowa Code section 257.21 or the emergency medical services income surtax imposed under Iowa Code chapter 422D.

ITEM 7. Amend subrule 41.5(7) as follows:

41.5(7) Deduction of multipurpose vehicle registration fee. For tax years beginning on or after January 1, 1992, and before January 1, 2005, individuals who itemize deductions for Iowa income tax purposes may claim a deduction for 60 percent of the amount of the registration fee paid for a multipurpose vehicle under Iowa Code section 321.124, subsection 3, paragraph “h.” “Multipurpose vehicle” means a motor vehicle designed to carry not more than ten people, and constructed either on a truck chassis or with special features for occasional off-road operation. The registration certificate for a multipurpose vehicle has the letters “MV” printed next to the word “style” on the certificate.

This subrule applies only to model year 1992 and older model year multipurpose vehicles. The registration fees for multipurpose vehicles for the 1993 model year and for model years after 1993 are the same as for other motor vehicles where the fees for newer model year vehicles are based on the value and weight of the vehicle. In order to qualify for this deduction, no part of the multipurpose vehicle registration fee may have been deducted as an itemized deduction under Section 164 of the Internal Revenue Code or as an ordinary and necessary business expense.

See also subrule 41.5(9), which provides for the deduction for registration fees for older motor vehicles. Subrule 41.5(7) also applies to multipurpose vehicles to the extent those vehicles are for the 1993 model year or for model years after 1993.

For tax years beginning on or after January 1, 2005, the itemized deduction for Iowa income tax for multipurpose vehicle registration fees is the same as allowed under Section 164 of the Internal Revenue Code for federal tax purposes.

ITEM 8. Amend subrule 41.5(9) as follows:

41.5(9) Deduction of older motor vehicle registration fee. For tax years beginning on or after January 1, 2002, and before January 1, 2005, individuals who itemize deductions for Iowa income tax purposes may claim a deduction for 60 percent of the annual registration fee paid for certain older motor vehicles. This deduction applies to a 1994 model year vehicle or a newer model year vehicle that is nine model years old or older. This deduction also applies to a 1993 or older motor vehicle which has been transferred to a new owner or to a 1993 or older model vehicle that was brought into Iowa on or after January 1, 2002. However, the deduction otherwise allowed pursuant to this subrule is not allowed to the extent that the vehicle was used in the taxpayer’s trade or business so that the deduction for the registration of the vehicle has already been allowed in the computation of Iowa net income.

For tax years beginning on or after January 1, 2005, the itemized deduction for Iowa income tax for older motor vehicle registration fees is the same as allowed under Section 164 of the Internal Revenue Code for federal tax purposes.

ITEM 9. Rescind subrule 41.5(11) and adopt in lieu thereof the following **new** subrule and amend the implementation clause for rule **701—41.5(422)** as follows:

41.5(11) Charitable contributions made in January 2005 for relief of victims of the Indian Ocean tsunami. For cash contributions made after December 31, 2004, and before February 1, 2005, to charitable organizations for the purpose of helping victims of the Indian Ocean tsunami, the taxpayer may claim this contribution as an itemized deduction on the 2004 Iowa income tax return if the taxpayer elected to claim this contribution as an itemized deduction on the 2004 federal tax return. If the taxpayer elected to claim the cash contribution made in January 2005 as an itemized deduction on the 2005 federal tax return, then it must be claimed as an itemized deduction on the 2005 Iowa return.

This rule is intended to implement Iowa Code sections 321.109, 321.113, and 321.124 and Iowa Code Supplement section 422.9 as amended by 2005 Iowa Acts, House File 186 and 2005 Iowa Acts, Senate File 413.

ITEM 10. Amend subrule **42.2(11)**, paragraph “b,” second paragraph, as follows:

For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph “b” of this subrule, such amounts are limited to research activities conducted within this state. For purposes of this subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2004 31, 2005.

ITEM 11. Amend subrule **52.7(3)**, paragraph “c,” as follows:

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c. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph “b” of this subrule, such amounts are limited to research activities conducted within this state. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2004 31, 2005.

ITEM 12. Amend subrule 52.7(5), paragraph “c,” and the implementation clause for rule 701—52.7(422) as follows:

c. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in subrule 52.7(3) of this rule, such amounts are limited to research activities conducted within the quality jobs enterprise zone. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2004 31, 2005.

This rule is intended to implement Iowa Code section 422.33 as amended by 2004 2005 Iowa Acts, Senate House File 2296 186.

ITEM 13. Amend rule 701—53.18(422) as follows:

701—53.18(422) Deduction of multipurpose vehicle registration fee. For tax years beginning on or after January 1, 1992, and before January 1, 2005, corporations may claim a deduction for 60 percent of the amount of the registration fee paid for a multipurpose vehicle under Iowa Code section 321.124, subsection 3, paragraph “h.” In order to qualify for this deduction, no part of the multipurpose vehicle registration fee may have been deducted as an ordinary and necessary business expense.

For tax years beginning on or after January 1, 2005, the deduction for Iowa corporation income tax for multipurpose vehicle registration fees is the same as allowed under Section 164 of the Internal Revenue Code for federal tax purposes.

ITEM 14. Amend rule 701—59.19(422) as follows:

701—59.19(422) Deduction of multipurpose vehicle registration fee. For tax years beginning on or after January 1, 1992, and before January 1, 2005, corporations may claim a deduction for 60 percent of the amount of the registration fee paid for a multipurpose vehicle under Iowa Code section 321.124, subsection 3, paragraph “h.” In order to qualify for this deduction, no part of the multipurpose vehicle registration fee may have been deducted as an ordinary and necessary business expense.

For tax years beginning on or after January 1, 2005, the deduction for Iowa franchise tax for multipurpose vehicle registration fees is the same as allowed under Section 164 of the Internal Revenue Code for federal tax purposes.

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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 421.14 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 as a result of 2005 Iowa Acts, Senate File 389.

Item 1 proposes rule 701—42.21(422) to provide for an individual income tax credit for costs incurred by a manufacturer for the purchase and replacement costs relating to the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.

Item 2 proposes rule 701—52.24(422) to provide for a corporation income tax credit for costs incurred by a manufacturer for the purchase and replacement costs relating to the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.

These 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 September 6, 2005, 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 August 23, 2005. 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 August 26, 2005.

These amendments are intended to implement 2005 Iowa Acts, Senate File 389, section 1, and Iowa Code section 422.33 as amended by 2005 Iowa Acts, Senate File 389.

REVENUE DEPARTMENT[701](cont'd)

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Adopt rule 701—42.21(422) as follows:

701—42.21(422) Soy-based cutting tool oil tax credit. Effective for tax periods ending after June 30, 2005, and beginning before January 1, 2007, a manufacturer may claim a soy-based cutting tool oil tax credit. A manufacturer, as defined in Iowa Code section 428.20, may claim the credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.

All of the following conditions must be met to qualify for the tax credit.

1. The costs must be incurred after June 30, 2005, and before January 1, 2007.

2. The costs must be incurred in the first 12 months of the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.

3. The soy-based cutting tool oil must contain at least 51 percent soy-based products.

4. The costs of the purchase and replacement must not exceed \$2 per gallon of soy-based cutting tool oil used in the transition.

5. The number of gallons used in the transition cannot exceed 2,000 gallons.

6. The manufacturer shall not deduct for Iowa income tax purposes the costs incurred in the transition to using soy-based cutting tool oil which are deductible for federal tax purposes.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to an 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.

This rule is intended to implement 2005 Iowa Acts, Senate File 389, section 1.

ITEM 2. Adopt rule 701—52.24(422) as follows:

701—52.24(422) Soy-based cutting tool oil tax credit. Effective for tax periods ending after June 30, 2005, and beginning before January 1, 2007, a manufacturer may claim a soy-based cutting tool oil tax credit. A manufacturer, as defined in Iowa Code section 428.20, may claim the credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.

All of the following conditions must be met to qualify for the tax credit.

1. The costs must be incurred after June 30, 2005, and before January 1, 2007.

2. The costs must be incurred in the first 12 months of the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil.

3. The soy-based cutting tool oil must contain at least 51 percent soy-based products.

4. The costs of the purchase and replacement must not exceed \$2 per gallon of soy-based cutting tool oil used in the transition.

5. The number of gallons used in the transition cannot exceed 2,000 gallons.

6. The manufacturer shall not deduct for Iowa income tax purposes the costs incurred in the transition to using soy-based cutting tool oil which are deductible for federal tax purposes.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to an 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.

This rule is intended to implement Iowa Code section 422.33 as amended by 2005 Iowa Acts, Senate File 389.

ARC 4367B**TRANSPORTATION
DEPARTMENT[761]****Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 11, "Waiver of Rules," Chapter 112, "Primary Road Access Control," Chapter 115, "Utility Accommodation," Chapter 500, "Interstate Registration and Operation of Vehicles," Chapter 505, "Interstate Motor Vehicle Fuel Licenses and Permits," Chapter 524, "For-Hire Intrastate Motor Carrier Authority," and Chapter 529, "For-Hire Interstate Motor Carrier Authority," Iowa Administrative Code.

These chapters are amended to remove language that indicates the Department or the Director of Transportation may waive an administrative rule on the Department's or the Director's own motion. The Iowa Supreme Court in AT&T Communications of the Midwest, Inc. vs. Iowa Utilities Board ruled that an agency cannot, under Iowa Code section 17A.9A, waive one of its own rules on its own motion. Rather, a person must petition the agency.

Chapters 11, 112 and 115 are amended to provide that a person requesting a waiver should relate the relevant facts and reasons for the requested waiver to the four criteria set out in Iowa Code section 17A.9A, subsection 2. This change is made because Iowa Code section 17A.9A, subsection 3, states that the "burden of persuasion rests with the person who petitions an agency for the waiver or variance of a rule."

Chapters 112 and 115 are amended to shift the authority to grant waivers under these chapters from the district engineer to the Director of Transportation and to provide that the Department will use sound engineering practices to determine

TRANSPORTATION DEPARTMENT[761](cont'd)

the appropriate design for a specific situation when the literal application of the rules to the situation will result in an unsafe situation or an unreasonable design.

Other amendments to Chapter 112:

- Correct three definitions.
- Allow smaller culvert sizes where shallow ditches exist.
- Allow additional entrances to Priority V highways in rural areas if the entrances will comply with future construction plans for the roadway.
- Provide that the Department may acquire more or less than the stated number of feet of access rights at intersections and interchanges after considering the severity of damage to adjacent properties and traffic volumes and other safety factors.
- Provide that the Department will approve spacing for special access connections in accordance with subrules 112.12(2) and 112.12(3).

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: julie.fitzgerald@dot.iowa.gov.
5. Be received by the Director's Staff Division no later than August 23, 2005.

A meeting to hear requested oral presentations is scheduled for Thursday, August 25, 2005, at 10 a.m. in the Administration Building, First Floor South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

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

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Director's Staff Division at the address listed in this Notice by September 6, 2005.

These amendments are intended to implement Iowa Code chapters 17A, 306, 306A, 319 and 320.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

Proposed rule-making actions:

ITEM 1. Amend rule 761—11.2(17A) as follows:

761—11.2(17A) Authority to grant waiver. The director of transportation may, ~~on the director's own motion or~~ in response to a written petition submitted in accordance with rule 761—11.5(17A), grant a waiver from the requirements of a rule. The decision to grant a waiver shall be made at the sole discretion of the director and is final agency action.

ITEM 2. Amend subrule 11.3(3) as follows:

11.3(3) ~~When a petition for a waiver is submitted, the burden of persuasion rests with the petitioner.~~ The department shall evaluate each petition for a waiver based on the unique,

individual circumstances set out in the petition. *The burden of persuasion rests with the petitioner.*

ITEM 3. Amend subrule 11.4(1) as follows:

11.4(1) The director's decision to ~~grant a waiver on the director's own motion or to grant or deny a waiver in response to a written petition shall be in writing and contain:~~

a. The name of the person to whom the decision pertains.
b. A citation to the rule or portion thereof to which the decision pertains *and a brief summary of the rule's requirements that are pertinent to the requested waiver.*

c. The *relevant facts and reasons* upon which the decision is based.

d. ~~The reasons for granting or denying a waiver.~~ If a waiver is granted, the *reasons decision* must include the following findings: *set out in subrule 11.3(2).*

~~(1) Why application of the rule will pose an undue hardship.~~

~~(2) Why the waiver will not prejudice the substantial legal rights of any person.~~

~~(3) That provisions of the rule subject to waiver are not specifically mandated by statute or another provision of law, and the waiver will not cause a denial of federal funds.~~

~~(4) How substantially equal protection of the public health, safety, and welfare will be afforded.~~

e d. The scope and duration of a waiver if one is granted.

f e. Any other conditions placed on a waiver if one is granted.

ITEM 4. Amend subrule 11.5(2) as follows:

11.5(2) Form of petition.

a. A petition for a waiver from the requirements of a rule must be in writing and state clearly at the top of the petition that it is a "petition for waiver of a rule."

b. The ~~body of a petition for a waiver from the requirements of a rule shall contain the following information where applicable and known to the petitioner:~~

~~(1) a. The name, address and telephone number of the petitioner, and any license, permit or case number applicable to the requested waiver.~~

~~(2) b. A description of and citation to the specific rule from which a waiver is requested.~~

~~(3) c. The specific waiver requested, including its scope and duration.~~

~~(4) The reasons for the requested waiver.~~

~~(5) The facts supporting the requested waiver, and a statement attesting to the accuracy of these facts.~~

d. *The relevant facts and reasons the petitioner believes would justify the requested waiver. The petitioner should address each of the following:*

(1) Why applying the rule will result in an undue hardship to the petitioner.

(2) Why waiving the rule will not prejudice the substantial legal rights of any other person.

(3) Whether the provisions of the rule are specifically mandated by statute or another law other than the rule.

(4) How substantially equal protection of the public health, safety, and welfare will be afforded by means other than those prescribed by the rule.

(6) e. A history of any prior contacts between the petitioner and the department that are related to the requested waiver.

(7) f. Whether the petitioner is currently a party to a rule making, declaratory order, contested case, or judicial proceeding, or any other proceeding related to the requested waiver.

(8) g. Information regarding the department's treatment of similar situations.

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(9) *h.* The name, address and telephone number of any public agency or political subdivision that also regulates the activity in question or that may be affected if the waiver were granted.

(10) *i.* The name, address and telephone number of any person or entity that may be adversely affected if the waiver were granted.

(11) *j.* The name, address and telephone number of any person who has knowledge of facts relevant to the requested waiver.

(12) *k.* Releases authorizing persons with knowledge of relevant facts to furnish that information to the department.

~~e. l. A petition for a waiver from the requirements of a rule shall be signed and dated by The signature of the petitioner and the date signed.~~

ITEM 5. Amend subrule 11.8(2) as follows:

11.8(2) The director's staff division shall retain for five years records relating to waivers granted or denied under this chapter. ~~The records are indexed by rule.~~

ITEM 6. Amend subrule 112.1(2) as follows:

112.1(2) Considerations. ~~When applying these rules to a particular access situation, the department shall consider the following~~ *If the department determines that the literal application of these rules to a specific situation will create or result in an unsafe situation or an unreasonable design, the department shall use sound engineering practices to determine the appropriate design for the specific situation. This design shall address:*

- a 1. Safety of the traveling public.
- b 2. Perpetuation of the traffic-carrying capacity of the highway.
- e 3. The impact upon the economy of the state.
- d 4. Protection of the rights of the traveling public and of property owners, including the rights of abutting property owners.

Justification for the design must be included in the permit or the highway project file, as applicable.

ITEM 7. Amend subrule 112.1(3) as follows:

112.1(3) Waivers. ~~The department~~ *the director of transportation* may, ~~upon its own motion or~~ in response to a written request or petition, waive provisions of this chapter. 761—Chapter 11 applies, with the following exceptions:

a. If a person is applying for an access permit under this chapter, the person shall submit a related waiver request as an addendum to the application, in lieu of petition for waiver. The request must include:

(1) *A description of and citation to the specific rule from which a waiver is requested.*

~~(1) (2)~~ The specific waiver requested.

~~(2) (3)~~ The relevant facts and reasons the applicant believes will justify the waiver, if they have not already been provided to the department in the application. *The applicant should address each of following:*

- 1. *Why applying the rule will result in an undue hardship to the applicant.*
- 2. *Why waiving the rule will not prejudice the substantial legal rights of any other person.*
- 3. *Whether the provisions of the rule are specifically mandated by statute or another law other than the rule.*
- 4. *How substantially equal protection of the public health, safety, and welfare will be afforded by means other than those prescribed by the rule.*

~~(3) (4)~~ The names of persons who may be adversely impacted by the grant of the waiver, if known.

b. In all other cases, a person requesting a waiver shall submit a petition for waiver in accordance with 761—11.5(17A). The petition shall be submitted to the district engineer.

~~e.—Waivers may be granted or denied by the district engineer.~~

~~d.—A waiver request or petition that is denied may be re-submitted to the director of transportation. The director's decision is final agency action.~~

ITEM 8. Amend rule **761—112.2(306A)**, definitions of “priority V highway,” “sight distance” and “special access connection,” as follows:

“Priority V highway.” A primary highway where access rights to it were acquired between 1956 and 1966, entrances were reserved at that time with no spacing limitations, and the department has subsequently determined that a higher degree of access control is desirable. The definition also includes a highway where access rights have not been acquired, but the department anticipates acquiring access rights in the future.

Entrances In rural areas, entrances to the highway are generally restricted to one entrance for contiguous highway frontage not exceeding 1,000 feet, two entrances for contiguous highway frontage exceeding 1,000 feet but not exceeding 2,000 feet, and so on.

“Sight distance.” The distance of clear vision along a primary highway in each direction from any given point of access where a vehicle must stop before entering the highway.

1. Sight distance at an access location is measured from the driver's height of eye (3.5 feet) to the height of an approaching vehicle (4.25 feet).

2. An access location should be established where desirable sight distance is available and shall not be authorized in a location providing less than minimum sight distance, as shown below.

POSTED DAYTIME SPEED LIMIT (mph)	DESIRABLE SIGHT DISTANCE (feet)	MINIMUM SIGHT DISTANCE (feet)
70*	910	730
65	820	645
60	730	570
55	645	495
50	570	425
45	495	360
40	425	305
35	360	250
30	305	200

*If enacted by the general assembly.

3. On a four-lane divided primary highway where access is proposed at a location that will not be served by a median crossover, sight distance is required only in the direction of the flow of traffic.

“Special access connection.” An access location authorized to the primary road system in an area where access rights were previously acquired. ~~Special access connections shall be constructed in compliance with the rules for entrances.~~

ITEM 9. Amend subrule **112.6(3)**, paragraph “a,” as follows:

a. The department's engineering staff will assist in determining the size and length of culverts and aprons. A culvert

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shall be of adequate size to handle drainage, but in ~~no case~~ ~~shall~~ *most situations* the culvert shall not be less than 18 inches in diameter. *Where shallow ditches exist, the department may approve small arched culverts or culvert sizes less than 18 inches in diameter.* Culvert pipe shall comply with departmental standard specifications as they exist at the time of installation.

ITEM 10. Amend subrule 112.8(1) as follows:

112.8(1) General. Where access rights have not been acquired, access is generally limited to one entrance for contiguous highway frontage not exceeding 1,000 feet, two entrances for contiguous highway frontage exceeding 1,000 feet but not exceeding 2,000 feet, and so on. Ownership on each side of the highway shall be considered as separate ownership. Except for the above-stated restrictions and those contained in subrules 112.8(2) and 112.8(3), no spacing restrictions shall be imposed. Additional entrances may be permitted when a single entrance will not provide adequate access due to topographic conditions or *when additional entrances will comply with future construction plans for the roadway and the access priority classification to be applied.*

ITEM 11. Amend subrule 112.11(3) as follows:

112.11(3) Access rights at at-grade intersections with city streets and secondary roads. When access rights to a primary highway are acquired, the department may also acquire access rights along a city street or secondary road where an at-grade intersection with the highway exists or is proposed. *Access If access rights may be are acquired, they will be acquired along the city street or secondary road for a distance of 150 feet from the near edge of the primary highway traveled way. However, the department may acquire more or less than 150 feet of access rights after considering the severity of damage to adjacent properties and traffic volumes and other safety factors.*

ITEM 12. Amend subrule **112.11(4)**, paragraph "a," as follows:

a. When access rights to a primary highway in a rural area are acquired, *the department may also acquire* access rights ~~may also be acquired~~ along an intersecting at-grade primary highway for a minimum distance from the intersection of the centerlines of the two primary highways as follows:

~~(1)~~ 1. 150 feet when the intersecting primary highway carries less than 2,500 vehicles per day.

~~(2)~~ 2. 300 feet when the intersecting primary highway carries 2,500 or more vehicles per day.

However, the department may acquire more or less than the specified access rights after considering the severity of damage to adjacent properties and traffic volumes and other safety factors.

ITEM 13. Amend subrule **112.11(5)**, paragraph "a," as follows:

a. When an interchange is constructed on a primary road, the department shall acquire access rights along the public road or street intersecting the primary road. Once access rights are acquired, no access is allowed. The following ~~subparagraphs show are~~ the minimum distances where access rights ~~should~~ shall be acquired along the intersecting public road or street; in each case, the greater distance ~~should~~ shall prevail.

~~(1)~~ 1. 600 feet from the point of ramp bifurcation in a rural or fringe area.

~~(2)~~ 2. 300 feet desired, 150 feet minimum, from the point of ramp bifurcation in a built-up area.

~~(3)~~ 3. 150 feet from the beginning of a deceleration lane or taper.

~~(4)~~ 4. 100 feet from the beginning or end of a median.

However, the department may acquire more or less than the specified access rights after considering the severity of damage to adjacent properties and traffic volumes and other safety factors.

ITEM 14. Amend subrule **112.13(3)**, paragraph "f," as follows:

f. ~~Spacing~~ *The department shall approve spacing for special access connections shall conform to subrule in accordance with subrules 112.12(2) and 112.12(3) and shall be maintained on both sides of the highway.*

ITEM 15. Renumber subrules **115.1(2)** to **115.1(4)** as subrules **115.1(3)** to **115.1(5)** and adopt **new** subrule 115.1(2) as follows:

115.1(2) Considerations. If the department determines that the literal application of these rules to a specific situation will create or result in an unsafe situation or an unreasonable design, the department shall use sound engineering practices to determine the appropriate design for the specific situation. This design shall address:

1. Safety of motorists, pedestrians, construction workers and other highway users.

2. Integrity of the highway.

3. The impact upon the economy of the state.

4. Protection of the rights of the traveling public and of property owners, including the rights of abutting property owners.

Justification for the design must be included in the permit or the highway project file, as applicable.

ITEM 16. Amend renumbered subrule 115.1(3) as follows:

115.1(3) Waivers. ~~The department~~ *director of transportation may, upon its own motion or in response to a written request or petition, waive provisions of this chapter. 761—Chapter 11 applies, with the following exceptions:*

a. If a person is applying for a utility permit under this chapter, the person shall submit a related waiver request as an addendum to the application, in lieu of petition for waiver. The request must include:

~~(1)~~ *A description of and citation to the specific rule from which a waiver is requested.*

~~(1)~~ (2) The specific waiver requested.

~~(2)~~ (3) The relevant facts and reasons the applicant believes will justify the waiver, if they have not already been provided to the department in the application. *The applicant should address each of the following:*

1. *Why applying the rule will result in an undue hardship to the applicant.*

2. *Why waiving the rule will not prejudice the substantial legal rights of any other person.*

3. *Whether the provisions of the rule are specifically mandated by statute or another law other than the rule.*

4. *How substantially equal protection of the public health, safety, and welfare will be afforded by means other than those prescribed by the rule.*

~~(3)~~ (4) The names of persons who may be adversely impacted by the grant of the waiver, if known.

b. In all other cases, a person requesting a waiver shall submit a petition for waiver in accordance with 761—11.5(17A). The petition shall be submitted to the district engineer.

~~c. Waivers may be granted or denied by the district engineer.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

d.—A waiver request or petition that is denied may be re-submitted to the director of transportation. The director's decision is final agency action.

ITEM 17. Amend rule 761—500.3(17A,326), introductory paragraph, as follows:

761—500.3(17A,326) Waiver of rules. In accordance with 761—Chapter 11, the director of transportation may, ~~on the director's own motion or~~ in response to a petition, waive provisions of this chapter. A waiver shall not be granted unless the director finds that special or emergency circumstances exist. "Special or emergency circumstances" means one or more of the following:

ITEM 18. Amend subrule 505.2(3), introductory paragraph, as follows:

505.2(3) Waiver of rules. In accordance with 761—Chapter 11, the director of transportation may ~~waive, on the director's own motion or~~ in response to a petition, ~~waive~~ provisions of this chapter. A waiver shall not be granted unless the director finds that special or emergency circumstances exist.

ITEM 19. Amend subrule 524.2(2), introductory paragraph, as follows:

524.2(2) Waiver of rules. In accordance with 761—Chapter 11, the director of transportation may, ~~on the director's own motion or~~ in response to a petition, ~~waive~~ provisions of this chapter. A waiver shall not be granted unless the director finds that special or emergency circumstances exist.

ITEM 20. Amend rule 761—529.3(327B), introductory paragraph, as follows:

761—529.3(327B) Waiver of rules. In accordance with 761—Chapter 11, the director of transportation may, ~~on the director's own motion or~~ in response to a petition, ~~waive~~ provisions of this chapter. A waiver shall not be granted unless the director finds that special or emergency circumstances exist.

ARC 4366B**TRANSPORTATION
DEPARTMENT[761]****Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 130, "Signing Manual," Iowa Administrative Code.

Iowa Code section 321.252 requires the Department to adopt a manual and specifications for a uniform system of traffic control devices for use upon highways within this state. To fulfill this requirement, Chapter 130 currently adopts the Manual on Uniform Traffic Control Devices (MUTCD), 2000 Millennium Edition and Revision No. 1 to the 2000 Millennium Edition.

This rule making replaces the 2000 Millennium Edition and Revision No. 1 to the 2000 Millennium Edition with the 2003 Edition and Revision No. 1 to the 2003 Edition.

The MUTCD is issued by the Federal Highway Administration (FHWA) under 23 CFR Part 655, Subpart F. The

FHWA's final rule adopting the 2003 Edition of the MUTCD was published in the Federal Register on November 20, 2003 (pages 65495-65583). The FHWA's final rule was preceded by a notice of proposed amendments published in the Federal Register on May 21, 2002. In the notice, the FHWA stated that its proposed amendments were a response to the many comments it received after the final rule creating the Millennium Edition of the MUTCD was published. The FHWA also stated that its proposed amendments addressed the advances in technology and the traffic and safety management strategies that had occurred since 1997, which was the year the process for compiling the Millennium Edition began. The notice provided a comment period, and the FHWA received 293 letters from state departments of transportation, city and county governments, private industry, associations and others.

According to FHWA's analysis of its final rule for the 2003 Edition of the MUTCD, most of the changes in the 2003 Edition "provide additional guidance, clarification, and optional applications for traffic control devices" and add "only a very limited number of new or changed requirements." The analysis also states: "The changes made to traffic control devices that would require an expenditure of funds all have future effective dates sufficiently long to allow normal maintenance funds to replace the devices at the end of the material life-cycle. To the extent the revisions require expenditures by the state and local governments on federal-aid projects, they are reimbursable."

The FHWA's final rule adopting Revision No. 1 to the 2003 Edition of the MUTCD was published in the Federal Register on December 1, 2004 (pages 69815-69819). The FHWA's final rule was preceded by an interim final rule published in the Federal Register on May 10, 2004. This interim final rule provided a comment period, and the FHWA received 36 letters.

Revision 1 to the 2003 Edition provides for the uniformity of service signs for 24-hour pharmacies when state and other jurisdictions choose to install these signs on public roads. States and other jurisdictions are not required to install these signs, but if they elect to do so, Revision 1 provides standards for the signs.

The FHWA's Web site <http://mutcd.fhwa.dot.gov> contains the 2003 Edition of the MUTCD with Revision 1 incorporated, older editions of the MUTCD, a table of phase-in compliance dates for the 2003 Edition, a document that compares the 2003 Edition and the Millennium Edition, a document that compares Revision 1 and the 2003 Edition, and links to Federal Register notices of proposed amendments, interim final rules and final rules relating to the MUTCD.

Iowa Code section 321.249 requires traffic control devices provided for school zones to conform to specifications included in the manual of traffic control devices adopted by the Department, except the provision prohibiting the use of portable or part-time stop signs. Chapter 130 currently contains two exceptions to adoption of the MUTCD to allow the use of portable or part-time stop signs in school zones. This rule making eliminates one exception that is no longer necessary and preserves the other exception.

This rule does not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

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

TRANSPORTATION DEPARTMENT[761](cont'd)

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: julie.fitzgerald@dot.iowa.gov.
5. Be received by the Director's Staff Division no later than August 23, 2005.

A meeting to hear requested oral presentations is scheduled for Thursday, August 25, 2005, at 11 a.m. in the Administration Building, First Floor South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

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

This rule is intended to implement Iowa Code sections 321.249 and 321.252.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

Proposed rule-making action:

Amend rule 761—130.1(321) as follows:

761—130.1(321) Manual. The "Manual on Uniform Traffic Control Devices" (MUTCD), 2000 Millennium 2003 Edition with including Revision No. 1 changes dated December 28, 2001, November 2004, published by the U.S. Department of Transportation, Federal Highway Administration, shall constitute the manual and specifications for a uniform system of traffic control devices for use upon the highways of this state.

130.1(1) The department makes the following exceptions exception to the MUTCD for school zones:

a. In Part 2, Section 2B.05 of the MUTCD, STOP Sign Applications, Standard, in lieu of the sentence "Portable or part-time STOP signs shall not be used except for emergency and temporary traffic control zone purposes," the department adopts the following sentence: "Portable or part-time STOP signs may be used only in the following situations:

1. When necessary for emergency and temporary traffic control zone purposes, or

2. In school zones at appropriate school crosswalks."

b. In Part 7, Section 7A.04 of the MUTCD, Scope, Standard, in lieu of the sentence "Portable school signs shall not be used," the department adopts the following sentence: "Portable or part-time STOP signs may be used in school zones at appropriate school crosswalks."

130.1(2) Copies of the manual MUTCD are available for examination at the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010, or may be reviewed through. The MUTCD is also available on the Internet at <http://mutcd.fhwa.dot.gov>.

This rule is intended to implement Iowa Code sections 321.249 and 321.252.

ARC 4376B**TRANSPORTATION
DEPARTMENT[761]****Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 511, "Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight," Iowa Administrative Code.

These amendments:

- Rescind subrule 511.16(4) to assist in more uniform interpretation of Iowa Code section 321E.16. This subrule is not needed since Iowa Code section 321E.16 addresses the same issue.
- Update paragraph 511.8(1)"e" to include an Internet address for oversize load detour and road embargo information.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.

4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address tracy.george@dot.iowa.gov.

5. Be received by the Director's Staff Division no later than August 23, 2005.

A meeting to hear requested oral presentations is scheduled for Thursday, August 25, 2005, at 10 a.m. in the DOT conference room at Park Fair Mall, 100 Euclid Avenue, Des Moines, Iowa.

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

These amendments are intended to implement Iowa Code chapters 321 and 321E.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

Proposed rule-making actions:

ITEM 1. Amend paragraph 511.8(1)"e" as follows:

- e. Routing. The owner or operator shall select a route using a vertical clearance map, kip map, bridge embargo map and detour and road embargo map provided by the depart-

TRANSPORTATION DEPARTMENT[761](cont'd)

ment. *Detour and road embargo information may also be found on the Internet at www.511ia.com.* The owner or operator shall contact the department by telephone at 1-800-925-6469 between 8 a.m. and 4 p.m., Monday through Thursday, except for legal holidays or at any other time at (515)237-3206 prior to making the move to verify that the owner or operator is using the most recent information.

ITEM 2. Rescind subrule **511.16(4)**.

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:

August 1, 2004 — August 31, 2004	6.75%
September 1, 2004 — September 30, 2004	6.50%
October 1, 2004 — October 31, 2004	6.25%
November 1, 2004 — November 30, 2004	6.25%
December 1, 2004 — December 31, 2004	6.00%
January 1, 2005 — January 31, 2005	6.25%
February 1, 2005 — February 28, 2005	6.25%
March 1, 2005 — March 31, 2005	6.25%
April 1, 2005 — April 30, 2005	6.25%
May 1, 2005 — May 31, 2005	6.50%
June 1, 2005 — June 30, 2005	6.25%
July 1, 2005 — July 31, 2005	6.25%
August 1, 2005 — August 31, 2005	6.00%

ARC 4403B

CORRECTIONS DEPARTMENT[201]

Adopted and Filed Emergency

Pursuant to the authority of 2005 Iowa Acts, House File 619, section 30, the Department of Corrections hereby amends Chapter 38, "Sex Offender Management and Treatment," Iowa Administrative Code.

The purpose for these amendments is to ensure that the Department's administrative rules are consistent with 2005 Iowa Acts, House File 619, which makes statutory changes to the sex offender registry process. 2005 Iowa Acts, House File 619 took effect on July 1, 2005. For purposes of the Iowa Sex Offender Registry, the Department of Corrections, the Department of Human Services, and the Department of Public Safety will now assess the risk that a particular offender will reoffend. The Department of Corrections assists with the processing of offenders required to register information with the Department of Public Safety, pursuant to Iowa Code chapter 692A, commonly referred to as the Iowa Sex Offender Registry.

These amendments do not provide for waivers in specified situations because of the need for consistency with the existing law.

In compliance with Iowa Code subsection 17A.4(2), the Department finds that notice and public participation prior to the adoption of these amendments are impracticable in order to comply with this recent statutory change in 2005 Iowa Acts, House File 619.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments should be made effective upon filing on July 15, 2005, so that they take effect as soon as possible to comply with the July 1, 2005, effective date of 2005 Iowa Acts, House File 619. These amendments confer a benefit upon the public by avoiding potential confusion, which might have arisen if the recently enacted legislation was not implemented immediately.

These amendments are also published herein under Notice of Intended Action as **ARC 4404B** to allow public comment.

The Board of Corrections approved these amendments on July 15, 2005.

These amendments became effective on July 15, 2005.

These amendments are intended to implement 2005 Iowa Acts, House File 619, section 30.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule **201—38.2(692A,903B)** by adopting the following **new** definitions in alphabetical order:

"Aggravated offense" means a conviction for any of the following offenses:

1. Sexual abuse in the first degree in violation of Iowa Code section 709.2.
2. Sexual abuse in the second degree in violation of Iowa Code section 709.3.
3. Sexual abuse in the third degree in violation of Iowa Code section 709.4, subsection 1.
4. Lascivious acts with a child in violation of Iowa Code section 709.8, subsection 1.

5. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.

6. Burglary in the first degree in violation of Iowa Code section 713.3, subsection 1, paragraph "d."

7. Kidnapping, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.

8. Murder, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.

"Criminal offense against a minor" means any of the following criminal offenses or conduct:

1. Kidnapping of a minor, except for the kidnapping of a minor in the third degree committed by a parent.

2. False imprisonment of a minor, except if committed by a parent.

3. Any indictable offense involving sexual conduct directed toward a minor.

4. Solicitation of a minor to engage in an illegal sex act.

5. Use of a minor in a sexual performance.

6. Solicitation of a minor to practice prostitution.

7. Any indictable offense against a minor involving sexual contact with the minor.

8. An attempt to commit an offense enumerated in this rule.

9. Incest committed against a minor.

10. Dissemination and exhibition of obscene material to minors in violation of Iowa Code section 728.2.

11. Admitting minors to premises where obscene material is exhibited in violation of Iowa Code section 728.3.

12. Stalking in violation of Iowa Code section 708.11, subsection 3, paragraph "b," subparagraph (3), if the factfinder determines by clear and convincing evidence that the offense was sexually motivated.

13. Sexual exploitation of a minor in violation of Iowa Code section 728.12, subsection 2 or 3.

14. Enticing away a minor in violation of Iowa Code section 710.10, subsection 1.

15. An indictable offense committed in another jurisdiction which would constitute an indictable offense under numbered paragraphs "1" through "13" of this definition.

"Offender" means a person who is required to register with the Iowa sex offender registry.

"Other relevant offense" means any of the following offenses:

1. Telephone dissemination of obscene materials in violation of Iowa Code section 728.15.

2. Rental or sale of hard-core pornography in violation of Iowa Code section 728.4.

3. Indecent exposure in violation of Iowa Code section 709.9.

4. A criminal offense committed in another jurisdiction which would constitute an indictable offense under numbered paragraphs "1" through "3" of this definition if committed in this state.

"Sexual exploitation" means sexual exploitation by a counselor or therapist under Iowa Code section 709.15.

"Sexually violent offense" means any of the following indictable offenses:

1. Sexual abuse as defined under Iowa Code section 709.1.

2. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.

3. Sexual misconduct with offenders in violation of Iowa Code section 709.16.

4. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, attempted murder, kidnapping, burglary, or manslaughter.

CORRECTIONS DEPARTMENT[201](cont'd)

5. A criminal offense committed in another jurisdiction which would constitute an indictable offense under numbered paragraphs "1" through "4" of this definition if committed in this state.

ITEM 2. Rescind rule 201—38.3(692A) and adopt the following **new** rule in lieu thereof:

201—38.3(692A) Sex offender risk assessment.**38.3(1) Risk assessment instrument.**

a. All required risk assessments shall be conducted utilizing the risk assessment instruments outlined below as approved by the department of corrections, the division of criminal investigation of the department of public safety (DCI), and the department of human services:

(1) Static-99. Designed for adult male sex offenders aged 18 and over and juvenile male offenders waived to adult court who have a specific identified victim.

(2) ISORA-8. Designed for adult male and female sex offenders aged 18 and over who may or may not have a specific identified victim.

b. Upon request, risk assessment instrument documents will be made available by the department of corrections.

c. The risk assessment score will be determined following a review of the following documents: the presentence investigation report, court documents, clinical assessments, treatment records, polygraph reports, plethysmograph reports, employee records, school records, military records, and child protection services records of the department of human services. The risk assessment score is used to determine the level of risk to reoffend.

38.3(2) Offenses requiring completion of a risk assessment. The department of corrections, department of human services, and the division of criminal investigation of the department of public safety shall complete the risk assessment on every offender under each agency's authority who is required to register under Iowa Code chapter 692A on or after July 1, 2005, who has committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor in this state or in another state, or in a federal, military, tribal, or foreign court, or on a person required to register in another state under the state's sex offender registry. The risk assessment should be completed within 45 days prior to the offender's release from custody or upon the offender's placement on probation, parole, or work release.

38.3(3) Risk assessment completion procedures.

a. Institution risk assessments. Risk assessments should be conducted on offenders and forwarded to DCI within 45 days prior to (and only if) the offender is being released from the institution. Risk assessments conducted for any other purpose should not be forwarded to DCI.

b. Judicial district risk assessments on probationers. Judicial district departments should complete risk assessments on probation offenders within 45 days of receipt of the case and forward the assessments to DCI. Additional risk assessments conducted during the supervision period, including those completed when an offender is discharged or revoked, should not be forwarded to DCI unless the offender's risk level has changed. However, when any offender is revoked or discharged, the probation officer shall notify DCI that the offender is either incarcerated or no longer under supervision in the community.

c. Parole/work release risk assessments. Risk assessments should be conducted by the institution prior to an offender's release on parole or work release. Parole officers are not required to reassess an offender unless they believe the

risk level has changed. If the risk assessment is not included in the Iowa Corrections Offender Network (ICON) database, the officer should contact the institution to determine whether one has been completed. If, for some reason, a risk assessment was not completed prior to the offender's release, the supervising probation/parole officer in conjunction with institution staff shall complete the risk assessment.

38.3(4) Notification of right to appeal.

a. When a risk assessment has been completed by an institution, the department of corrections shall notify, or cause to be notified, the offender of the finding, by providing to the offender copies of the risk assessment and the "Notice of Risk Assessment Findings" and "Appeal Form."

Notice is deemed provided even if the offender refuses delivery.

b. When a risk assessment has been completed by a judicial district department of correctional services (DCS), the probation/parole officer shall notify the offender by personal delivery or certified mail of the risk assessment finding. The notification shall include the risk assessment and the "Notice of Risk Assessment Findings" and "Appeal Form." No additional notice is required.

Notice is deemed provided even if the offender refuses delivery or if mail is undeliverable because the offender has not complied with registry requirements to provide a current address. If the notice is returned to the DCS as undeliverable, the assessment shall be forwarded to the DCI sex offender registry within 48 hours.

c. The notice shall contain the following information:

(1) A copy of the completed risk assessment.

(2) The result of the risk assessment.

(3) That the offender may appeal the risk assessment decision by filing a written appeal and mailing or serving it on the department of corrections at an address prescribed on the notice, so that it is received by 4:30 p.m. on or by the date specified in the notice.

(4) That the appeal shall be in writing and shall fully address each issue challenged. The appeal shall be limited to the following issues:

1. Whether the risk assessment factors have been properly applied; or

2. Accuracy of the information relied upon to support the assessment findings; or

3. Errors in the procedure.

d. If the department does not receive a written appeal within the time guidelines set forth in this rule, the department or DCS shall notify the division of criminal investigation of the results of the risk assessment by providing a copy of the risk assessment and "Notice of Risk Assessment Findings" to the division of criminal investigation.

38.3(5) Appeal process.

a. When the department receives a written appeal, the department shall refer the matter to an administrative law judge or a designated presiding officer pursuant to Iowa Code section 17A.11. In addition to the written appeal, the department shall submit all written documents supporting the initial findings to the administrative law judge or presiding officer. The administrative law judge or presiding officer shall set a hearing within seven calendar days after receiving the application for hearing from the department and shall provide notice to the parties along with the documentary evidence received from the department. However, the hearing may be continued for good cause.

b. Any document that is confidential pursuant to statute, rule, regulation, or other authority shall be considered confidential and may be subject to a protective order by motion of

CORRECTIONS DEPARTMENT[201](cont'd)

any party to the proceeding or by the administrative law judge on the administrative law judge's own motion. Any portion of the hearing may be conducted in camera.

c. Rule 201—12.16(17A), which governs the introduction and consideration of evidence, shall apply to proceedings under this rule. The administrative law judge or presiding officer may conduct the appeal hearing at any location and may use facsimile machines, telephones, two-way interactive video or other electronic means to conduct any or all of the hearings. An electronically produced document shall have the same force and effect as an original document.

d. The hearing shall be mechanically recorded. The recording thereof shall be filed and maintained by the department of corrections for at least five years from the date of the hearing.

e. The department shall have the burden of proof by a preponderance of the evidence to support the result of the risk assessment.

f. If a party fails to appear at the date and time specified in the hearing notice or fails to participate after proper service of notice, the administrative law judge or presiding officer may enter a default decision in the absence of the party.

g. After hearing the evidence and argument of the parties, the administrative law judge or presiding officer shall issue a written order affirming, reversing, or modifying the result of the risk assessment within 14 calendar days. The order shall contain concise findings of fact and conclusions of law. A copy of the order shall be promptly mailed to each party.

h. The registrant, attorney general, or the agency may appeal the administrative law judge's or presiding officer's order to the director of the department of corrections or the director's designee. Appeal must be served in writing within 14 calendar days from the date of the order. If the order is not appealed within the 14-day time period, it shall be considered a final decision.

i. The director of the department of corrections or the director's designee shall consider an appeal on the record made before the administrative law judge or presiding officer. The director or designee shall not consider any additional facts on appeal. The director or designee may, at the director's or designee's discretion, request written briefs or oral argument in an appeal. The director or designee shall issue a written decision affirming, reversing, or modifying the order of the administrative law judge or presiding officer. A copy of the decision shall be promptly mailed to each party. The decision of the director or the director's designee constitutes final agency action.

j. Upon disposition of the appeal or 20 days after the final decision of the administrative law judge or presiding officer, all information including the risk assessment, "Notice of Risk Assessment Findings," appeal information, and any other documentation shall be forwarded to the department of public safety sex offender registry program.

38.3(6) Training requirements. All agency personnel conducting sex offender risk assessments shall complete the training program as developed and provided cooperatively by the responsible agencies.

38.3(7) Reporting requirements. The completed assessment and the results of any appeals will be forwarded to the department of public safety sex offender registry program.

a. The following documentation shall be submitted:

- (1) The completed original Static-99 or ISORA-8;
- (2) Form F-1 (Notification of Sex Offender Risk Assessment Findings);
- (3) Forms F-2 and F-3 if applicable (Appeal and Appeal Response forms); and

(4) Pertinent assessment/appeal findings documentation.
b. The documentation required in paragraph "a" shall be forwarded to:

Iowa Division of Criminal Investigation
Attn: Iowa Sex Offender Registry
Wallace State Office Building
Des Moines, Iowa 50319
(515)281-4976; fax (515)281-4898

38.3(8) Records maintenance.

a. Original sex offender registration and risk assessment documents shall be sent to the department of public safety sex offender registry program.

b. Copies of the sex offender registration and risk assessment documents shall be permanently maintained by the responsible agency.

c. Results of the risk assessment shall be communicated to criminal and juvenile justice agencies for law enforcement, prosecution or public notification purposes.

38.3(9) Additional rules. The department of public safety's rules regarding the Iowa sex offender registry are published in Division III of 661—Chapter 83.

[Filed Emergency 7/15/05, effective 7/15/05]

[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4374B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 1, "Organization," Iowa Administrative Code.

The amendments update the description of the Iowa Economic Development Board to incorporate changes to this Board pursuant to 2005 Iowa Acts, House File 868. The amendments add descriptions of three new committees that the IDED Board is directed under the Act to establish: the Due Diligence Committee, the Loan and Credit Guarantee Committee, and the Technology Commercialization Committee. Additional amendments include updating the chapter to include information about Board meeting procedures and processes, updating the Department's Web site address, and other technical corrections to Iowa Code references.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need for amendments to implement the Act that became effective on July 1, 2005. The amendments to Chapter 1 will ensure that the IDED Board is able to complete organizational tasks necessary to establish committees and begin processing funding requests.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and the amendments should be made effective upon filing with the Administrative Rules Coordinator on July 7, 2005, as they confer a benefit upon businesses and communities by allowing the IDED Board to take action on pending projects, in the event such action becomes necessary, and to enable the state of Iowa to compete with other states for business projects.

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These amendments are also published herein under Notice of Intended Action as **ARC 4419B** to allow for public comment. This emergency filing permits the Department to implement the new legislation.

These amendments are intended to implement 2005 Iowa Acts, House File 868.

These amendments became effective July 7, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

Amend **261—Chapter 1** as follows:

CHAPTER 1
ORGANIZATION

261—1.1(15,81GA,HF868) Mission. The Iowa department of economic development was established in 1986 pursuant to Iowa Code chapter 15. The authority delegated to the department had previously been delegated to the Iowa development commission and the office for planning and programming. The mission of the Iowa department of economic development is to continually improve the economic well-being of all Iowans by working in focused partnerships with businesses, entrepreneurs, communities and educational entities. The department's primary responsibilities are in the areas of finance, marketing, local government and service coordination, exporting, tourism, job training and entrepreneurial assistance, and small business.

261—1.2(15,81GA,HF868) Definitions. As used in these rules, unless the context otherwise requires:

"Board" or "IDED board" means the Iowa economic development board created by Iowa Code chapter 15 as amended by 2005 Iowa Acts, House File 868.

"Department" or "IDED" means the Iowa department of economic development authorized by Iowa Code chapter 15.

"Director" means the director of the Iowa department of economic development or the director's designee.

261—1.3(15,81GA,HF868) Iowa department of economic development board.

1.3(1) Composition.

a. Board size. The board consists of ~~11~~ 15 voting members appointed by the governor and 7 ex officio nonvoting members. The ex officio nonvoting members are 4 legislative members, 2 state senators and 2 state representatives; 1 president, or the president's designee, of the University of Northern Iowa, University of Iowa, or Iowa State University of Science and Technology designated by the state board of regents on a rotating basis; 1 president, or the president's designee, of a private college or university appointed by the Iowa association of independent colleges and universities; and 1 superintendent, or the superintendent's designee, of a merged area school, appointed by the Iowa association of community college presidents.

b. Terms. Board members are appointed for four-year terms that begin and end as provided by Iowa Code section 69.19.

c. Voting members—representation on the board following the transitional year (July 1, 2005, to June 30, 2006). Following the transitional year, at least one of the voting members shall be less than 30 years of age at the time of appointment. At least 9 members of the board shall be actively employed in the private, for-profit sector of the economy.

Each of the following areas of expertise shall be represented by at least 1 member of the board who has professional experience in that area of expertise:

(1) Finance, insurance, or investment banking.

(2) Advanced manufacturing.

(3) Statewide agriculture.

(4) Life sciences.

(5) Small business development.

(6) Information technology.

(7) Economics.

(8) Labor.

(9) Marketing.

(10) Entrepreneurship.

1.3(2) Meetings.

a. The board generally meets monthly at the department's offices located at 200 East Grand Avenue in Des Moines, Iowa. By notice of the regularly published meeting agendas, the board and its committees may hold regular or special meetings at other locations within the state. Meeting agendas are available on the department's Web site at www.iowalifechanging.com.

b. The board shall meet in May of each year for the purpose of receiving recommendations from the nominations committee, if established by the chairperson, and electing one of its voting members as chairperson and one of its voting members as vice chairperson. Nominations may also be made from the floor at the time of the election provided the consent of the nominee has been obtained. The chairperson and the vice chairperson shall not be from the same political party. The board shall meet at the call of the chairperson or when any six eight members of the board file a written request with the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the voting members constitutes a quorum.

c. Any interested party may attend and observe board and committee meetings except for such portion as may be closed pursuant to Iowa Code section 21.5.

d. Observers may use cameras or recording devices during the course of a meeting so long as the use of such devices does not materially hinder the proceedings. The chairperson may order that the use of these devices be discontinued if they cause interference and may exclude any person who fails to comply with that order.

e. Open session and closed session proceedings are electronically recorded. Minutes of open meetings are available for viewing at the department's offices.

1.3(3) Duties. The board shall perform the duties as outlined in Iowa Code section 15.104, and other functions as necessary and proper to carry out its responsibilities.

1.3(4) Board committees. The board shall establish a due diligence committee, a loan and credit guarantee committee and a technology commercialization committee, and may appoint such other ad hoc committees as deemed necessary. The board chairperson may appoint a nominations committee as described in paragraph 1.3(4)"d" for the purpose of developing recommendations to the board for the election of a board chairperson, vice chairperson, and membership on board committees. Upon recommendation of the nominations committee, the board shall elect the members of the committees, and the board chairperson shall designate the chairpersons and vice-chairpersons of all committees.

a. Due diligence committee. The due diligence committee shall be an advisory committee composed of members of the board elected annually by the voting members of the board. The size of the committee and the terms of committee members will be established annually by the board. Duties of

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the due diligence committee include, but are not limited to, carrying out any duties assigned by the board in relation to programs administered by the department, reviewing applications for financial assistance, conducting a thorough review of proposed projects and making recommendations to the board regarding funding. A majority of committee members constitutes a quorum.

b. Loan and credit guarantee committee. The loan and credit guarantee committee shall be an advisory committee composed of members of the board elected annually by the voting members of the board. The size of the committee and the terms of committee members will be established annually by the board. Duties of the loan and credit committee include, but are not limited to, carrying out any duties assigned by the board in relation to the loan and credit guarantee program administered by the department, reviewing loan and credit guarantee applications and making recommendations to the board regarding funding. A majority of committee members constitutes a quorum.

c. Technology commercialization committee. To evaluate and approve funding for projects and programs under 2005 Iowa Acts, House File 809, section 19, the board shall create a technology commercialization committee composed of members with expertise in the areas of biosciences, engineering, manufacturing, pharmaceuticals, materials, information solutions, software, and energy. At least one member of the technology commercialization committee shall be a member of the economic development board. The size of the committee and the terms of committee members will be established annually by the board. An organization designated by the department, composed of members from both the public and private sectors and composed of subunits or subcommittees in the areas of already identified bioscience platforms, education and workforce development, commercialization, communication, policy and governance, and finance, shall provide funding recommendations to the technology commercialization committee. A majority of committee members constitutes a quorum.

d. Nominations committee. The board chairperson may appoint a nominations committee comprised of voting members of the board. The committee shall be appointed by the chairperson at a meeting of the board prior to May 1 of each year.

1.3(5) Appeals of department of revenue decisions—wage-benefit tax credit program appeals. *A business whose application for a wage-benefit tax credit has been denied by the department of revenue may appeal the decision to the board. The appeal must be made in writing and received by the department within 30 days of the date on the notice of denial sent to the business by the department of revenue. The board may uphold or overturn the decision of the department of revenue. If the IDED board overturns the decision of the department of revenue, the department of revenue will be instructed, subject to availability, to issue a tax credit certificate.*

261—1.4(15,81GA,HF868) Department structure.

1.4(1) General. The department's organizational structure consists of the director, deputy director, and three administrative divisions.

1.4(2) Director. The Iowa department of economic development is administered by a director appointed by the governor, who serves at the pleasure of the governor, and is subject to confirmation by the senate. The director is the chief administrative officer of the department and in that capacity administers the programs and services of the department in compliance with applicable federal and state laws and regu-

lations. The duties of the director are as authorized in Iowa Code section 15.106 and include preparing a budget subject to board approval, establishing an internal administrative structure and employing personnel, reviewing and submitting to the board legislative proposals, recommending rules to the board, reporting to the board on grants and contracts awarded by the department, and other actions to administer and direct the programs of the department.

The administrators of the three divisions and the deputy director report to the director.

1.4(3) Deputy director. The deputy director, appointed by the director, directs and administers the department in the director's absence.

1.4(4) Divisions. The director has established the following administrative divisions within the department in order to most efficiently and effectively carry out the department's responsibilities:

1. Administration division;
2. Business development division; and
3. Community development division.

1.4(5) Attachment for administrative purposes; board support. Pursuant to Iowa Code section 7E.7(1), the Iowa finance authority is attached to the Iowa department of economic development for organizational and administrative purposes only. The Iowa finance authority has rule-making authority independent of the Iowa department of economic development, and its administrative rules are located under agency identification number 265 in the Iowa Administrative Code. The Iowa department of economic development provides office space and staff support to the city development board pursuant to Iowa Code sections 368.9 and 15.108(3)"a"(2). The department provides administrative support to the vision Iowa board pursuant to Iowa Code section 15F.104.

1.4(6) Advisory committees. *The director may appoint committees to serve in an advisory capacity to the department that are deemed necessary to accomplish the work of the department. The size of the committee and the terms of committee members will be established by the director. These committees may be dissolved as deemed appropriate by the director, and other committees may from time to time be established for specific purposes.*

261—1.5(15,81GA,HF868) Information. The general public may obtain information about the Iowa department of economic development by contacting the Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4700; or through the department's Web site at www.ided.state.ia.us www.iowalifechanging.com.

These rules are intended to implement Iowa Code chapter 15, 2005 Iowa Acts, House File 868 and House File 809, and section 17A.3.

[Filed Emergency 7/7/05, effective 7/7/05]

[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4370B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts new Chapter 2, "Grow Iowa Values Fund Assistance," Iowa Administrative Code.

The new chapter is intended to implement 2005 Iowa Acts, House File 868 and House File 809, which establish and provide funding to the Grow Iowa Values Fund. The rules describe the allocation of moneys in the Grow Iowa Values Fund (IVF), the allowable uses of IVF assistance, application procedures, IVF wage requirements, approval procedures and contract administration provisions.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need for rules to implement the Act that became effective on July 1, 2005. The new rules permit the IDEB Board and the Department to accept applications for IVF funding and take action on financial assistance requests.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules should be waived and the rules should be made effective upon filing with the Administrative Rules Coordinator on July 7, 2005, as they confer a benefit upon businesses and communities by making information about the Grow Iowa Values Fund available in a timely fashion. These rules allow applicants to begin the process of preparing financial assistance applications and ensure that the IDEB Board and the Department have authority to take action on pending projects, in the event such action becomes necessary and to enable the state of Iowa to compete with other states for business projects. These rules also establish procedures to allow the Regents institutions and the Department of Natural Resources to begin preparing their plans to access funding that became available on July 1, 2005, for fiscal year 2006.

These rules are also published herein under Notice of Intended Action as **ARC 4420B** to allow for public comment. This emergency filing permits the Department to implement the new legislation.

These rules are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

These rules became effective July 7, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following new chapter is adopted.

CHAPTER 2**GROW IOWA VALUES FUND ASSISTANCE**

261—2.1(81GA, HF868, HF809) Purpose. The purpose of the grow Iowa values fund is to provide financial assistance for business incentives, marketing efforts, and other programs and activities designed to spur the economy and improve the quality of life of Iowans. Moneys in the grow Iowa values fund provide financial assistance for programs administered by the department; for state parks pursuant to a plan from the department of natural resources (DNR); for the

cultural trust fund; for workforce training and economic development funds of the community colleges; for economic development region initiatives; and for financial assistance to the regents for the University of Northern Iowa, Iowa State University, the University of Iowa, a bioscience organization, and private universities. The rules in this chapter apply to financial assistance awarded from the grow Iowa values fund by the department and the board.

261—2.2(81GA, HF868, HF809) Definitions. Unless otherwise stated, the following definitions shall apply:

"Board" or "IDED board" means the Iowa economic development board established in Iowa Code section 15.103 as amended by 2005 Iowa Acts, House File 868, section 4, and composed of 15 voting members and 7 ex officio nonvoting members.

"Department" or "IDED" means the Iowa department of economic development created in Iowa Code chapter 15.

"Due diligence committee" means the due diligence committee authorized by Iowa Code section 15.103 as amended by 2005 Iowa Acts, House File 868, section 4, and described in 261—subrule 1.3(4).

"Fund," "IVF" or "values fund" means the grow Iowa values fund created in 2005 Iowa Acts, House File 868, section 1.

261—2.3(81GA, HF868, HF809) Grow Iowa values fund. The fund includes moneys appropriated to the department by the general assembly for the fund, interest earned, repayments and recaptures of loans and grants. Pursuant to 2005 Iowa Acts, House File 868, section 1, the fund is under the control of and administered by the department.

261—2.4(81GA, HF868, HF809) Allocation of grow Iowa values fund moneys. Pursuant to 2005 Iowa Acts, House File 809, section 18, \$50 million is appropriated from the grow Iowa values fund to the department each fiscal year for the fiscal period beginning July 1, 2005, and ending June 30, 2015. The fund moneys are allocated as follows:

\$35M - For programs administered by the department, marketing and other specified uses.

\$ 5M - To the state board of regents for institutions of higher learning under the control of the state board of regents, for specific activities.

\$ 1M - For projects in targeted state parks, state banner parks and destination parks.

\$ 1M - For the cultural trust fund administered by the department of cultural affairs.

\$ 7M - For workforce training and economic development funds of the community colleges.

\$ 1M - For economic development region initiatives.

2.4(1) Funding for programs administered by the department, marketing, other specified uses.

a. IDEB programs. Pursuant to 2005 Iowa Acts, House File 809, section 19(1a), \$35 million is appropriated to the department for each of the fiscal years identified above for deposit in the fund for programs administered by the department. The grow Iowa values fund moneys can be used to fund projects and activities under the value-added agricultural products and processes financial assistance program (VAAPFAP) (261—Chapter 57), the community economic betterment (CEBA) program (261—Chapter 53), the entrepreneurial ventures assistance (EVA) program (261—Chapter 60), the targeted small business financial assistance program (TSBFAP) (261—Chapter 55), the physical infrastructure assistance program (PIAP) (261—Chapter 61), the

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brownfield redevelopment program (261—Chapter 65), and other programs administered by the department.

b. Administrative costs. The department may use up to one and one-half percent of the \$35 million allocation for administrative purposes.

c. Business incentives, marketing, and research and development. Each fiscal year the department shall allocate a percentage of the fund moneys for business start-ups, business expansions, business modernization, business attraction, business retention, marketing, and research and development. The department may adjust the allocation during the year if it determines that it is necessary to do so to ensure the availability of funds in those categories in which a greater need is demonstrated to exist or to respond to investment opportunities.

d. Technical assistance, labor shed study and transportation purposes. A portion of the \$35 million may also be used to procure technical assistance from the public or private sectors, for information technology purposes, for a statewide labor shed study, and for rail, air, or river port transportation-related purposes. For applications involving rail, air, or river port transportation-related purposes, fund assistance is only available if the activity is directly related to an economic development project and the values fund moneys are used to leverage other financial assistance moneys.

e. E-85 blended gasoline financial incentive program. The department may allocate a maximum of \$325,000 each fiscal year for the fiscal period beginning July 1, 2005, and ending June 30, 2008, to provide financial incentives for an E-85 blended gasoline financial incentive program. Financial incentives are available for the installation or conversion of infrastructure used by service stations to sell and dispense E-85 blended gasoline and for the installation or conversion of infrastructure required to establish on-site and off-site terminal facilities that store biodiesel for distribution to service stations. The department shall provide for an addition of at least 30 new or converted E-85 retail outlets and 4 new or converted on-site or off-site terminal facilities. The department may provide for the marketing of these products in conjunction with this infrastructure program. The department will issue a request for proposal (RFP) to seek qualified applicants for this program. The RFP will identify the maximum amounts available, eligibility requirements, evaluation criteria, due dates and other information necessary to evaluate the responses to the RFP.

f. Board approval. The board shall approve or deny financial assistance applications and other activities funded with moneys provided through this \$35 million allocation from the grow Iowa values fund.

2.4(2) Application procedures for programs administered by the department and funded with grow Iowa values fund moneys.

a. Compliance with program rules and requirements. Businesses and communities seeking financial assistance from a department program shall comply with the department's application procedures, processes, rules, and wage and benefit requirements for that program. If an application will be funded using moneys from the grow Iowa values fund, applicants shall also comply with the requirements of this chapter, including the IVF wage requirement. To apply for moneys from the grow Iowa values fund, applicants shall submit to the department for consideration by the due diligence committee and the board an application, which shall be in a form provided by the department. Application forms and directions for completing the forms are available online at the department's Web site at www.iowalifechanging.com or at

the department's offices located at 200 East Grand Avenue, Des Moines, Iowa 50309.

b. IVF wage requirement.

(1) In order to receive financial assistance from the grow Iowa values fund, applicants shall demonstrate that the average annual wage, including benefits, of project jobs will be equal to or exceed 130 percent of the average county wage. "Average county wage" means the annualized, average hourly wage based on wage information compiled by the department of workforce development. "Benefits" means all of the following: medical and dental insurance plans, pension and profit sharing plans, child care services, life insurance coverage, vision insurance plan, and disability coverage.

(2) If an applicant is applying for grow Iowa values fund moneys, the department will first review the application to ensure that the IVF wage requirement is met. The department will then review the application for compliance with the wage and benefit requirements of the department program from which financial assistance is to be provided.

c. IVF wage requirement waiver. Applicants may request that the board waive the IVF wage requirement upon a showing of good cause. For purposes of this paragraph, "good cause" includes but is not limited to the following:

(1) The community in which the project will be located can demonstrate economic distress based on a combination of factors including but not limited to:

1. A county family poverty rate significantly higher than the state average.

2. A county unemployment rate significantly higher than the state average.

3. A unique opportunity to use existing unutilized facilities in the community.

4. A significant downsizing or closure by one of the community's major employers.

5. An immediate threat posed to the community's workforce due to the downsizing or closure of a business.

(2) The proposed project meets all of the following criteria:

1. The business is in one of the state's targeted industry clusters: life sciences, information solutions, and advanced manufacturing.

2. All jobs created as a result of the project will have a starting wage, not including benefits, equal to or greater than 100 percent of the average county wage.

3. The business is headquartered in Iowa or, as a result of the proposed project, will be headquartered in Iowa. In lieu of the business's being headquartered in Iowa, the project has unique aspects which will assist the department in meeting one or more of its strategic objectives.

Requests to waive an eligibility requirement must be submitted in writing to the department when the business's application is submitted. The waiver request shall include documentation from other sources confirming the statistical data cited in the request. The waiver request will be reviewed as part of the application review process and acted upon by the board. If the request for a waiver is approved, the board will proceed with a final decision on the application.

d. Additional consideration for projects funded with grow Iowa values fund moneys. In reviewing applications for financial assistance, the board, the department and the due diligence committee shall consider providing assistance to projects that increase value-added income to individuals or organizations involved in agricultural business or biotechnology projects. Such projects need not create jobs specific to the project site; however, these projects must foster the knowledge and creativity necessary to promote the state's

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agricultural economy and to increase employment in urban and rural areas as a result. In providing financial assistance from the fund, the board shall, whenever possible, coordinate the assistance with other department programs.

2.4(3) Funding to the state board of regents for institutions of higher learning under the control of the state board of regents for specific activities.

a. Use of funds. Five million dollars is available for financial assistance to institutions of higher learning under the control of the state board of regents (Iowa State University (ISU), University of Iowa (U of I), University of Northern Iowa (UNI)). These funds must be used for capacity building infrastructure in areas related to technology commercialization, for marketing and business development efforts in areas related to technology commercialization, entrepreneurship, and business growth, and for infrastructure projects and programs needed to assist in the implementation of activities under Iowa Code chapter 262B as amended by 2005 Iowa Acts, House File 868.

(1) In allocating moneys to institutions under the control of the state board of regents, the state board of regents shall require the institutions to provide a one-to-one match of additional moneys for the activities funded with moneys provided under this subrule.

(2) The state board of regents may allocate moneys available under this subrule for financial assistance to a single biosciences development organization determined by the department to possess expertise in promoting the area of bioscience entrepreneurship. The organization must be composed of representatives of both the public and the private sector and shall be composed of subunits or subcommittees in the areas of existing identified biosciences platforms, education and workforce development, commercialization, communication, policy and governance, and finance. Such financial assistance shall be used for purposes of activities related to biosciences and bioeconomy development under Iowa Code chapter 262B as amended by 2005 Iowa Acts, House File 868, and to accredited private universities in this state.

b. Annual state board of regents report. Each fiscal year, the state board of regents shall report how the funds were used and allocated among ISU, U of I, UNI, a bioscience organization, and private universities.

c. Board action. The board shall hear a report from the state board of regents and accept, or request additional information regarding, the use of the \$5 million allocation from the grow Iowa values fund to the state board of regents.

2.4(4) Funding for projects in targeted state parks, state banner parks and destination parks.

a. Use of funds. One million dollars is available for purposes of providing financial assistance for projects in targeted state parks, state banner parks, and destination parks. For purposes of this subrule, "state banner park" means a park with multiple uses and which focuses on the economic development benefits of a community or area of the state.

b. Annual DNR plan. The department of natural resources shall submit a plan to the department for the expenditure of moneys allocated under this subrule. The plan shall focus on improving state parks, state banner parks, and destination parks for economic development purposes.

c. Board action. The board shall approve or deny the proposed plan for use of the \$1 million allocation from the grow Iowa values fund for state parks. Upon approval of the plan, a contract shall be executed between the department and the department of natural resources to provide financial

assistance to the department of natural resources for support of state parks, state banner parks, and destination parks.

2.4(5) Funding for the cultural trust fund administered by the department of cultural affairs. One million dollars is appropriated to the office of the treasurer of state for deposit in the Iowa cultural trust fund created in Iowa Code section 303A.4 and administered by the department of cultural affairs. The department shall transfer the moneys allocated from the grow Iowa values fund for this purpose to the treasurer of state.

2.4(6) Funding for workforce training and economic development funds of the community colleges. Seven million dollars is allocated for deposit into the workforce training and economic development funds of the community colleges created pursuant to Iowa Code section 260C.18A as amended by 2005 Iowa Acts, House File 868, sections 35 to 37. The department shall transfer the moneys allocated from the grow Iowa values fund to the workforce training and economic development fund.

2.4(7) Funding for economic development region initiatives.

a. Funds available. One million dollars is available for providing assistance to economic development regions. These moneys are allocated as follows:

\$350,000 - To ISU, for establishment of small business development centers in certain areas of the state.

\$ 50,000 - To the department, for assistance to Iowa business resource centers authorized in 2005 Iowa Acts, House File 868, section 8.

\$600,000 - To the department, for financial assistance to economic development regions, for the establishment of a regional economic development revenue sharing pilot project.

b. Allocation of \$600,000 for economic development region initiatives. The department shall annually allocate the \$600,000 available under this subrule for economic development region initiatives. The department may adjust the allocation during the year if it determines that it is necessary to do so to ensure the availability of funds in those categories in which a greater need is demonstrated to exist. The \$600,000 is available for the following:

(1) Financial assistance to economic development regions. A portion of the \$600,000 may be allocated for financial assistance to economic development regions. An economic development region may apply for:

1. Financial assistance for physical infrastructure needs;

2. Financial assistance to assist an existing business threatened with closure due to the potential consolidation of an out-of-state location;

3. Financial assistance to establish and operate an entrepreneurial initiative.

(2) Regional economic development revenue sharing pilot project. The department may establish and administer a regional economic development revenue sharing pilot project for one or more regions. The department shall take into consideration the geographical dispersion of the pilot projects. The department shall provide technical assistance to the regions participating in a pilot project.

(3) Designation as an economic enterprise area. An economic development region may apply to the department for approval to be designated as an economic enterprise area. The department shall approve no more than ten regions as economic enterprise areas.

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261—2.5(81GA, HF868, HF809) Contract administration.

2.5(1) Notice of award. Successful applicants will be notified in writing of the board's award of assistance, including any conditions and terms of the approval.

2.5(2) Contract required. The board shall direct the department to prepare an agreement, which includes, but is not limited to, a description of the project to be completed by the business; the jobs to be created or retained; length of the project period; conditions to disbursement as approved by the board; a requirement for annual updates to the department's return on investment model; and the reimbursement requirements of the business or other penalties imposed on the business in the event the business does not fulfill its obligations described in the contract and other specific repayment provisions ("clawback provisions") to be established on a project-by-project basis. Successful applicants will be required to execute an agreement within 120 days of the approval. Failure to do so may result in action by the board to rescind the award. The 120-day time limit may be extended by the board for good cause shown.

2.5(3) Contract amendments. Any substantive change to a funded project will require a contract amendment approved by the department and, if required by subrule 2.5(4), approved by the due diligence committee or the board. Substantive changes include, but are not limited to, contract time extensions, budget revisions, and significant alterations of existing activities or beneficiaries.

2.5(4) Situations requiring committee approval. The due diligence committee shall have the authority to act on behalf of the board and take final action on budget revision amendments that would substantially change the award terms or conditions, or contract terms or conditions; on the discontinuance or suspension of collection efforts; and on negotiated settlements for projects that do not meet contract requirements. The committee may decide to take final action or to refer the matter to the full board for action.

These rules are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

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[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4368B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 7, "Iowa Jobs Training Program," Chapter 9, "Workforce Training and Economic Development Funds," and Chapter 20, "Accelerated Career Education (ACE) Program," Iowa Administrative Code.

The amendments to Chapters 7, 9, and 20 update statutory references and replace Values Fund Board references with IDED Board references. The amendments to Chapter 7 revise language related to 2005 Iowa Acts, House File 868, such as board designations and statutory references. These amendments, following consultation with the community colleges, include minor revisions related to how the funds are

distributed to accounts within the program, allow the community colleges to establish accounts for administration and payment of funds for training provided, and allow prospective employee training to meet limited short-term training for individuals to be hired upon completion of the training. The amendments to Chapter 9 also add a provision to permit operational expenses associated with vocational technical training.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need for rule changes to implement the legislation that became effective on July 1, 2005. The amendments are Adopted and Filed Emergency to allow for the implementation of the Workforce Training and Economic Development Fund as provided in 2005 Iowa Acts, House File 868.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and the amendments should be made effective upon filing with the Administrative Rules Coordinator on July 7, 2005, as they confer a benefit on businesses and colleges to properly plan for and implement the Workforce Training and Economic Development Fund for the provision of a skilled and capable workforce.

These amendments are also published herein under Notice of Intended Action as **ARC 4421B** to allow public comment. This emergency filing permits the Department to implement the new legislation.

These amendments are intended to implement 2005 Iowa Acts, House File 868.

These amendments became effective July 7, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule 261—7.1(260F) as follows:

261—7.1(260F) Authority. The authority for establishing rules governing the development of training projects under the Iowa jobs training Act is provided in Iowa Code chapter 260F as amended by 1997 Iowa Acts, House File 655.

ITEM 2. Amend rule **261—7.3(260F)** by amending the definition of "Act" and adding a **new** definition of "prospective employee" as follows:

"Act" means Iowa Code chapter 260F as amended by 1997 Iowa Acts, House File 655.

"Prospective employee" means an assessed individual who is anticipated to be hired upon completion of training.

ITEM 3. Amend rule 261—7.4(260F) as follows:

261—7.4(260F) Program funding.

7.4(1) Program funds consist of any ~~money~~ *moneys* allocated by *the* department *and the* board for the purpose of this program, all repayments of loans or other awards or recaptures of awards, and earned interest, including interest earned on program funds held by the community colleges.

7.4(2) A community college 260F account is established in the department. The distribution of funds in this account, to the community colleges, shall be based upon the percentages prescribed in this rule, unless the general assembly stipulates otherwise in the appropriation process.

7.4(3) ~~Seventy-five~~ *Sixty-seven point five* percent of the funds from the community college 260F account shall be distributed to each community college ~~on a percentage basis~~ us-

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ing the distribution formula established in Iowa Code section ~~260F.6B~~ 260C.18(4).

7.4(4) ~~Fifteen~~ *Twenty-five* percent of the funds from the community college 260F account shall be distributed to community colleges for high technology apprenticeship programs based upon related eligible contact hours under the programs administered during the prior fiscal year as determined by the department of education. Contact hours generated in on-the-job training experiences are not eligible for consideration for apprenticeship funding.

7.4(5) ~~Ten~~ *Seven point five* percent of the funds from the community college 260F account shall be held by the department to fund community college-sponsored business network training projects and shall be available on a first-come, first-served basis, based on the date an application is received by the department.

7.4(6) Any unexpended or uncommitted funds remaining in the community college 260F account on May 1 of the fiscal year shall revert to a general account to be available on a first-come, first-served basis, based on the date an application is received by the department.

7.4(7) *Contingent on the availability of program funds, a* A department-sponsored business network training project account consisting of funds allocated by the department *and the board is established in the department to fund department-sponsored business network training projects.*

7.4(8) *Contingent on the availability of program funds, a* A department-sponsored high technology apprenticeship project account consisting of funds allocated by the department board is established in the department to fund department-sponsored high technology apprenticeship training projects.

ITEM 4. Amend subrule 7.5(6) as follows:

7.5(6) Community colleges shall issue the proceeds of an award to a business on a reimbursement basis *or directly pay for training expenses from the college-administered separate program account.*

ITEM 5. Amend subrule 7.9(4) as follows:

7.9(4) Production equipment, when used for training, may be an allowable cost. The cost of equipment used in training but subsequently used in production shall be prorated, *as identified in 261—8.12(15,76GA,ch1180)*, with the percentage of “used in production” cost paid by the business.

ITEM 6. Adopt **new** subrule 7.15(3) as follows:

7.15(3) A prospective employee, as defined in rule 261—7.1(260F), may receive training.

ITEM 7. Amend rule 261—7.28(80GA,HF692,HF683) as follows:

~~261—7.28(80GA,HF692,HF683)~~ **81GA,HF868,HF809) Special requirements for job retention program projects.**

7.28(1) Purpose. The purpose of the job retention program established by ~~2003 Iowa Acts, First Extraordinary Session, House File 683; Iowa Code section 260F.9~~ is to provide training to employees of businesses that are major employers in the state and that are incurring a major investment in retooling at their facilities in order to be more competitive in the world marketplace.

7.28(2) Definitions. In addition to the definitions in rule 261—7.3(260F), the following definitions shall apply to the job retention program:

“Act” means ~~2003 Iowa Acts, First Extraordinary Session, House File 683, section 77~~ *Iowa Code section 260F.9*, in which the job retention program is established.

“Board” or “*IDED board*” means the Iowa economic development board created by Iowa Code chapter 15 as amended by 2005 Iowa Acts, House File 868.

“Grow Iowa values board” means the board established by ~~2003 Iowa Acts, First Extraordinary Session, House File 692, section 78.~~

“Grow Iowa values fund” means the fund established by ~~2003 Iowa Acts, First Extraordinary Session, House File 692, section 84~~ *2005 Iowa Acts, House File 868, section 1.*

“Participating business” means a business for which a job retention project is being undertaken.

“Workplace” means the facility where new capital investment and employment are occurring and that meets the requirements of the job retention program.

7.28(3) to 7.28(8) No change.

7.28(9) Agreement.

a. and b. No change.

c. Awards under the job retention program that exceed \$1 million shall require approval by the ~~grow Iowa values board~~ *IDED board*.

7.28(10) Reporting requirements.

a. A community college that enters into an agreement pursuant to this chapter shall submit to the ~~grow Iowa values board~~ *IDED board* an annual written report, in a manner and form prescribed by the department, by the end of each calendar year. The report shall provide information regarding how the agreement affects the achievement of the goals and performance measures provided in the Act. By January 15 of each year, the department shall submit a written report to the general assembly and the governor regarding the activities of the job retention program during the previous calendar year.

b. The annual progress report submitted by the community colleges shall include the information as provided in 261—Chapter 9.

7.28(11) No change.

ITEM 8. Amend rule 261—7.29(80GA,HF692,HF683) as follows:

~~261—7.29(80GA,HF692,HF683)~~ **81GA,HF868,HF809) Special requirements for projects funded through the grow Iowa values fund.** Moneys allocated through the grow Iowa values fund to the workforce training and economic development funds of each community college for a fiscal year may be expended for the purposes allowed under Iowa Code chapter 260F, provided the use meets the requirements established under 261—Chapter 9. Moneys allocated under the workforce training and economic development fund are targeted primarily for use in projects in the areas of advanced manufacturing; information technology and insurance; and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology.

7.29(1) Exemption for award limits and ~~grow Iowa values board~~ *IDED board* approval. Moneys under this rule will be exempt from maximum award limits as covered under subrules 7.5(1) and 7.5(2), and 7.6(1) and 7.6(2). Applications to be awarded from workforce training and economic development funds as appropriated from grow Iowa values *fund* moneys that are to exceed \$1 million require approval of the ~~grow Iowa values board~~ *IDED board*.

7.29(2) Availability of workforce training and economic development funds. For a community college to utilize the funds afforded under the grow Iowa values fund for 260F projects, the college shall prepare and submit to the department a two-year implementation plan regarding the proposed uses of the grow Iowa values *fund* moneys. The plan shall be updated annually and submitted with a progress report to the

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department to be approved by the ~~grow Iowa values board~~ *IDED board*. This reporting requirement will be accomplished as described in 261—Chapter 9.

ITEM 9. Amend the parenthetical implementation for rules ~~261—9.1(80GA, HF683, HF692)~~ to ~~261—9.10(80GA, HF683, HF692)~~ as follows:

~~80GA, HF683, HF692~~ *81GA, HF868*

ITEM 10. Amend rule 261—9.2(81GA, HF868) as follows:

261—9.2(81GA, HF868) Definitions.

“Community college” or “college” means a community college established under Iowa Code chapter 260C.

“Department” or “IDED” means the Iowa department of economic development created in Iowa Code chapter 15.

“Fund” or “funds” means the workforce training and economic development funds created by ~~2003 Iowa Acts, First Extraordinary Session, House File 683, section 78~~ *Iowa Code section 260C.18A as amended by 2005 Iowa Acts, House File 868, sections 35 to 37*, and allocated to each community college.

“GIVF” or “grow Iowa values fund” means moneys appropriated to the grow Iowa values fund established by ~~2003 Iowa Acts, First Extraordinary Session, House File 692, section 84~~ *2005 Iowa Acts, House File 868, section 1*.

“Grow Iowa values board” or “GIVF board” means the grow Iowa values board created by ~~2003 Iowa Acts, First Extraordinary Session, House File 692, section 78~~.

“Iowa economic development board” or “IDED board” means the Iowa economic development board established in Iowa Code section 15.103 *as amended by 2005 Iowa Acts, House File 868, section 4*.

“Project” means a training or educational activity funded with grow Iowa values funds.

ITEM 11. Amend rule 261—9.4(81GA, HF868) as follows:

261—9.4(81GA, HF868) Community college workforce and economic development plan and progress report. For the fiscal year beginning July 1, 2003, each community college, prior to receiving its allocation, shall adopt and submit to the department with a copy filed with the ~~GIVF~~ *IDED* board a two-year workforce training and economic development plan that outlines the community college’s proposed use of the grow Iowa values fund moneys allocated to the community college. For the fiscal year beginning July 1, 2004, and each fiscal year thereafter, each community college, to receive its allocation for the forthcoming fiscal year, shall prepare and submit to the department for the ~~GIVF~~ *IDED* board the following items prior to the start of the forthcoming fiscal year:

9.4(1) Two-year workforce training and economic development fund plan. Each college shall adopt a two-year workforce training and economic development fund plan that outlines the community college’s proposed use of the grow Iowa values fund moneys appropriated to its fund. Plans shall be based on fiscal years and must be submitted to the department by April 30 prior to the forthcoming fiscal year allocation.

9.4(2) Plan updates. Plans shall be updated annually outlining proposed uses for the next two fiscal years, and must be submitted to the department by April 30 prior to the forthcoming fiscal year allocation.

9.4(3) Progress reports.

a. Each college shall prepare an annual progress report on the two-year plan’s implementation. This progress report

shall address the following goals and performance measures established by the general assembly for the GIVF:

- (1) Expanding and stimulating the state’s economy;
- (2) Increasing the wealth of Iowans; and
- (3) Increasing the population of the state.

b. The report shall be submitted in a manner and form as prescribed by IDED and shall meet the requirements of rule ~~261—9.8(80GA, HF683, HF692)~~ *81GA, HF868*.

c. Each college shall annually submit the two-year plan and progress report to the department in a manner prescribed by these rules, and annually file a copy of the plan and progress report with the ~~grow Iowa values~~ *IDED* board. Plans and progress reports shall be submitted to IDED by April 30. For the fiscal year beginning July 1, 2004, and each fiscal year thereafter, a community college shall not have moneys deposited in the workforce training and economic development fund of that community college unless the ~~grow Iowa values~~ *IDED* board has approved the annual progress report of the community college.

ITEM 12. Amend subrule 9.5(5) as follows:

9.5(5) Job retention program projects as authorized by ~~2003 Iowa Acts, First Extraordinary Session, House File 683, section 77,~~ *Iowa Code section 260F.9* and IDED administrative rules in 261—Chapter 7.

ITEM 13. Amend rule 261—9.6(81GA, HF868) as follows:

261—9.6(81GA, HF868) Approval of projects. Activity within each fund will be reviewed by the department to aid in ensuring that the college’s fund is meeting the requirement that 70 percent of the moneys allocated to the community college fund shall be used for projects in the areas of advanced manufacturing; information technology and insurance; and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology. Any individual project using over \$1 million of moneys from a workforce training and economic development fund shall require prior approval from the ~~grow Iowa values~~ *IDED* board. The following procedures apply for approval of activities to be assisted by the grow Iowa values fund:

9.6(1) Projects which meet all of the requirements of the Iowa jobs training Act under Iowa Code chapter 260F will be reviewed and approved by the department under the applicable scoring criteria as found in 261—Chapter 7, Iowa Jobs Training Program.

9.6(2) Projects which meet all of the requirements of the accelerated career education (ACE) program pursuant to Iowa Code chapter 260G will be reviewed and approved by the department under the applicable scoring criteria as found in 261—Chapter 20, Accelerated Career Education (ACE) Program.

9.6(3) For career academies, projects shall meet the requirements of career academies as defined in subrule 9.5(3).

9.6(4) Vocational and technical training ~~projects~~ *programs* shall meet the requirements of new or expanded vocational and technical training.

9.6(5) In-service training and retraining projects shall meet the requirements for short-term training and retraining.

9.6(6) *Community colleges may use moneys from the fund for operational expenses associated with vocational technical training.*

ITEM 14. Amend 261—9.7(81GA, HF868) as follows:

261—9.7(81GA, HF868) Community college workforce and economic development plan. A community college shall adopt a plan describing how the college proposes to use

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moneys allocated from the grow Iowa values fund for the forthcoming two years. For the fiscal year beginning July 1, 2003, the plan shall be submitted to the department with a copy filed with the GIVF board prior to the community college's receiving its allocation. For the fiscal year beginning July 1, 2004, and each fiscal year thereafter, the plan shall be submitted to the department and a copy filed with the ~~grow Iowa values~~ *IDED* board prior to the beginning of the first fiscal year that is included in the plan. The plan shall include, at a minimum:

9.7(1) How the allocation will be distributed for the allowable uses of ACE, Iowa jobs training program, career academies, vocational and technical training ~~projects~~ *programs*, and in-service training and retraining projects;

9.7(2) to **9.7(7)** No change.

ITEM 15. Amend subrule 9.8(1) as follows:

9.8(1) Each community college that receives an allocation of moneys under rule 261—9.4(~~80GA, HF683, HF692 81GA, HF868~~) shall submit to the ~~grow Iowa values~~ *IDED* board by April 30 of each year an annual written report regarding the accomplishments of the projects funded through the workforce training and economic development fund for the fiscal year, in a manner and form prescribed by the department. The report shall provide information regarding how projects aided by the community college's workforce training and economic development fund are meeting the goals and performance measures of the grow Iowa values fund, as described in 2003 Iowa Acts, First Extraordinary Session, House File 692, section 83, and have resulted in an increase in the number of higher education graduates.

ITEM 16. Amend rule 261—9.9(81GA, HF868) as follows:

261—9.9(81GA, HF868) Annual progress report approval.

9.9(1) For the fiscal year beginning July 1, 2004, and each fiscal year thereafter, a community college shall not have moneys deposited in the workforce training and economic development fund of that community college unless the ~~grow Iowa values~~ *IDED* board approves the annual progress report of the community college.

9.9(2) The board may reject a progress report for the following reasons, including but not limited to:

- a. Information or data is incomplete;
- b. Report does not address how grow Iowa values *fund* goals and performance measures have been met;
- c. Fund is determined not to meet the goals and performance measures established under the grow Iowa values fund;
- d. Use of funds fails to meet the college's two-year plan;
- e. Seventy percent of the fund is not used for projects in the areas of advanced manufacturing; information technology and insurance; and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology.

ITEM 17. Amend rule 261—9.10(81GA, HF868) as follows:

261—9.10(81GA, HF868) Options upon default or non-compliance.

9.10(1) Should the board not accept a college's annual progress report, the college shall be subject to the following actions as prescribed by the GIVF *IDED* board based upon the severity of the noncompliance or default, including but not limited to:

- a. Repayment of funds deemed ineligible or deemed not to meet the purposes of the grow Iowa values fund;
- b. Withholding of a portion of new fiscal year moneys based upon amounts awarded deemed to be ineligible;
- c. Tighter oversight and control of the college's fund by the department;
- d. Loss of funds for one year;
- e. Other action as deemed appropriate by the board.

9.10(2) Compliance with applicable labor laws. Recipients shall operate all projects in compliance with state and federal health, safety, equal opportunity, and other applicable labor laws.

ITEM 18. Amend **261—Chapter 9**, implementation clause, as follows:

These rules are intended to implement ~~2003 Iowa Acts, First Extraordinary Session, House Files 683 and 692 2005 Iowa Acts, House File 868 and House File 809.~~

ITEM 19. Amend rule **261—20.2(260G)**, definitions of "accelerated career education program" and "agreement," as follows:

"Accelerated career education program" or "ACE" means the program established pursuant to Iowa Code Supplement chapter 260G as amended by 2000 Iowa Acts, chapter 1196.

"Agreement" means a program agreement referred to in Iowa Code Supplement section 260G.3 as amended by 2000 Iowa Acts, chapter 1196, between an employer and a community college.

ITEM 20. Amend subrule 20.3(2) as follows:

20.3(2) By resolution of a community college board of directors, an eligible program may be approved and designated as an ACE program. The respective community college board(s) of directors shall ensure compliance with Iowa Code Supplement chapter 260G as amended by 2000 Iowa Acts, chapter 1196, and 2000 Iowa Acts, chapter 1225. In designating ACE programs, the respective community college board(s) shall give priority to targeted industries as designated by the department.

ITEM 21. Amend paragraph **20.4(1)"a"** as follows:

a. Funds for ACE program job credits and capital costs projects shall be allocated among the community colleges in the state for the fiscal years and in the amounts specified in 2000 Iowa Acts, chapters 1196 and 1225, *Iowa Code chapter 260G* and these rules.

ITEM 22. Amend rule 261—20.7(260G) as follows:

261—20.7(260G) Administration. The department will administer the statewide allocations and will consult with representatives of the community colleges to promulgate necessary forms and collect necessary information. The department will monitor program agreements for the purposes of preparing a study of the needs and performance of approved programs for submission to the general assembly by the department by December 31, 2002. The department may deny the allocation of program job credits to any program which fails to comply with Iowa Code Supplement chapter 260G as amended by 2000 Iowa Acts, chapter 1196, and 2000 Iowa Acts, chapter 1225.

ITEM 23. Amend rule 261—20.19(80GA, HF692, HF683) as follows:

261—20.19(80GA, HF692, HF683 81GA, HF868, HF809) Grow Iowa values fund assistance. Moneys allocated through the grow Iowa values fund to the workforce training and economic development funds to each community college

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for a fiscal year may be expended for the purposes allowed under Iowa Code section 260G.3, provided the use meets the requirements established under 261—Chapter 9. Moneys allocated under the workforce training and economic development fund are targeted primarily for use in projects in the areas of advanced manufacturing; information technology and insurance; and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology.

20.19(1) Use of funds. Moneys from a workforce training and economic development fund created in 2003 Iowa Acts, First Extraordinary Session, House File 683, section 76, Iowa Code section 260C.18A may be used for program operating costs of an approved 260G project. Such use may be authorized in an agreement between a community college and an employer. The amount of grow Iowa values funds available to any single 260G project shall be determined in the same manner as program job credits under subrule 20.15(1). Workforce training and economic development funds may be used in lieu of program job credits or in addition to program job credits.

20.19(2) Availability of workforce training and economic development funds. In order for a community college to utilize the funds afforded under the grow Iowa values fund for program operating costs of 260G projects, the college shall prepare and submit to the department a two-year implementation plan regarding the proposed uses of the grow Iowa values *fund* moneys. The plan shall be updated annually and submitted with a progress report to the department to be approved by the grow Iowa values *IDED* board. This reporting requirement will be accomplished as described in 261—Chapter 9.

20.19(3) Awards in excess of \$1 million. Applications to be awarded from workforce training and economic development funds as appropriated from grow Iowa values *fund* moneys that are to exceed \$1 million require approval of the grow Iowa values *IDED* board.

ITEM 24. Amend **261—Chapter 20**, implementation clause, as follows:

These rules are intended to implement Iowa Code chapter 260G as amended by 2003 Iowa Acts, First Extraordinary Session, House Files 692 and 683, and 2000 Iowa Acts, chapter 1225 and 2005 Iowa Acts, House File 868 and House File 809.

[Filed Emergency 7/7/05, effective 7/7/05]

[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4371B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 53, "Community Economic Betterment Program," Iowa Administrative Code.

The amendments remove a reference to the Community Economic Betterment Review Committee and replace it with a cross reference to the Due Diligence Committee created by

the *IDED* Board to review financial applications; clarify the wage requirements for projects receiving over \$500,000; and revise the wage requirements for modernization projects.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need for rule changes to implement legislation that became effective on July 1, 2005. These amendments are part of an overall coordinated rule-making schedule adopted by the *IDED* Board to amend existing program rules and establish rules for new programs authorized by 2005 Iowa Acts, House File 868 and House File 809.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and the amendments should be made effective upon filing with the Administrative Rules Coordinator on July 7, 2005, as the amendments confer a benefit upon businesses and communities requesting financial assistance from this program. These emergency amendments are designed to ensure that procedures are in place to enable the state of Iowa to compete with other states for business projects and to allow the Department to process applications and provide a quick response on pending projects, in the event such action becomes necessary.

These amendments are also published herein under Notice of Intended Action as **ARC 4417B** to allow public comment. This emergency filing permits the Department to implement the new legislation.

These amendments are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

These amendments became effective July 7, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend the definition of "committee" in rule **261—53.2(15)** as follows:

"Committee" means the community economic betterment review committee *due diligence committee* described in rule 53.3(15).

ITEM 2. Amend rule 261—53.3(15) as follows:

261—53.3(15) Board and committee. ~~The chairperson of the board shall appoint a five member project review committee to review applications requesting CEBA funding. The committee shall be composed of five board members, one of whom shall be either the board chairperson or the vice chairperson. The director shall be a nonvoting member of an active committee. A quorum of three committee members is necessary for taking action and at least three members shall concur before making recommendations to the board. The due diligence committee created by the board and described in 261—subrule 1.3(4) shall review applications requesting CEBA funding. The committee shall make funding recommendations to the board.~~

ITEM 3. Amend subparagraph **53.6(1)"e"(3)** as follows:

(3) The business shall agree to pay a median wage for new full-time jobs of at least 130 percent of the average county wage in the county in which the community is located. This requirement may be waived by the department in the case of a float loan described in 53.5(2)"4" if the net value of the award is determined by the department to be less than \$500,000.

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ITEM 4. Amend subrule 53.11(1) as follows:

53.11(1) Additional criteria and targeting for modernization projects. Modernization projects shall meet the following additional requirements:

a. Applications for this component must be for businesses with projects that offer a quality economic opportunity to Iowans.

~~b. References to wage level requirements in subrule 53.6(1) do not apply to modernization projects, and all such references are specifically modified as follows: Modernization projects shall pay at least 100 percent of the average county wage.~~

e b. The business shall demonstrate that it is modernizing and retooling to remain competitive.

d c. The business shall demonstrate how employee job skills are being enhanced through advanced training and educational opportunities.

[Filed Emergency 7/7/05, effective 7/7/05]

[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4372B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 58, "New Jobs and Income Program," and Chapter 64, "New Capital Investment Program," and adopts new Chapter 68, "High Quality Job Creation Program," Iowa Administrative Code.

The new rules address:

- The applicability of contracts and awards made under the New Jobs and Income Program and the New Capital Investment Program, both of which were repealed effective July 1, 2005.

- The eligibility requirements; the application review process; the determination of award amounts; and the agreement, compliance, and repayment provisions of the new High Quality Job Creation Program.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need for rules to implement the Act that became effective on July 1, 2005. The amendments to the New Jobs and Income Program and New Capital Investment Program establish provisions that provide guidance to existing recipients that are governed by these repealed programs. The adoption of the High Quality Job Creation Program will ensure that the IDED Board is able to begin processing tax credit applications.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules should be waived and the rules should be made effective upon filing with the Administrative Rules Coordinator on July 7, 2005, as they confer a benefit upon businesses by allowing the IDED Board to take action on pending projects, in the event such action becomes necessary, and to enable the state of Iowa to compete with other states for business projects.

These rules are also published herein under Notice of Intended Action as **ARC 4409B** to allow public comment. This emergency filing permits the Department to implement the new legislation.

These rules are intended to implement 2005 Iowa Acts, House File 868.

These rules became effective July 7, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following rules are adopted.

ITEM 1. Amend 261—Chapter 58 by adopting the following **new** rule:

261—58.16(81GA, HF868) Applicability of new jobs and income program after July 1, 2005.

58.16(1) Effective July 1, 2005, the NJIP program is rescinded by 2005 Iowa Acts, House File 868, and replaced with a new tax credit program, the high quality job creation program. Rules for the high quality job creation program may be found in 261—Chapter 68.

58.16(2) For awards made or contracts entered into prior to July 1, 2005, the rules of 261—Chapter 58 shall govern for purposes of contract administration and closeout of projects. A contract amendment is not allowable if the result of the amendment is to increase the benefits available.

This rule is intended to implement 2005 Iowa Acts, House File 868.

ITEM 2. Amend 261—Chapter 64 by adopting the following **new** rule:

261—64.8(81GA, HF868) Applicability of new capital investment program after July 1, 2005.

64.8(1) Effective July 1, 2005, the NCIP program is rescinded by 2005 Iowa Acts, House File 868, and replaced with a new tax credit program, the high quality job creation program. Rules for the high quality job creation program may be found in 261—Chapter 68.

64.8(2) For awards made or contracts entered into prior to July 1, 2005, the rules of 261—Chapter 64 shall govern for purposes of contract administration and closeout of projects. A contract amendment is not allowable if the result of the amendment is to increase the benefits available.

This rule is intended to implement 2005 Iowa Acts, House File 868.

ITEM 3. Adopt the following **new** 261—Chapter 68:

CHAPTER 68

HIGH QUALITY JOB CREATION PROGRAM

261—68.1(81GA, HF868) Definitions.

"Act" means 2005 Iowa Acts, House File 868.

"Annual base rent" means the business's annual lease payment minus taxes, insurance and operating or maintenance expenses.

"Average county wage" means the annualized average hourly wage based on wage information compiled by the department of workforce development. Average county wage calculations will be calculated quarterly by the department of workforce development using wage data submitted during the previous four quarters.

"Benefits" means all of the following:

1. Medical and dental insurance plans.
2. Pension and profit-sharing plans.

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3. Child care services.
4. Life insurance coverage.
5. Vision insurance plan.
6. Disability coverage.

“Biotechnology-related processes” means the use of cellular and biomolecular processes to solve problems or make products. For purposes of this definition, farming activities shall not be included.

“Board” means the Iowa department of economic development board.

“Community” means a city, county, or other entity established pursuant to Iowa Code chapter 28E.

“Community base jobs” means the total number of full-time jobs the business employs at the time of application for tax incentives and assistance less any retained jobs.

“Created jobs” means the new full-time jobs the business will create over and above the number of community base jobs or retained jobs or both.

“Department” means the Iowa department of economic development.

“Full-time” means the equivalent of employment of one person:

1. For 8 hours per day for a 5-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations, and other paid leave, or

2. The number of hours or days per week, including paid holidays, vacations and other paid leave, currently established by schedule, custom or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit.

“High quality jobs” means created jobs that, at minimum, have a starting wage, including benefits, equal to or greater than 130 percent of the average county wage.

“Job creation goal” means the number of new created jobs, which includes a specified number of high quality jobs, which the business pledged to create in its application.

“Program” means the high quality job creation program.

“Project” means the activity, or set of activities, proposed in the application by the business which will result in accomplishing the goals of the program and for which the business is requesting tax incentives and assistance. A project shall include the start-up, location, expansion, or modernization of a business.

“Project completion” means:

1. For new manufacturing facilities, the first date upon which the average annualized production of finished product for the preceding 90-day period at the manufacturing facility is at least 50 percent of the initial design capacity of the facility.

2. For all other projects, the date of completion of all improvements necessary for the start-up, location, expansion or modernization of a business.

“Project initiation” means any one of the following:

1. The start of construction of new or expanded buildings;
2. The start of rehabilitation of existing buildings;
3. The purchase or leasing of existing buildings; or
4. The installation of new machinery and equipment or new computers to be used in the operation of the business’s project.

The purchase of land or signing an option to purchase land or earth moving or other site development activities not involving actual building construction, expansion or rehabilitation shall not constitute project initiation.

“Qualifying investment” means a capital investment in:

1. Real property including the purchase price of land and existing buildings and structures.
2. Site preparation.
3. Improvements to real property.
4. Building construction.
5. Long-term lease costs.
6. Depreciable assets.

“Retained jobs” means the full-time jobs that are at risk of being eliminated if the project does not proceed as planned.

“Value-added agricultural products” means agricultural products which, through a series of activities or processes, can be sold at a higher price than the original purchase price.

261—68.2(81GA, HF868) Eligibility requirements.

68.2(1) Community approval. If the qualifying investment is \$10 million or more, the community in which the business’s project is or will be located shall approve by ordinance or resolution the start-up, location, expansion, or modernization of the business for purposes of receiving tax incentives and assistance under this program.

68.2(2) Closures or relocations. The business shall not close or substantially reduce its operation in one area of the state and relocate substantially the same operation in the community. This subrule does not prohibit the business from expanding its operation in the community if existing operations of a similar nature in the state are not closed or substantially reduced.

68.2(3) No retail or service businesses. The business shall not be a retail or service business. For purposes of this subrule, a service business is a business providing services to a local consumer market which does not have a significant proportion of its sales coming from outside the state.

68.2(4) Required elements. The business shall meet at least four of the following required elements in order to be eligible for tax incentives and assistance under this program:

- a. The business shall offer a pension or profit-sharing plan to all full-time employees. For purposes of this requirement, a retirement program offered by the business, such as a 401(k) plan, and to which the business makes a monetary contribution shall be considered the equivalent of a pension plan.

- b. The business shall produce or manufacture high value-added goods or services or be engaged in one of the following industries:

- (1) Value-added agricultural products.
- (2) Insurance and financial services.
- (3) Plastics.
- (4) Metals.
- (5) Printing paper or packaging products.
- (6) Drugs and pharmaceuticals.
- (7) Software development.
- (8) Instruments and measuring devices and medical instruments.
- (9) Recycling and waste management.
- (10) Telecommunications.
- (11) Trucking and warehousing.

- c. The business shall provide and pay at least 80 percent of the cost of a standard medical and dental insurance plan for all full-time employees working at the facility in which the new qualifying investment occurs. For purposes of this requirement, the department will consider single or employee-only medical and dental coverage in determining if the business meets this required element.

- d. The business shall make child care services available to its employees. The business shall satisfy this required element if it provides on-site child care services at the facility in which the project will occur or if it subsidizes 50 percent or

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more of off-site child care services costs incurred by an employee.

e. The business shall invest annually no less than 1 percent of pretax profits, from the facility located to Iowa or expanded or modernized under the program, in research and development in Iowa. The business must be able to demonstrate, using generally accepted accounting principles, the facility's history of pretax profits or a reasonable expectation of pretax profits from the facility in order to utilize this element.

f. The business shall invest annually no less than 1 percent of pretax profits, from the facility located to Iowa or expanded or modernized under the program, in worker training and skills enhancement. The business must be able to demonstrate, using generally accepted accounting principles, the facility's history of pretax profits or a reasonable expectation of pretax profits from the facility in order to utilize this element.

g. The business shall have an active productivity and safety improvement program(s). The program(s) will involve both management and workers and have benchmarks for gauging compliance.

h. The business shall purchase and occupy an existing facility that includes at least one vacant building which is at least 20,000 square feet.

68.2(5) Violations of law. If the department finds that a business has a record of violations of law, including but not limited to environmental and worker safety statutes, rules, and regulations, over a period of time that tends to show a consistent pattern, the business shall not qualify for tax incentives and assistance under this program, unless the department finds that the violations did not seriously affect public health or safety, or the environment, or if the department did find that the violations seriously affected public health or safety, or the environment, that there were mitigating circumstances. In making the findings and determinations regarding violations, mitigating circumstances, and whether the business is disqualified for tax incentives and assistance under this program, the department shall be exempt from Iowa Code chapter 17A.

68.2(6) Waiver of eligibility requirements. The department may waive any of the requirements listed above when good cause is shown.

a. Good cause includes:

(1) The community in which the project will be located can demonstrate economic distress based on a combination of factors including but not limited to:

1. A county family poverty rate significantly higher than the state average.
2. A county unemployment rate significantly higher than the state average.
3. A unique opportunity to use existing unutilized facilities in the community.
4. A significant downsizing or closure by one of the community's major employers.
5. An immediate threat posed to the community's workforce due to downsizing or closure of a business.

(2) The proposed project meets all of the following criteria:

1. The business is in one of the state's targeted industry clusters: life sciences, information solutions, and advanced manufacturing.
2. All jobs created as a result of the project will have a starting wage, not including benefits, equal to or greater than 100 percent of the average county wage.
3. The business is headquartered in Iowa or, as a result of the proposed project, will be headquartered in Iowa. In lieu

of the business's being headquartered in Iowa, the project has unique aspects which will assist the department in meeting one or more of the department's strategic objectives.

b. Requests to waive an eligibility requirement must be submitted in writing to the department when the business's application is submitted. The waiver request shall include documentation from other sources confirming the statistical data cited in the request. The waiver request will be reviewed as part of the application review process and acted upon by the board or the director subject to the decision-making guidelines in paragraph 68.3(1)"e." If the request for a waiver is approved, the board or the director may proceed with a final decision on the application.

68.2(7) Competition. The department shall consider the impact of the proposed project on other Iowa businesses in competition with the business that is seeking tax incentives and assistance. The department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business that is seeking tax incentives and assistance. The department shall make a good faith effort to determine the probability that the proposed financial assistance will negatively impact other existing Iowa businesses including but not limited to displacing employees of the existing business.

68.2(8) Other benefits. A business may seek benefits and assistance for its project from other applicable federal, state, and local programs in addition to those provided in this program. However, a business which has received assistance for its project from the wage-benefit tax credit program or the enterprise zone program shall not be eligible for tax incentives and assistance under this program. A business which has received assistance for its project from the new jobs and income program or the new capital investment program shall not be eligible for tax incentives and assistance under this program for the same project. However, the business may receive tax incentives and assistance under this program for subsequent projects.

261—68.3(81GA, HF868) Application process and review.

68.3(1) Application. The department shall develop a standardized application and make it available to a business applying for tax incentives and assistance. The application procedures are as follows:

a. The business is encouraged to apply prior to project initiation; however, an application may be submitted at any time up to 12 months following project completion.

b. A signature from the appropriate community official shall be required on the application as indication that the community is aware of and supports the project. For a project with a qualifying investment of \$10 million or more, the community ordinance or resolution approving the project shall accompany the application.

c. Each application will be reviewed by the department. The department may request additional information from the business that is applying for tax incentives and assistance or may use other resources to obtain the needed information.

d. If the business meets the eligibility requirements, the department staff will prepare a report which includes a summary of the project and a recommendation on the amount of tax incentives and assistance to be offered to the business.

e. Decision making on applications.

(1) Applications which involve 50 or more created jobs and a qualifying investment of \$10 million or more shall be referred to the board. The board will make the final decision to approve, defer or deny the application.

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(2) For all other applications, department staff will present their recommendation to the director. The director will make the final decision to approve, defer, or deny the application. The director shall report to the board, at its regularly scheduled meetings, all actions taken by the director under this subparagraph.

(3) Applications involving a wage waiver request shall be referred to the board.

68.3(2) Wage waiver. A community on behalf of the business requesting tax incentives and assistance may apply to the board for a waiver of the average wage calculation used to determine the amount of tax incentives and assistance the business may receive. A request to waive the average wage calculation must be submitted in writing to the department when the business's application is submitted. The waiver request will include documentation from other sources confirming the statistical data cited in the request. The board may grant a waiver of this nature for a specific project based on good cause as defined in subrule 68.2(6). The board may elect to use one of the following wage criteria in lieu of the average county wage:

a. The average county wage calculated without wage data from the business in the county employing the greatest number of full-time employees.

b. The average regional wage calculated without wage data from up to two adjacent counties.

c. The average county wage calculated without wage data from the largest city in the county.

d. A qualifying wage guideline for a specific project based upon unusual economic circumstances present in the city or county.

68.3(3) Benefit values. For purposes of calculating the starting wage of each created job, the department shall place a value on each benefit the business makes available to all full-time employees as described below:

a. Medical, dental, or vision insurance plans. The department shall use the business's portion of the annual premium for employee-only or single coverage in the wage calculation. If the business's plan is self-insured, the department will look at the amount paid by the business for costs associated with employee-only or single coverage during the past three years and determine the average annual contribution per employee for that three-year period when determining the value of the medical, dental, or vision plan for the wage calculation.

b. Pension and profit-sharing plans. A retirement program offered by the business, such as a 401(k) plan, and to which the business makes a monetary contribution shall be considered the equivalent of a pension plan.

(1) For a pension plan, the department shall use the same calculation used by the business to determine the annual contribution per employee. The annual contribution per employee will be used in determining the value for the wage calculation.

(2) For a 401(k) plan or similar retirement program, the department shall use the average percentage of salary matched or contributed annually by the business on a per-employee basis in determining the value for the wage calculation.

(3) For profit-sharing plans, the department shall look at the amount paid out over the past three years and determine the average annual bonus or contribution per employee for that three-year period when determining the value for the wage calculation.

c. Child care services. Child care services include on-site child care services at the facility in which the project will

occur or off-site child care services subsidized by the business at the rate of 50 percent or more of the child care services costs incurred by an employee. The child care services valuation will be based on contributions made by the business for that service, as determined by the department, less any employee-paid costs for that service. The department may consider comparable costs in the local child care market in determining the value of the contribution made by the business. With respect to the wage calculation, the value of this benefit will be applied using the same percentage as the percentage of employees utilizing the business's child care benefit.

d. Life insurance and disability coverage. The portion of the annual premium or cost paid by the business for life insurance and disability coverage will be used in determining the value for the wage calculation. Life insurance premiums paid by the business for dependent coverage will not be included.

68.3(4) Negotiations. The department reserves the right to enter into negotiations with the business regarding the amount of tax incentives and assistance the business shall receive. All forms of tax incentives and assistance available under the program may be subject to negotiations. The department shall consider all of the following factors with respect to entering into negotiations with the business:

a. Level of need. The three general justifiable reasons for assistance are as follows:

(1) The business can raise only a portion of the debt and equity necessary to complete the project. A gap between sources and uses exists and state or federal funds or both are needed to fill the gap.

(2) The business can raise sufficient debt and equity to complete the project, but the returns are inadequate to motivate a company decision maker to proceed with the project. Project risks outweigh the rewards.

(3) The business is deciding between a site in Iowa (site A) and a site in another state (site B) for its project. The business argues that the project will cost less at site B and will require a subsidy to equalize costs in order to locate at site A. The objective is to quantify the cost differential between site A and site B.

Projects that have already been initiated will be considered as having minimal need.

b. Quality of the jobs. The department shall place greater emphasis on projects involving created or retained jobs that:

(1) Have a higher wage scale. Businesses that have wage scales substantially higher than that of existing Iowa businesses in that industry shall be considered as providing the highest quality of jobs.

(2) Have a lower turnover rate.

(3) Are full-time or career-type positions.

(4) Provide comprehensive health benefits. For purposes of this subparagraph, "comprehensive health benefits" means a standard medical insurance plan provided by the business and for which the business pays 80 percent of the premiums for employee-only coverage. The department shall determine what constitutes a standard medical insurance plan. Additional health benefits provided and paid for by the business may be considered in situations in which the business is paying a lesser percentage of the medical premiums. Additional health benefits include dental insurance, vision insurance, prescription drug coverage and health promotion programs. Safety-related equipment and programs shall not be considered a health benefit for purposes of this subparagraph. Businesses that provide comprehensive

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health benefits shall be considered as providing the highest quality of jobs.

c. Percentage of created jobs defined as high quality jobs. The department will consider the number of high quality jobs to be created versus the total number of created jobs in determining what amount of tax incentives and assistance to offer the business.

d. Economic impact. The department will consider the economic costs and benefits to the state in determining what amount of tax incentives and assistance to offer the business.

261—68.4(81GA, HF868) Tax incentives and assistance.

68.4(1) Sales and use tax refund. Pursuant to Iowa Code section 15.331A, the approved business may be entitled to a refund of the sales and use taxes paid under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

a. Filing a claim. To receive the refund, the approved business shall file a claim with the department of revenue as follows:

(1) The contractor or subcontractor shall state under oath, on forms provided by the department of revenue, the amount of sales or goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services upon which sales or use tax has been paid prior to the project completion, and shall file the forms with the approved business before final settlement is made.

(2) The approved business shall, not more than 12 months following project completion, make application to the department of revenue for any refund of the amount of the sales and use taxes paid pursuant to Iowa Code chapter 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services.

b. Racks, shelving, and conveyor equipment. If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may be entitled to a refund of sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department for a refund. The application must include the refund amount being requested and documentation such as invoices or contracts which substantiate the requested amount. The department, in consultation with the department of revenue, will validate the refund amount and instruct the department of revenue to issue the refund.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the department to businesses approved for high quality job creation program, new capital investment program, new jobs and income program, and enterprise zone program benefits shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business's application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the approved business's application shall be considered in the succeeding fiscal year.

68.4(2) Corporate tax credit for certain sales taxes paid by third-party developer. Pursuant to Iowa Code section

15.331C, the approved business may claim a corporate tax credit up to an amount equal to the sales and use taxes paid by a third-party developer under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An approved business may elect to receive a refund of all or a portion of an unused tax credit.

a. Filing a claim. To receive the tax credit, the approved business shall file a claim with the department as follows:

(1) The third-party developer shall state under oath, on forms provided by the department of revenue, the amount of sales and use taxes paid and submit the forms to the approved business.

(2) The approved business shall, not more than 12 months following project completion, submit the completed forms to the department.

(3) In consultation with the department of revenue, the department shall issue a tax credit certificate in an amount equal to all or a portion of the sales and use taxes paid by a third-party developer under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business.

(4) The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate issued by the department is attached to the approved business's tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue.

b. Racks, shelving, and conveyor equipment. If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may claim a corporate tax credit up to the amount of sales and use taxes paid by a third-party developer and attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department for a tax credit. The application must include the tax credit amount being requested and documentation from the third-party developer such as invoices or contracts which substantiate the requested amount. The department, in consultation with the department of revenue, will confirm the tax credit amount and issue a tax credit certificate in an amount equal to all or a portion of the sales and uses taxes attributable to racks, shelving, and conveyor equipment. The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate issued by the department is attached to the approved business's tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until de-

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pleted, whichever occurs earlier. An approved business may elect to receive a refund of all or a portion of an unused tax credit.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the department to businesses approved for high quality job creation program, new capital investment program, new jobs and income program, and enterprise zone program benefits shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business's application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the approved business's application shall be considered in the succeeding fiscal year.

68.4(3) Value-added property tax exemption. Pursuant to Iowa Code section 15.332, the community may exempt from taxation all or a portion of the actual value added by improvements to real property directly related to new jobs created by the location or expansion of the approved business and used in the operations of the approved business. The exemption may be allowed for a period not to exceed 20 years beginning the year the improvements are first assessed for taxation. For purposes of this subrule, improvements include new construction and rehabilitation of and additions to existing structures. The exemption shall apply to all taxing districts in which the real property is located. The community shall provide the department and the local assessor with a copy of the resolution adopted by its governing body which indicates the estimated value and duration of the authorized exemption.

68.4(4) Investment tax credit. Pursuant to Iowa Code section 15.333, the approved business may claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created by the start-up, location, expansion, or modernization of the approved business under the program.

a. Claiming the tax credit. The tax credit shall be earned when the qualifying asset is placed in service. The tax credit shall be amortized equally over a five-year period which the department will, in consultation with the approved business, define. The five-year amortization period will be specified in the agreement referenced in subrule 68.5(1). The tax credit shall be allowed against taxes imposed under Iowa Code chapter 422, division II, III, or V and against the moneys and credits tax imposed in Iowa Code section 533.24. If the business is a partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 or 501A and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 or 501A and filing as a partnership for federal tax purposes, or estate or trust. A tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

b. Investment qualifying for the tax credit. For purposes of this subrule, new investment directly related to new jobs created by the start-up, location, expansion or modernization of the approved business under the program means all of the following:

(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1, subsection 1, paragraphs "e" and

"j," purchased for use in the operation of the approved business.

(2) The purchase price of real property and any buildings and structures located on the real property.

(3) The cost of improvements made to real property which is used in the operation of the approved business.

(4) The annual base rent paid to a third-party developer by an approved business for a period equal to the term of the lease agreement but not to exceed the maximum term of the agreement referenced in subrule 68.5(1), provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the approved business. Annual base rent shall be considered only when the project includes the construction of a new building or the major renovation of an existing building. The approved business shall enter into a lease agreement with the third-party developer for a minimum of five years.

Pursuant to subrule 68.4(9), the approved business shall not claim a tax credit above the amount defined in the final award documentation.

c. Refunds. Subject to prior approval by the department, in consultation with the department of revenue, an approved business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund of all or a portion of an unused tax credit. For purposes of this paragraph, an approved business includes a cooperative, described in Section 521 of the Internal Revenue Code, that is not required to file an Iowa corporate income tax return and whose project primarily involves the production of ethanol. For application to receive a refund of all or a portion of an unused tax credit, the following procedures apply:

(1) Department approval required. The department will determine whether an approved business's project primarily involves the production of value-added agricultural products or uses biotechnology-related processes.

(2) Application for a tax credit certificate. The approved business shall apply for a tax credit certificate using the form provided by the department. Requests for tax credit certificates will be accepted between May 1 and May 15 of each fiscal year. Only those approved businesses that have been issued final award documentation pursuant to subrule 68.4(9) before the May 1 filing date may apply for a tax credit certificate.

The department shall require the cooperative, as described in Section 521 of the Internal Revenue Code, to submit a list of members whom the cooperative wishes to receive a tax credit certificate for their prorated share of ownership. The cooperative shall submit its list in a computerized electronic format that is compatible with the system used or designated by the department. For each cooperative member approved for a tax credit certificate, the computerized list shall, at a minimum, include the name, address, social security number or taxpayer identification number, business telephone number and ownership percentage, carried out to six decimal places. The cooperative shall also submit a total dollar amount of the unused investment tax credit for which the cooperative's members are requesting a tax credit certificate.

(3) Issuance of tax credit certificates. The department shall not issue tax credit certificates to approved businesses in the high quality job creation program, the new capital investment program, the new jobs and income program, and the enterprise zone program which total more than \$4 million during a fiscal year. If the department receives applications for tax credit certificates in excess of \$4 million, the appli-

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cants shall receive certificates for a prorated amount. In such a case, the tax credit requested by an approved business will be prorated based upon the total dollar amount of requested tax credit certificates received during the fiscal year. This proportion will be applied to the amount requested by each approved business to determine the amount of the tax credit certificate that will be distributed to each business for the fiscal year. For example, if an approved business submits a request in the amount of \$1 million and the total amount of requested tax credit certificates equals \$8 million, the business will be issued a tax credit certificate in the amount of \$500,000 ($\$4 \text{ million} / \$8 \text{ million} = 50\% \times \$1 \text{ million} = \$500,000$). The department will issue tax credit certificates within a reasonable period of time following the May 15 application deadline.

(4) Claiming the tax credit certificate. Tax credit certificates shall not be valid until the tax year following the date the final award documentation was issued. The tax credit certificates shall not be transferred except in the case of a cooperative as described in Section 521 of the Internal Revenue Code whose approved project primarily involves the production of ethanol. For such cooperative, the individual members of the cooperative are approved to receive the tax credit certificates. The approved business may not claim a tax credit refund unless a tax credit certificate issued by the department is attached to the taxpayer's tax return for the tax year in which the tax credit refund is claimed.

(5) Carryforward. An approved business may apply for a tax credit certificate once each year for up to seven years after the final award documentation is issued or until the approved business's unused tax credit is depleted, whichever occurs first. For example, an approved business which receives its final award documentation in October 2005 and has an investment tax credit of \$1 million may apply for a tax credit certificate in May 2006. If, because of proration of the \$4 million of available refundable credits for the fiscal year, the business is awarded a tax credit certificate in the amount of \$300,000, the business may claim the \$300,000 refund and carry forward the unused investment tax credit of \$700,000 up to seven years or until the credit is depleted, whichever occurs first.

68.4(5) Insurance premium tax credit. Pursuant to Iowa Code section 15.333A, the approved business may claim an insurance premium tax credit equal to a percentage of the new investment directly related to new jobs created by the start-up, location, expansion, or modernization of the approved business under the program.

a. Claiming the tax credit. The tax credit shall be earned when the qualifying asset is placed in service. The tax credit shall be amortized equally over a five-year period which the department will, in consultation with the eligible business, define. The five-year amortization period shall be specified in the agreement referenced in subrule 68.5(1). The tax credit shall be allowed against taxes imposed under Iowa Code chapter 432. A tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

b. Investment qualifying for the tax credit. For purposes of this subrule, new investment directly related to new jobs created by the start-up, location, expansion or modernization of the approved business under the program means all of the following:

(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1, subsection 1, paragraphs "e" and "j," purchased for use in the operation of the approved business.

(2) The purchase price of real property and any buildings and structures located on the real property.

(3) The cost of improvements made to real property which is used in the operation of the approved business.

(4) The annual base rent paid to a third-party developer by an approved business for a period equal to the term of the lease agreement but not to exceed the maximum term of the agreement referenced in subrule 68.5(1), provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the approved business. Annual base rent shall be considered only when the project includes the construction of a new building or the major renovation of an existing building. The approved business shall enter into a lease agreement with the third-party developer for a minimum of five years.

Pursuant to subrule 68.4(9), the approved business shall not claim a tax credit above the amount defined in the final award documentation.

68.4(6) Research activities credit. Pursuant to Iowa Code section 15.335, the approved business may claim a corporate tax credit for increasing research activities in Iowa during the period the approved business is participating in the program.

a. Calculation. The credit equals the sum of the following:

(1) Six and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

(2) Six and one-half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures.

b. Alternate calculation. In lieu of the credit amount computed in subparagraph 68.4(6)"a"(1), the approved business may elect to compute the credit amount for qualified research expenses incurred in Iowa in a manner consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used for the taxpayer's federal income tax. The election made under subrule 68.4(6) is for the tax year and the taxpayer may use either the method outlined in paragraph "a" or in this paragraph for any subsequent year.

For purposes of this alternate credit computation method, the credit percentages applicable to the qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code are 1.65 percent, 2.20 percent, and 2.75 percent, respectively.

c. Additional research activities credit. The credit allowed in this subrule is in addition to the credit authorized in Iowa Code sections 422.10 and 422.33(5). However, if the alternative credit computation method is used in Iowa Code section 422.10 or 422.33(5), the credit allowed in this subrule shall also be computed using that method.

d. Flow-through of tax credits. If the eligible business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the part-

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nership, S corporation, limited liability company, or estate or trust.

e. Definitions. For purposes of this subrule, "base amount," "basic research payment," and "qualified research expense" mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code except that, for the alternative incremental credit, such amounts are for research conducted within Iowa. For purposes of this subrule, "Internal Revenue Code" means the Internal Revenue Code in effect on January 31, 2005.

f. Refunds. Any credit in excess of the tax liability for the taxable year shall be refunded with interest computed under Iowa Code section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on its final, completed return credited to the tax liability for the following year.

g. Renewable energy generation components. For purposes of this subrule, "research activities" includes the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa. A renewable energy generation component will no longer be considered innovative when more than 200 megawatts of installed effective nameplate capacity has been achieved. Research activities credits awarded under this program and the enterprise zone program for innovative renewable energy generation components shall not exceed \$1 million.

68.4(7) Maximum tax incentives available. Tax incentives and assistance awarded under this program are based upon the number of new high quality jobs created by the approved business and the amount of qualifying investment. The maximum possible award is based on the following schedule:

a. "High quality jobs" means created jobs with a starting wage, including benefits, equal to or greater than 130 percent of the average county wage but less than 160 percent of the average county wage.

(1) No high quality jobs are created but economic activity is furthered by the qualifying investment. For purposes of this subparagraph, "economic activity" means a modernization project which will result in increased skills and wages for the current employees or a project involving retained jobs.

1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 1 percent.
2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 1 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
3. \$500,000 or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 1 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
- (2) 1 to 5 high quality jobs are created.
 1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 2 percent.
 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 2 percent.

- Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
- 3. \$500,000 or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 2 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
- (3) 6 to 10 high quality jobs are created.
 1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 3 percent.
 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 3 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 3. \$500,000 or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 3 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - (4) 11 to 15 high quality jobs are created.
 1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 4 percent.
 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 4 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 3. \$500,000 or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 4 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - (5) 16 or more high quality jobs are created.
 1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 3. \$500,000 or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
- b. "High quality jobs" means created jobs with a starting wage, including benefits, equal to or greater than 160 percent of the average county wage.
 - (1) 21 to 30 high quality jobs are created.
 1. Less than \$100,000 in qualifying investment.

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- Investment tax credit or insurance premium tax credit of up to 5 percent.
- 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
- 3. \$500,000 to \$9,999,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
- 4. \$10 million or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 6 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 - Value-added property tax exemption.
- (2) 31 to 40 high quality jobs are created.
 1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 3. \$500,000 to \$9,999,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 4. \$10 million or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 7 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 - Value-added property tax exemption.
- (3) 41 to 50 high quality jobs are created.
 1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 3. \$500,000 to \$9,999,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 4. \$10 million or more in qualifying investment.

- Investment tax credit or insurance premium tax credit of up to 8 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 - Value-added property tax exemption.
 - (4) 51 to 60 high quality jobs are created.
 1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 3. \$500,000 to \$9,999,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 4. \$10 million or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 9 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 - Value-added property tax exemption.
 - (5) 61 or more high quality jobs are created.
 1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 3. \$500,000 to \$9,999,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 4. \$10 million or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 10 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 - Value-added property tax exemption.
- 68.4(8)** Award limitations. Each calendar year, the department shall not approve more than \$3.6 million worth of investment tax credits and insurance premium tax credits for projects with qualifying investments of less than \$1 million. Tax credits subject to this limitation will be awarded on a first-come, first-served basis.
- 68.4(9)** Final award amounts. The approved business shall, upon attainment of project completion and the job creation goal, submit to the department information on the final

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created jobs, including starting wages and benefit values, and the final qualifying investment. This submission must be in writing on the form provided by the department and must be received by the department within 12 months of completion of the project and the creation of the jobs. Upon receipt of the completed form, the department shall review and confirm the information and shall prepare the final award amounts based on the final results. Final award amounts may still be subject to certain limitations put in place when the initial award was made.

If, upon receipt of the final award amount from the department, the department of revenue determines that the approved business has claimed tax incentives and assistance in amounts that exceed the amounts stipulated in the final award, the approved business shall be required to repay any tax credits and refunds it received in excess of the final award amounts. The department of revenue shall have the authority to collect the amount to be repaid to the state including interest and penalties.

261—68.5(81GA, HF868) Agreement, compliance and repayment provisions.

68.5(1) Agreement. After the department negotiates the amount of benefits that the approved business shall receive and approves the application, the department shall enter into an agreement with the approved business. This agreement shall include, but is not limited to:

- a. Provisions governing the requirements of the Act and these rules which the approved business agreed to satisfy as described in the approved application;
- b. Reporting requirements such as an annual certification by the approved business that it is in compliance with the Act and these rules;
- c. The amount or level of tax benefits the approved business shall receive as negotiated by the department; and
- d. The method of determining the amount of benefits received by the approved business, which will be repaid in the event of the failure to maintain the requirements of the Act and these rules.

In addition the agreement shall specify that an approved business that fails to maintain the requirements of the Act and these rules shall not receive benefits for each year during which the business is not in compliance. The approved business and the department must execute the agreement within 180 days from the application approval date. If the agreement is not signed by that date, the department may rescind the benefits awarded to the approved business unless the approved business has received prior written permission from the department to exceed the time frame for an agreed-upon time period.

68.5(2) Performance and maintenance periods. An approved business planning to create 15 or fewer high quality jobs shall have up to three years to complete the project and shall be required to maintain all the created jobs for an additional two years. An approved business planning to create 16 or more high quality jobs shall have up to five years to complete a project and shall be required to maintain all the created jobs for an additional two years.

68.5(3) Annual certification. An approved business shall certify annually to the department and, when applicable, to the community, that the business is in compliance with the Act, these rules, and the agreement it has entered into with the department.

68.5(4) On-site monitoring. The approved business shall, upon prior reasonable notice and at any time during normal business hours, permit the department, its representatives or the state auditor to examine, audit or copy any plans and

work details pertaining to the project; all of the approved business's books, records, and accounts relating to the project; and all other documentation or materials related to the agreement.

68.5(5) Repayment of benefits. If the approved business has received benefits and fails to meet and maintain any of the requirements of the Act, these rules, or the agreement, the business shall repay all or a portion of the tax incentives and assistance that it has received. The repayment shall be calculated as follows:

a. Job maintenance. If the approved business fails to maintain the required number of created or retained jobs or both as defined in the agreement and the final award documentation, the business shall repay a percentage of the tax incentives and assistance that it has received. The repayment percentage will be equal to the percentage of jobs that the approved business failed to maintain.

b. Required elements. If the approved business fails to meet the four required elements as defined in the agreement in any one year, the business must meet that requirement in the following year or repay all the tax incentives and assistance that it has received.

c. Selling, disposing, or razing of property. If, within five years of purchase, the approved business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, building, or other existing structures for which an investment tax credit or insurance premium tax credit was claimed, the income tax liability of the approved business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

- (1) One hundred percent of the tax credit claimed if the property ceases to be approved for the tax credit within one full year after being placed in service.
- (2) Eighty percent of the tax credit claimed if the property ceases to be approved for the tax credit within two full years after being placed in service.
- (3) Sixty percent of the tax credit claimed if the property ceases to be approved for the tax credit within three full years after being placed in service.
- (4) Forty percent of the tax credit claimed if the property ceases to be approved for the tax credit within four full years after being placed in service.
- (5) Twenty percent of the tax credit claimed if the property ceases to be approved for the tax credit within five full years after being placed in service.

68.5(6) Layoffs or closures. If an approved business experiences a layoff within the state or closes any of its facilities within the state prior to receiving the tax incentives and assistance, the department may reduce or eliminate all or a portion of the tax incentives and assistance. If an approved business experiences a layoff within the state or closes any of its facilities within the state after receiving tax incentives and assistance, the business may be subject to repayment of all or a portion of the tax incentives and assistance that it has received.

68.5(7) Extensions. If an approved business fails to meet its requirements under the Act, these rules, or the agreement, the department may elect to grant the business a one-year period to meet the requirements. Only one 12-month extension will be granted to the approved business. Extensions may be granted only when one of the following conditions applies:

- a. The delay in completing the project was caused by events over which the approved business had no control and could not have reasonably predicted and there is a reasonable

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probability that the originally proposed project can be achieved; or

b. The project does not fit under paragraph “a” and the approved business has demonstrated to the department’s satisfaction the existence of special circumstances.

These rules are intended to implement 2005 Iowa Acts, House File 868.

[Filed Emergency 7/7/05, effective 7/7/05]
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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4373B

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Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 69, “Loan and Credit Guarantee Program,” Iowa Administrative Code.

The amendments add microenterprises as eligible applicants, remove references to the Loan and Credit Guarantee Advisory Board and replace them with references to the Loan and Credit Guarantee Committee established by the IDED Board, clarify that the IDED Board has final decision-making authority on applications, and add a provision applicable to the loan and credit guarantee authorization fee for projects involving a line of credit.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need for amendments to implement the Act that became effective on July 1, 2005. The amendments permit the IDED Board and the Department to accept applications for guarantees through this program and take action on such requests for assistance.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments should be waived and the amendments should be made effective upon filing with the Administrative Rules Coordinator on July 7, 2005, as they confer a benefit upon businesses and financial institutions by allowing them to have access to this program. This program will permit businesses with projects that need a loan guarantee as part of their project financing to move forward with project planning.

These amendments are also published herein under Notice of Intended Action as **ARC 4410B** to allow for public comment. This emergency filing permits the Department to implement the new legislation.

These amendments are intended to implement Iowa Code sections 15E.221 to 15E.227 and 2005 Iowa Acts, House File 868.

These amendments became effective July 7, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are adopted.

Amend **261—Chapter 69** as follows:

CHAPTER 69

LOAN AND CREDIT GUARANTEE PROGRAM

261—69.1(15E,81GA,HF868) Purpose. The purpose of the loan and credit guarantee program is to create incentives and assistance to increase the flow of private capital to targeted industry businesses, *microenterprises*, and other qualified businesses, to promote industrial modernization and technology adoption, to encourage the retention and creation of jobs, and to encourage the export of goods and services sold by Iowa businesses in national and international markets. *The department may invest up to 10 percent of the assets of the loan and credit guarantee fund or \$500,000, whichever is higher, to provide assistance to microenterprises.*

261—69.2(15E,81GA,HF868) Definitions.

“Act” means Iowa Code Supplement sections 15E.221 to 15E.227 as amended by 2005 Iowa Acts, House File 868.

“Board” or “IDED board” means the Iowa economic development board established in Iowa Code section 15.103 as amended by 2005 Iowa Acts, House File 868, section 4, and composed of 15 voting members and 7 ex officio nonvoting members.

“Committee” means the loan and credit guarantee committee described in 261—subrule 1.3(4) and created by the board to review applications requesting assistance from the loan and credit guarantee program and make funding recommendations to the board.

“Department” or “IDED” means the Iowa department of economic development.

“Financial institution” means a state bank as defined in Iowa Code section 524.103, subsection 33, a state bank chartered under the laws of any other state, a national banking association, a trust company, a federally chartered savings and loan association, an out-of-state state-chartered savings bank, a financial institution chartered by the federal home loan bank board, a non-Iowa chartered savings and loan association, an association incorporated or authorized to do business under Iowa Code chapter 534, or a production credit association or such other financial institution as defined by the department for purposes of this chapter.

“Microenterprise” means a business providing services with five or fewer full-time equivalent employee positions, and located in a municipality with a population under 50,000 that is not contiguous to a municipality with a population of 50,000 or more.

“Program” means the loan and credit guarantee program established in the Act.

“Qualified business” means an existing or proposed business entity with an annual average number of employees not exceeding 200 employees. “Qualified business” does not include businesses engaged primarily in retail sales, real estate, or the provision of health care or other professional services. “Qualified business” includes professional services businesses that provide services to targeted industry businesses or other entities. To be considered a qualified business, a professional services business must derive a majority of its revenue from targeted industry businesses.

“Targeted industry business” means an existing or proposed business entity, including an emerging small business or qualified business which is operated for profit and which has a primary business purpose of doing business in at least one of the targeted industries designated by the department, which include life sciences, software and information technology, advanced manufacturing, value-added agriculture, and any other industry designated as a targeted industry by the loan and credit guarantee advisory board.

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261—69.3(15E,81GA,HF868) Application and review process. The department, with the advice of the loan and credit guarantee board *committee*, shall develop and make available a standardized application pertaining to the issuance of loan and credit guarantees. Subject to the availability of funds, the loan and credit guarantee board *committee* will review applications and make recommendations to the department *board* pertaining to the approval of loan and credit guarantee awards. ~~The director of the department shall have final approval of loan and credit guarantee awards.~~

69.3(1) Each participating financial institution shall identify and underwrite potential lending opportunities with qualified businesses, *microenterprises*, and targeted industry businesses. Upon determination by the financial institution that the business meets the financial institution's underwriting criteria, subject to the approval of a loan and credit guarantee, the financial institution shall submit a loan and credit guarantee application and the underwriting information to the department.

69.3(2) It shall be the responsibility of the financial institution and the qualified business, *microenterprise*, or targeted industry business to submit a complete application. The department, ~~with the advice of the loan and credit guarantee board~~, shall determine when an application is complete. Once the department has determined that an application is complete, the ~~department committee and the board~~ shall consider the application as expeditiously as possible.

69.3(3) The department, ~~with the advice of the loan and credit guarantee board~~, may develop an application procedure to allow a qualified business, *microenterprise*, or targeted industry business to apply directly to the department for a preliminary guarantee determination. A preliminary guarantee determination may be issued by the department, *following board approval*, subject to the qualified business's, *microenterprise's*, or targeted industry business's securing a commitment for financing from a financial institution.

261—69.4(15E,81GA,HF868) Application approval or rejection. Upon approval of an application, the department shall issue a loan and credit guarantee agreement with a financial institution outlining the terms and conditions upon which the loan will be guaranteed.

69.4(1) No change.

69.4(2) In the event the ~~department board~~ rejects an application, the financial institution and the borrower will be sent notice, including reasons for the rejection.

261—69.5(15E,81GA,HF868) Terms and conditions. A loan and credit guarantee provided to a financial institution for a qualified business, *microenterprise*, or targeted industry business shall not exceed \$1 million. Loan and credit guarantees provided under the program to more than one financial institution for a single qualified business, *microenterprise*, or targeted industry business shall not exceed \$10 million. A single qualified business, *microenterprise*, or targeted industry business may have multiple guarantees with multiple financial institutions. The aggregate amount of loan or credit guarantees provided to financial institutions for any single qualified business, *microenterprise*, or targeted industry business shall not exceed \$10 million.

69.5(1) No change.

69.5(2) The loan and credit guarantee provided under the program shall be negotiated on a case-by-case basis and in no case shall exceed more than 50 percent of the amount to be loaned to the qualified business, *microenterprise*, or targeted industry business by the financial institution for the project as described in the loan and credit guarantee application.

69.5(3) to 69.5(5) No change.

261—69.6(15E,81GA,HF868) Administrative costs and program fees. The department, ~~with the advice of the loan and credit guarantee board~~, may *shall* establish fees for participation in the loan and credit guarantee program.

69.6(1) The department shall charge a nonrefundable application fee for a loan and credit guarantee. The department shall set the application fee annually and include the fee information in the application materials for the loan and credit guarantee program. This fee will be payable upon submission of an application for a loan and credit guarantee from a financial institution or a qualified business, *microenterprise*, or targeted industry business and shall not exceed \$1,000.

69.6(2) No change.

69.6(3) *For a line of credit, the authorization fee shall be one-half percent per year renewable annually for a period not to exceed five years. The guarantee will automatically expire if the fee is not submitted upon renewal of the line of credit.*

261—69.7(15E,81GA,HF868) Administration of guarantees. A preliminary commitment issued by the department shall be effective for 90 days from the date of issuance. If the contingencies outlined in the preliminary commitment are not met within 90 days, the preliminary commitment will be void.

69.7(1) and 69.7(2) No change.

69.7(3) Any substantive change to a loan and credit guarantee agreement, such as time extensions, budget revisions and significant alteration of the funded project that change the scope, location, objectives or scale of the approved project or changes in terms of credit, shall be considered a request for an amendment. Amendments must be requested in writing by the financial institution ~~and~~. *Amendments* are not considered valid until approved by the *committee and the* department and confirmed in writing by IDED following the procedure specified in the contract between the recipient and IDED.

69.7(4) No change.

These rules are intended to implement Iowa Code Supplement sections 15E.221 to 15E.227 and 2003 Iowa Acts, First Extraordinary Session, chapter 2, section 69, and 2005 Iowa Acts, House File 868.

[Filed Emergency 7/7/05, effective 7/7/05]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4412B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 168, "Additional Program Requirements," Iowa Administrative Code.

Pursuant to 2005 Iowa Acts, House File 868, section 50(4), the Department is required to update program wage thresholds on a quarterly basis under the High Quality Job Creation Act (HQJCA). For purposes of consistency among other Department-administered financial assistance programs, the quarterly program wage thresholds calculations

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under HQJCA will be used for all IDED financial assistance programs. This amendment establishes a new Division IV, Program Wage Thresholds Calculations. The amendment describes the Department's process for updating program wage thresholds, clarifies that the thresholds apply to other Department-administered programs, and provides a transition period for pending applications.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need for this amendment. New quarterly wage thresholds calculations became effective on July 1, 2005, and are applicable to all applications submitted on or after that date. There is a need to have a process in place to transition these projects that will have been in negotiations with the Department for many months prior to the effective date of the next quarterly wage thresholds calculations, which will occur on October 1, 2005.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator on July 15, 2005, as it confers a benefit upon businesses, communities, and economic development professionals by having a uniform method of applying the wage threshold calculations to pending projects. This amendment also provides clarity to the public regarding the process that will be followed each year to calculate program wage thresholds.

This amendment is also published herein under Notice of Intended Action as **ARC 441B** to allow for public comment. This emergency filing permits the Department to implement the new legislation.

This amendment is intended to implement 2005 Iowa Acts, House File 868.

This amendment became effective July 15, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend 261—Chapter 168 by adopting the following **new** rules:

DIVISION IV

PROGRAM WAGE THRESHOLDS CALCULATIONS

261—168.201(81GA,HF868) Quarterly wage thresholds calculations. The department will update all program wage thresholds on July 1, October 1, January 1, and April 1 of each fiscal year using the most recent four quarters of available wage data from the Iowa workforce development department.

261—168.202(81GA,HF868) Transition period. Businesses that submit a project review form to the department will be subject to wage thresholds in effect on the date the department receives the project review form, provided that the business's application is received and approved within six months of the date the project review form was received by the department. If more than six months have elapsed, the business will be subject to the wage thresholds in effect on the date the department receives the business's completed application.

261—168.203(81GA,HF868) Applicability. The quarterly wage thresholds calculations described in this division are ap-

licable to the high quality job creation program (HQJCP) (261—Chapter 68), the value-added agricultural products and processes financial assistance program (VAAPFAP) (261—Chapter 57), the community economic betterment (CEBA) program (261—Chapter 53), the entrepreneurial ventures assistance (EVA) program (261—Chapter 60), the targeted small business financial assistance program (TSBFAP) (261—Chapter 55), the physical infrastructure assistance program (PIAP) (261—Chapter 61), the brownfield redevelopment program (261—Chapter 65), and other programs administered by the department.

These rules are intended to implement 2005 Iowa Acts, House File 868.

[Filed Emergency 7/15/05, effective 7/15/05]

[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4396B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

These amendments:

- Update the Medicaid eligibility requirement that an applicant furnish or apply for a social security number by making an exception for people who have well-established religious objections to applying for or using a national identification number. This exception is allowed by federal Medicaid regulations at 42 CFR 435.910. Iowa has issued a few waivers to this rule, principally for members of the Old Order Amish. This amendment will conform the rule to federal policy and eliminate the need for waivers.

- Clarify a Medicaid eligibility requirement relating to a person who is in a penal institution. 42 U.S.C. 1396d(a)(A) provides that assistance provided under the Medicaid program shall not include any "payments with respect to care or services for any individual who is an inmate of a public institution." Federal regulations at 42 CFR 435.1008 provide that federal Medicaid funding is not available for expenditures for services provided to "inmates of public institutions," defined in the regulations as "a person who is living in a public institution."

The Department's current rule based on these federal provisions uses different wording, referring to "persons who enter jails or penal institutions." This wording has caused confusion because it restricts Medicaid eligibility for people who are on probation or work release or who leave jail for hospitalization. In all these situations, Medicaid eligibility is allowable under the federal definition. The Department's intent has been to limit medical assistance only as required by federal provisions. Therefore, the Department is amending the rule to use the language of the federal provisions and reference the federal definition of "inmate of a public institution."

- Make technical corrections to the implementation sentences to make them internally consistent and to reflect current statutes.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 11, 2005, as **ARC 4168B**. The Department received no comments on the Notice of Intended Action. The Department has made the following technical changes to these amendments:

- A typographical error discovered in rule 441—75.57(249A) has been corrected. The comparison of income to the schedule of basic needs in subrule 75.58(2) was incorrectly referred to as “Test 2” instead of “Test 3.”

- References to the Job Training Partnership Act of 1982 in subrules 75.11(1) and 75.57(7) have been replaced with the phrase “an employment and training program of the U.S. Department of Labor.” The Job Training Partnership Act was repealed in 1998, but the intent of the policy is to allow the same exemption to similar programs succeeding the Act.

These amendments do not provide for waivers in specified situations because they benefit the people affected.

The Council on Human Services adopted these amendments on July 13, 2005.

The Department finds that these amendments remove restrictions on Medicaid applicants. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments should be waived.

These amendments are intended to implement Iowa Code sections 249A.3 and 249A.4.

These amendments became effective August 1, 2005.

The following amendments are adopted.

ITEM 1. Amend rule 441—75.7(249A), introductory paragraph, as follows:

441—75.7(249A) Furnishing of social security number. As a condition of eligibility, ~~people~~ *a person* for whom Medicaid is being requested or received must furnish ~~their~~ *a* social security account ~~numbers~~ *number* or ~~must furnish~~ *provide* proof of application for the ~~numbers~~ *number* if ~~they have the social security number~~ *has not been issued or* ~~are~~ *is* not known and provide ~~their numbers~~ *the number* upon receipt. *This requirement does not apply if the person refuses to obtain a social security number because of well-established religious objections. The term “well-established religious objections” means that the person is a member of a recognized religious sect or a division of a recognized religious sect and adheres to the tenets or teachings of the sect or division, and for that reason is conscientiously opposed to applying for or using a national identification number.*

ITEM 2. Amend rules **441—75.10(249A)**, **441—75.11(249A)**, **441—75.13(249A)**, **441—75.17(249A)**, **441—75.18(249A)**, and **441—75.21(249A)** by adopting the following **new** implementation sentence for each rule:

This rule is intended to implement Iowa Code section 249A.3.

ITEM 3. Amend subrule **75.11(1)**, definition of “federal means-tested program,” numbered paragraph “**11**,” as follows:

11. Benefits ~~under the Job Training Partnership Act funded through an employment and training program of the U.S. Department of Labor.~~

ITEM 4. Rescind rule 441—75.12(249A) and adopt the following **new** rule in lieu thereof:

441—75.12(249A) Inmates of public institutions. A person is not eligible for medical assistance for any care or services received while the person is an inmate of a public institution. For the purpose of this rule, the phrase “inmate of a

public institution” is defined by 42 CFR Section 435.1009, as amended on November 10, 1994.

This rule is intended to implement Iowa Code section 249A.3.

ITEM 5. Amend rule **441—75.14(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 239.5 249A.3 and 249A.4.

ITEM 6. Amend rule **441—75.16(249A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 239.5 249A.3 and 249A.4.

ITEM 7. Amend rules **441—75.25(249A)** and **441—75.27(249A)** by adopting the following **new** implementation sentence for each rule:

This rule is intended to implement Iowa Code sections 249A.3 and 249A.4.

ITEM 8. Amend **441—Chapter 75, Division I**, by rescinding the implementation sentence at the end thereof.

ITEM 9. Amend rule 441—75.57(249A) as follows:

Amend the introductory paragraph as follows:

441—75.57(249A) Income. When determining initial and ongoing eligibility for the family medical assistance program (FMAP) and FMAP-related Medicaid coverage groups, all unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted as defined in these rules, shall be considered. Unless otherwise specified at rule 441—75.1(249A), the determination of initial eligibility is a three-step process. Initial eligibility shall be granted only when (1) the countable gross nonexempt unearned and earned income received by the eligible group and available to meet the current month’s needs is no more than 185 percent of living costs as identified in the schedule of needs at subrule 75.58(2) for the eligible group (Test 1); (2) the countable net earned and unearned income is less than the schedule of living costs as identified in the schedule of needs at subrule 75.58(2) for the eligible group (Test 2); and (3) the countable net unearned and earned income, after applying allowable disregards, is less than the schedule of basic needs as identified at subrule 75.58(2) for the eligible group (Test 3). The determination of continuing eligibility is a two-step process. Continuing eligibility shall be granted only when (1) countable gross nonexempt income, as described for initial eligibility, does not exceed 185 percent of the living costs as identified in the schedule of needs at subrule 75.58(2) for the eligible group (Test 1); and (2) countable net unearned and earned income is less than the schedule of basic needs as identified in the schedule of needs at subrule 75.58(2) for the eligible group (Test 2 3). Child support assigned to the department in accordance with 441—subrule 41.22(7) shall be considered unearned income for the purpose of determining continuing eligibility, except as specified at paragraphs 75.57(1)“e,” 75.57(6)“u,” and 75.57(7)“o.” Expenses for care of children or disabled adults, deductions, and diversions shall be allowed when verification is provided. The county office shall return all verification to the applicant or recipient.

Amend subrule **75.57(7)**, paragraphs “**s**” and “**t**,” as follows:

s. Compensation in lieu of wages received by a child ~~under the Job Training Partnership Act of 1982 funded through an employment and training program of the U.S. Department of Labor.~~

t. Any amount for training expenses included in a payment issued ~~under the Job Training Partnership Act of 1982~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

funded through an employment and training program of the U.S. Department of Labor.

[Filed Emergency After Notice 7/15/05, effective 8/1/05]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4398B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 2005 Iowa Acts, House File 841, section 66, the Department of Human Services amends Chapter 92, "IowaCare," Iowa Administrative Code.

2005 Iowa Acts, House File 841, created a new Medicaid program called "IowaCare," offering limited benefits from a limited provider network to persons otherwise ineligible for Medicaid. Rules to implement this program were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 6, 2005, as **ARC 4325B**. These amendments make changes to those rules to address issues that have arisen during training and in negotiations with the Centers for Medicare and Medicaid Services over approval of the waivers necessary to operate this program with federal financial participation.

Changes are as follows:

- IowaCare members are required to cooperate with the quality control unit and with the DIA Investigations Unit.
- Persons who have an application pending for Supplemental Security Income or for social security disability may be eligible for IowaCare.
- The post office box and the zip code for mailing premiums have been changed.
- To have the premium reduced to zero due to a hardship, the member's signed statement declaring a hardship must be received by the premium due date.
- Women whose income is at or below 300 percent of the federal poverty level and whose family medical expenses cause their income to fall to or below 200 percent of the federal poverty level and their newborn children are eligible for IowaCare enrollment in addition to expanded access to maternity and newborn care.

These amendments do not provide for waivers in specified situations. Individuals may request a waiver under the Department's general rule on exceptions at 441—1.8(17A,217).

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments implement 2005 Iowa Acts, House File 841, section 66, which authorizes the Department to adopt rules without notice and public participation.

The Department finds that these amendments confer a benefit by making the rules congruent with requirements of the federal waiver request. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments should be waived.

These amendments are also published herein under Notice of Intended Action as **ARC 4399B** to allow for public comment.

These amendments are intended to implement 2005 Iowa Acts, House File 841, divisions I and II, and section 15, subsection 1.

These amendments became effective on July 15, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule 441—92.3(249A,81GA,HF841), introductory paragraph, as follows:

441—92.3(249A,81GA,HF841) Application. Medicaid application policies in 441—76.1(249A) and 441—76.8(249A) apply to IowaCare except as follows:

ITEM 2. Amend subrule **92.4(3)**, paragraph "a," as follows:

a. One or more conditions listed in 441—subrules ~~subrule 76.3(1) through, 76.3(3), 76.3(4), or 76.3(6)~~ exist; or

ITEM 3. Amend rule 441—92.7(249A,81GA,HF841) as follows:

Amend subrule **92.7(2)**, paragraph "a," as follows:

a. Method of payment. Members shall submit premium payments to the following address: Iowa Medicaid Enterprise Revenue Collection Unit, P.O. Box 340194 10391, Des Moines, Iowa 50334-0194 50306-0391.

Amend subrule 92.7(3) as follows:

92.7(3) Hardship exemption. A member who submits a statement on Form 470-4165, IowaCare Billing Statement, or Form 470-4185, IowaCare Premium Notice Reminder, indicating that payment of the premium will be a financial hardship shall be exempted from premium payment for that month. *If the statement is not signed and returned by the premium due date, the member shall be obligated to pay the premium.*

ITEM 4. Amend subrule 92.8(3) as follows:

Amend the introductory paragraph as follows:

92.8(3) Obstetric and newborn coverage. IowaCare members who qualify under 92.2(1)"b" or "c" are *also* eligible *only* for the following services: *specified in paragraph "a" or "b" from the providers specified in paragraph "c" or "d."*

Amend paragraph "a," subparagraph (2), as follows:

(2) Outpatient hospital services when the ambulatory patient group (APG) submitted for payment is ~~between 385 and 3917 175, 304, 305, 492, 493, or 494~~ and the primary or secondary diagnosis code is V22 through V24.9.

Amend paragraph "b" by adopting **new** subparagraphs (1) and (2) as follows:

(1) Inpatient hospital services shall be payable when the diagnosis-related group (DRG) submitted for payment is between 385 and 391.7.

(2) Services provided by a health care provider other than a hospital shall be covered as provided in 441—subrule 98.8(2).

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[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4400B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6 and 2005 Iowa Acts, House File 825, sections 14 and 29, the Department of Human Services amends Chapter 170, "Child Care Services," Iowa Administrative Code.

These amendments:

- Increase the maximum gross income limit for Child Care Assistance eligibility to 145 percent of the federal poverty guidelines for basic care and 200 percent of the federal poverty guidelines for special-needs care.
- Update eligibility and waiting list language to include the new guidelines.
- Update the provider reimbursement ceilings to reflect the 2002 provider rate survey.
- Revise the fee chart to reflect the new income levels.
- Clarify unclear and obsolete language.

These amendments do not provide for waivers in specified situations because individuals may request a waiver under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments July 13, 2005.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments implement 2005 Iowa Acts, House File 825, sections 14 and 29, which authorizes the Department to adopt rules without notice and public participation.

The Department finds that these amendments confer a benefit. More liberal eligibility standards and higher rate limits benefit both customers and providers. Therefore, these amendments are filed pursuant to Iowa Code section

17A.5(2)"b"(2), and the normal effective date of these amendments should be waived.

These amendments are also published herein under Notice of Intended Action as **ARC 4401B** to allow for public comment.

These amendments are intended to implement Iowa Code sections 237A.13 and 239B.24 and 2005 Iowa Acts, House File 825, sections 14 and 29.

These amendments shall become effective September 1, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule 441—170.2(237A,239B) as follows:

Amend paragraph **170.2(1)"a,"** subparagraphs **(1)** and **(2)**, as follows:

- (1) ~~140~~ 145 percent of the federal poverty level applicable to the family size for children needing basic care, or
 - (2) ~~175~~ 200 percent of the federal poverty level applicable to the family size for children needing special-needs care, or
- Amend paragraph **170.2(3)"a,"** subparagraphs **(3)** and **(4)**, as follows:

- (3) Families with an income of more than 100 percent but not more than ~~140~~ 145 percent of the federal poverty guidelines whose members are employed at least 28 hours per week.
- (4) Families with an income at or below ~~175~~ 200 percent of the federal poverty guidelines whose members are employed at least 28 hours per week with a special-needs child as a member of the family.

ITEM 2. Amend rule 441—170.4(237A) as follows:

Amend subrule **170.4(2)**, paragraph **"a,"** chart of "Monthly Income Increment Levels According to Family Size," as follows:

Monthly Income Increment Levels According to Family Size

Income Increment Levels	1	2	3	4	5	6	7	8	9	10	Half-Day Fee
A	\$ 737 758	\$ 989 1017	\$1241 1274	\$1492 1532	\$1744 1791	\$1996 2048	\$2248 2307	\$2499 2565	\$2751 2822	\$3003 3081	\$0.00
B	776 798	1041 1070	1306 1341	1571 1613	1836 1885	2101 2156	2366 2428	2631 2700	2896 2971	3161 3243	\$0.50
C	819 843	1099 1130	1379 1416	1659 1703	1939 1991	2219 2277	2498 2564	2778 2851	3058 3137	3338 3425	\$1.00
D	865 890	1161 1193	1456 1495	1752 1799	2047 2102	2343 2404	2638 2708	2934 3011	3229 3313	3525 3616	\$1.50
E	914 940	1226 1260	1538 1579	1850 1899	2162 2220	2474 2539	2786 2859	3098 3179	3410 3499	3722 3819	\$2.00
F	965 992	1295 1331	1624 1668	1954 2006	2283 2344	2613 2681	2942 3019	3272 3358	3601 3695	3931 4033	\$2.50
G	1019 1048	1367 1405	1715 1761	2063 2118	2411 2475	2759 2831	3107 3188	3455 3546	3803 3901	4151 4259	\$3.00
H	1076 1107	1444 1484	1811 1860	2179 2237	2546 2614	2913 2990	3281 3367	3648 3744	4016 4120	4383 4497	\$3.50
I	1136 1169	1524 1567	1912 1964	2301 2362	2689 2760	3077 3157	3465 3555	3853 3954	4241 4351	4629 4749	\$4.00
J	1200 1234	1610 1655	2020 2074	2429 2494	2839 2915	3249 3334	3659 3755	4068 4175	4478 4594	4888 5015	\$4.50

HUMAN SERVICES DEPARTMENT[441](cont'd)

Income Increment Levels	1	2	3	4	5	6	7	8	9	10	Half-Day Fee
K	1267	1700	2133	2565	2998	3431	3864	4296	4729	5162	\$5.00
	1303	1747	2190	2634	3078	3521	3965	4409	4852	5296	
L	1338	1795	2252	2709	3166	3623	4080	4537	4994	5451	\$5.50
	1376	1845	2312	2781	3251	3718	4187	4656	5123	5592	
M	1413	1896	2378	2861	3343	3826	4308	4791	5274	5756	\$6.00
	1453	1948	2442	2937	3433	3926	4421	4917	5410	5905	
N	1535	2058	2579	3102	3625	4146	4669	5192	5713	6236	\$6.50
O	1620	2173	2723	3275	3828	4378	4930	5483	6033	6585	\$7.00

Amend subrule 170.4(6) as follows:

170.4(6) Provider's individual program plan. An individual program plan shall be developed by the child care provider for each child within 30 days after placement when the need for service was established under 170.2(3)"d" 170.2(2)"b"(3). The program plan shall be supportive of the service worker's case plan. The program plan shall contain

goals, objectives, services to be provided, and time frames for review.

Amend subrule **170.4(7)** as follows:

Amend paragraph "a" as follows:

Amend Table I, "Half-Day Rate Ceilings for Basic Care," as follows:

Age Group	Child Care Center		Child Development Home Category A or B		Child Development Home Category C		Nonregistered Family Home
Infant and Toddler	\$12.45	\$14.50	\$10.00	\$11.25	\$9.00	\$10.00	\$8.19
Preschool	\$10.50	\$12.00	\$9.00	\$10.00	\$8.55	\$10.00	\$7.19
School Age	\$9.00	\$10.50	\$9.00	\$10.00	\$8.33	\$10.00	\$7.36

Amend subparagraph (1) as follows:

(1) "Child care center" shall mean those providers as defined in 170.4(3)"a" and "g." "Registered child development home" shall mean those providers as defined in 170.4(3)"b." "Nonregistered family child care home" shall mean those providers as defined in 170.4(3)"d" and "f."

Amend paragraph "f," subparagraphs (1) and (2), as follows:

(1) Within 15 calendar days of notification of the rate in question, the provider shall send a written request for review to the human services service area administrator manager. The request shall identify the specific rate in question and the methodology used to calculate the rate. ~~A The service manager shall provide a written response from the human services area administrator shall be provided~~ within 15 calendar days of receipt of the request for review.

(2) When dissatisfied with the response, the provider may, within 15 calendar days of the response, request a review by the chief of the bureau of individual and family financial support services. The provider shall submit to the bureau chief the original request, the response received, and any additional information desired to the bureau chief. The bureau chief shall render a decision in writing within 15 calendar days of receipt of the request.

ITEM 3. Amend rule 441—170.5(237A) as follows:

Amend subrule **170.5(2)**, paragraph "d," as follows:

d. An application is required and the client or representative refuses or fails to sign the application form; or

Amend subrule **170.5(3)**, paragraph "c," as follows:

c. The client refuses or fails to allow documentation of eligibility as to need and income; or

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[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4402B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 234.6(4) and 600.22, the Department of Human Services amends Chapter 201, "Subsidized Adoptions," Iowa Administrative Code.

These amendments change the rules on adoption subsidy to correct technical issues affecting the state's ability to claim federal reimbursement of subsidy expenses through the Title IV-E Foster Care and Adoption Assistance Program. In state fiscal year 2004, the Department adopted rules to refocus spending in the adoption subsidy program. Those amendments, published in the Iowa Administrative Bulletin on October 29, 2003, as **ARC 2900B**, eventually took effect on April 20, 2004, after two delays imposed by the Administrative Rules Review Committee. Provisions in **ARC 2900B** were further amended effective July 1, 2004, in response to legislation. Those amendments were published in the Iowa Administrative Bulletin on July 7, 2004, as **ARC 3457B**.

Two issues have been discovered in relation to these amendments:

- In **ARC 2900B**, provisions defining a child at high risk of developing a qualifying medical or behavioral condition as a "child with special needs" were removed from subrule 201.3(1). Provisions in subparagraph 201.5(1)"b"(2) allowing the Department to enter into an agreement for future adoption subsidy for a child at risk of being determined a "child with special needs" due to such a condition remained in place. However, since children whose agreements were developed after the rules changed did not meet the Department's definition of a "child with special needs" at the time of

HUMAN SERVICES DEPARTMENT[441](cont'd)

their adoption, assistance provided when the child later meets the definition is not eligible for federal matching funds according to federal regulations.

- Amendments in both **ARC 2900B** and **ARC 3457B** specifically limited the amount of special services subsidy that may be paid for attorney fees. The Department has received federal guidance that it is not allowable under Title IV-E of the Social Security Act to put a limit on a specific type of nonrecurring expenses. "Nonrecurring expenses" are defined in 441—201.2(600) to include attorney fees, court filing fees, and other court costs.

To address these issues, these amendments:

- Add a provision for risk of developing a qualifying condition to the list of factors constituting "special needs" for the purpose of eligibility for adoption subsidy, retroactive to the effective date of **ARC 2900B**, and
- Change the language adopted for payment of attorney fees to refer to "nonrecurring expenses."

As under the prior "special needs" definition, subsidy payments are negotiated only for payment of nonrecurring expenses for children who are determined to be "at risk" but have not yet been diagnosed with a qualifying condition. If a qualifying condition later develops, other types of subsidy are negotiated with the adoptive family at that time.

These amendments also make a technical change to update a cross reference for the definition of "mental health professional." The currently referenced rule has been rescinded.

These amendments do not provide for waivers in specified situations because they merely make technical changes in rule language. The Department has adopted a general rule on exceptions at 441—1.8(17A,217) that affected persons may use to request a waiver of these provisions.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on May 25, 2005, as **ARC 4198B**. The Department held a public hearing to receive comments on these amendments on June 16, 2005. The Department received no comments on the Notice of Intended Action. These amendments are identical to the Notice of Intended Action.

The Council on Human Services adopted these amendments on July 13, 2005.

These amendments are intended to implement Iowa Code sections 600.17 through 600.23.

The Department finds that these amendments confer a benefit by enabling receipt of federal financial participation in expenditures for adoption subsidies. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments should be waived.

These amendments became effective on August 1, 2005.

The following amendments are adopted.

ITEM 1. Amend rule **441—201.2(600)**, definition of "mental health professional," as follows:

"Mental health professional" means the same as defined in the department's rule ~~33.1(225C,230A)~~ **441—24.1(225C)**.

ITEM 2. Amend subrule **201.3(1)** by adopting new paragraph "**c**" as follows:

c. Effective April 20, 2004, or later, the child has been determined by a qualified professional to be at high risk of developing a qualifying medical, mental, or emotional condition as defined in this subrule. A child in this group is eligible for subsidy of nonrecurring expenses only.

ITEM 3. Amend subparagraph **201.6(1)"a"(7)** as follows:

(7) *Nonrecurring expenses.* ~~Attorney fees and court costs necessary to finalize the adoption.~~ *Payment for nonrecurring expenses is limited to \$500 per child. Attorney fees Nonrecurring expenses may be paid when the adoptive family has negotiated an Agreement to Future Adoption Subsidy, Form 470-0762.*

[Filed Emergency After Notice 7/15/05, effective 8/1/05]

[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4382B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 135.11 and 136A.8, the Department of Public Health hereby amends Chapter 4, "Center for Congenital and Inherited Disorders," Iowa Administrative Code.

The amendments clarify the role of the laboratories for the 24/7 courier service and provide an increase in the newborn screening fee to cover the cost of that service. The amendments also change the dates of reporting requirements for the Central Laboratory and follow-up consultants so that the dates align with the fiscal year.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 25, 2005, as **ARC 4192B**.

The only comments received at the public hearing were requests that the reporting of the number of confirmed positive results by disorders be removed from laboratory reporting requirements because the same information is required to be provided by the follow-up staff. If the laboratory were to submit this information in its annual report, the laboratory would request the information from the follow-up staff. Changes from the Notice were made based on these comments. Other nonsubstantive changes were also made.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on July 13, 2005, as the establishment of the 24/7 courier service confers a benefit on a segment of the public by reducing the amount of time between the collection of the specimen and the reporting of the results.

The State Board of Health adopted these amendments on July 13, 2005.

These amendments became effective on July 13, 2005.

These amendments are intended to implement Iowa Code chapter 136A.

The following amendments are adopted.

ITEM 1. Amend subrule **4.3(2)**, paragraph "**d**," as follows:

d. Submission of specimens. All specimens shall be *delivered via courier service* or forwarded by first-class mail or other appropriate means within 24 hours after collection to the University Hygienic Laboratory, the center's designated central laboratory.

ITEM 2. Amend subrule 4.3(5) as follows:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

4.3(5) Central laboratory responsibility. The central laboratory shall:

a. *Contract with a courier service to provide transportation and delivery of neonatal metabolic screening specimens.*

b. *Contact all birthing hospitals and birth centers to inform them of the courier schedule.*

a c. Process specimens within 24 hours of receipt.

b d. Notify the submitting health care provider, birthing hospital, birth center, or drawing laboratory of an unacceptable specimen and the need for another specimen.

e e. Report a presumptive positive test result within 24 hours to the consulting physician or the physician's designee.

d f. Distribute specimen collection forms, specimen collection procedures, screening waivers, and other materials to drawing laboratories, birthing hospitals, birth centers, and health care providers.

e g. Report normal and abnormal screening results to birthing hospitals, birth centers, or drawing laboratories.

f h. ~~Submit a written annual report to the center a proposed budget and narrative for the upcoming fiscal year on or before March 30 31 of each year. Central laboratory shall submit a written annual report to the center by July 15 of each year.~~ This report shall include:

- (1) Number of infants screened,
- (2) Number of repeat screens,
- (3) Number of presumptive positive results by disorder,
- ~~(4) Number of confirmed positive results by disorder,~~
- ~~(5) (4) Number of rejected specimens,~~
- ~~(6) (5) Number of waivers,~~
- ~~(7) (6) Results of quality assurance testing including any updates to the INMSP quality assurance policies,~~
- ~~(8) (7) Screening and educational activity details, and~~
- ~~(9) (8) A fiscal expenditures report, and~~
- ~~(10) A proposed budget and narrative for the upcoming fiscal year.~~

~~(10) A proposed budget and narrative for the upcoming fiscal year.~~

g i. Act as fiscal agent for program expenditures encompassing the analytical, technical, administrative, educational, and follow-up costs for the screening program.

ITEM 3. Amend subrule **4.3(6)**, paragraph "b," as follows:

b. The follow-up programs shall submit ~~metabolic screening data to the center~~ *an INMSP proposed budget and narrative for the next fiscal year* by March 30 31 of each year. *Follow-up programs shall submit metabolic screening data to the center by July 15 of each year.* The information shall include:

- (1) The number of presumptive positive results and confirmed positive results by disorder,
- (2) Each individual's age at confirmation of disorder,
- (3) Each individual's age when treatment began,
- (4) Type of treatment for each disorder,
- (5) A written summary of educational and follow-up activities, *and*
- (6) A fiscal expenditure report for the fiscal year, *and*
- ~~(7) An INMSP proposed budget and narrative for the next fiscal year.~~

ITEM 4. Amend subrule **4.3(9)**, paragraph "b," as follows:

b. The department shall annually review and determine the fee to be charged for all activities associated with the INMSP. The review and fee determination shall be completed at least one month prior to the beginning of the fiscal

year. The neonatal metabolic screening fee shall be \$56 beginning August 1, 2003 is \$77.

[Filed Emergency After Notice 7/13/05, effective 7/13/05]
[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4381B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 135.105C, the Department of Public Health hereby amends Chapter 69, "Renovation, Remodeling, and Repainting—Lead Hazard Notification Process," Iowa Administrative Code.

This chapter implements a program to require individuals who perform renovation, remodeling, and repainting of target housing for compensation to provide an approved lead hazard information pamphlet to the owner and occupant of the housing prior to commencing the work. Iowa's law stipulates that the rules could take effect only after the Department of Public Health obtained authorization from the U.S. Environmental Protection Agency (EPA) for the Department's program to require lead hazard notification prior to renovation, remodeling, and repainting. Iowa's program was authorized by EPA on July 13, 1999.

The amendments correct errors in subrules 69.10(1) through 69.10(4).

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 25, 2005, as **ARC 4193B**. No written comments were received prior to the close of the public comment period. The amendments are identical to those published under Notice of Intended Action.

The Department has determined that these rules are not subject to waiver or variance because Iowa's program must be as protective as EPA regulations, which do not allow variances or waivers.

The State Board of Health adopted these amendments on July 13, 2005.

These amendments are Adopted and Filed Emergency After Notice and became effective upon filing pursuant to Iowa Code section 17A.5(2)"b"(2). The Department has determined that the adoption of these amendments and the immediate effective date are necessary to carry out the purposes of the statute. The Department further finds that Iowa Code section 135.105C is intended to confer a benefit or remove a restriction on the public or some segment thereof.

These amendments are intended to implement Iowa Code section 135.105C.

These amendments became effective on July 13, 2005.

The following amendments are adopted.

ITEM 1. Amend subrule **69.10(1)** by rescinding paragraph "e" and relettering paragraphs "f" through "j" as "e" through "i."

ITEM 2. Amend subrule 69.10(2) as follows:

69.10(2) Complaints and other requests for action under this rule. Complaints regarding a ~~certified lead professional, a certified elevated blood lead (EBL) inspection agency, a certified firm, or an approved course person who performs renovation, remodeling, or repainting for compensation in~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

target housing shall be submitted in writing to the Iowa Department of Public Health, Lead Poisoning Prevention Program, 321 East 12th Street, Des Moines, Iowa 50319-0075. The complainant shall provide:

a.—~~The name of the certified lead professional, certified elevated blood lead (EBL) inspection agency, or certified firm person who performs renovation, remodeling, or repainting for compensation in target housing and the specific details of the person's action(s) by the certified lead professional, certified elevated blood lead (EBL) inspection agency, or certified firm that did not comply with the rules; or~~

b.—~~The name of the lead professional or firm that conducted lead professional activities without the appropriate certification or approval as required by the rules; or~~

c.—~~The name of the sponsoring person or organization of an approved course and the specific way(s) that an approved course did not comply with the rules; or~~

d.—~~The name of the sponsoring person or organization that provided a course without the approval required by these rules.~~

ITEM 3. Amend subrule **69.10(3)**, paragraphs “a” and “h,” by striking “135.105A” wherever it appears in these paragraphs and inserting “135.105C” in lieu thereof.

ITEM 4. Amend subrule **69.10(4)** by rescinding paragraphs “a” through “h” and relettering paragraphs “i” through “k” as “a” through “c.”

[Filed Emergency After Notice 7/13/05, effective 7/13/05]
[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4380B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 131, “Emergency Medical Services Provider Education/Training/Certification,” and Chapter 132, “Emergency Medical Service—Service Program Authorization,” Iowa Administrative Code.

The rules in Chapters 131 and 132 describe the standards for the education, training, and certification of emergency medical providers and establish a standard of conduct for training programs, students, and providers. These amendments update the reference to the Iowa EMS Scope of Practice document to the most recent edition, April 2005.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 8, 2005, as **ARC 4209B**.

Public comments were received both in support of and against the proposed changes to 131.4(1)“g.” A comment from the representative of the EMS training programs that are affected by this paragraph supported the changes but requested that the implementation be delayed. As a result of these comments, the proposed amendment to 131.4(1)“g” has not been adopted.

The Department finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on July 13, 2005, as they confer a benefit on the public by allowing the most current patient care practices to be implemented.

The State Board of Health adopted these amendments on July 13, 2005.

These amendments became effective on July 13, 2005.

These amendments are intended to implement Iowa Code chapter 147A.

The following amendments are adopted.

ITEM 1. Amend subrule **131.3(3)**, paragraph “b,” as follows:

b. Scope of Practice for Iowa EMS Providers (~~November 2004~~ *April 2005*) is incorporated and adopted by reference for EMS providers. For any differences that may occur between the adopted references and these administrative rules, the administrative rules shall prevail.

ITEM 2. Amend subrule **132.2(4)**, paragraph “b,” as follows:

b. Scope of Practice for Iowa EMS Providers (~~November 2004~~ *April 2005*) is incorporated and adopted by reference for EMS providers. For any differences that may occur between the adopted references and these administrative rules, the administrative rules shall prevail.

[Filed Emergency After Notice 7/13/05, effective 7/13/05]
[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4395B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 218.4 and 249A.4, the Department of Human Services rescinds Chapter 15, "Disputed County Billings," adopts new Chapter 15, "Resolution of Legal Settlement Disputes," and amends Chapter 29, "Mental Health Institutes," and Chapter 30, "State Hospital-Schools," Iowa Administrative Code.

2004 Iowa Acts, chapter 1090, amended Iowa Code section 225C.8 to create a process for resolution by a contested case hearing under Iowa Code chapter 17A when a county or counties and the Department of Human Services fail to resolve a question of legal settlement. These amendments implement the process for resolving disputes about legal settlement in relation to county charges for the cost of care for:

- A person at a state resource center pursuant to Iowa Code chapter 222; or
- A person at a state mental health institute pursuant to Iowa Code chapter 230; or
- A person receiving medical assistance under Iowa Code chapter 249A.

The amendments provide a process for certifying legal settlement of persons admitted to state mental health institutes or state resource centers, for notifying parties of a dispute over legal settlement, and for referring the dispute for a contested case hearing under Iowa Code chapter 17A if the dispute cannot be resolved within 90 days of the notification.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 11, 2005, as **ARC 4169B**, and a public hearing on the Notice of Intended Action was held on June 1, 2005. The Department received comments on the Notice of Intended Action from two counties. In response to these comments, the Department has changed the language of paragraph 30.3(1)"d" to read: "Unknown or no legal settlement."

These amendments do not provide for waivers in specified situations. Most of the provisions of these amendments are based in statute and therefore cannot be waived. The Department has adopted a general rule on exceptions at rule 441—1.8(17A,217) that may be used to request waiver of a nonstatutory requirement.

The Council on Human Services adopted these amendments on July 13, 2005.

These amendments are intended to implement Iowa Code section 225C.8.

These amendments shall become effective October 1, 2005.

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 [Ch 15; 29.4; Ch 30, title; 30.1(1), 30.3] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 4169B**, IAB 5/11/05.

[Filed 7/15/05, effective 10/1/05]
[Published 8/3/05]

[For replacement pages for IAC, see IAC Supplement 8/3/05.]

ARC 4397B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 78, "Amount, Duration, and Scope of Medical and Remedial Services," Iowa Administrative Code.

These amendments limit the dispensing of drugs covered under the Medicaid program to a 30-day supply. Dispensing in 90-day quantities has been allowed for certain drugs for prolonged maintenance therapy. Most Iowa Medicaid recipients currently get only a 30-day supply of maintenance drugs due to prevalent prescribing and dispensing practices. The Department wants to make dispensing uniform at 30 days before the implementation of the Medicare Part D drug program.

Effective January 1, 2006, all Medicaid recipients who are also eligible for Medicare (approximately 60,000 people) must receive drugs through the Medicare Part D drug benefit. The state will be assessed a monthly charge for each recipient based on drug usage in 2003. Therefore, if Iowa Medicaid were to pay for a 90-day supply of drugs issued in December 2005, it would effectively be billed again for those same drugs in January and February through the Medicare assessment.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 25, 2005, as **ARC 4199B**. The Department received two comments on the Notice of Intended Action. In response to comments, the Department has changed the wording of paragraph 78.1(2)"d" to continue to allow dispensing of a 90-day supply of oral contraceptives.

These amendments do not provide for waivers in specified situations. Individuals who believe themselves disadvantaged by these rules may request a waiver under the Department's general rule on exceptions at rule 441—1.8(17A,217).

The Council on Human Services adopted these amendments on July 13, 2005.

These amendments are intended to implement Iowa Code section 234.6.

These amendments shall become effective October 1, 2005.

The following amendments are adopted.

ITEM 1. Amend paragraph **78.1(2)"d"** as follows:

Amend the introductory paragraph as follows:

d. When it is not therapeutically contraindicated, the legally qualified practitioner shall prescribe a quantity of medication sufficient for a 30-day supply. ~~Maintenance drugs in the following therapeutic classifications for use in prolonged therapy~~ Oral contraceptives may be prescribed in 90-day quantities.

Rescind subparagraphs (1) through (9).

ITEM 2. Amend paragraph **78.1(2)"f,"** subparagraph (2), as follows:

(2) Oral solid forms of covered items shall be prescribed and dispensed in a minimum quantity of 100 units per prescription or the currently available consumer package size except when dispensed via a unit dose system. ~~When used~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

for maintenance therapy, all of the covered items may be prescribed and dispensed in 90-day quantities.

[Filed 7/15/05, effective 10/1/05]

[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4385B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby amends Chapter 51, "Hospitals," Iowa Administrative Code.

The amendments update the Department's rules to reflect the current edition of the Food and Drug Administration's (FDA) Model Food Code, the American Institute of Architects Guidelines for Construction and Equipment of Hospital and Medical Facilities, and the Code of Federal Regulations (CFR). The amendments also make technical changes to the designation of critical access hospitals by stipulating those Iowa counties that are not considered rural.

These amendments were presented to the Hospital Licensing Board at its March 30, 2005, meeting at which time they were approved by the Board. The State Board of Health initially reviewed the amendments at its May 11, 2005, meeting, and approved the amendments at its July 13, 2005, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 8, 2005, as **ARC 4207B**. Only one association commented and voiced its support for the amendments. The adopted amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135B.7.

These amendments will become effective September 7, 2005.

The following amendments are adopted.

ITEM 1. Amend subrule 51.2(7) as follows:

51.2(7) Hospitals not accredited by the JCAHO or AOA shall be inspected by the department utilizing the current Medicare conditions of participation found in Title XVIII of the federal Social Security Act and 42 CFR Part 482, Subparts A, B, C, D, and E, or 42 CFR Part 485, Subpart F as of October 1, 1997 2004. The department may promulgate additional standards. Where practical, surveys for state licensure purposes shall be performed concurrently with Medicare certification.

ITEM 2. Amend subrule 51.18(3) as follows:

51.18(3) The hospital must ensure that all laboratory services provided to its patients are performed in a laboratory certified in accordance with the Code of Federal Regulations in 42 CFR Part 493, October 1, 2001 2004.

ITEM 3. Amend subrule **51.20(2)**, paragraph "j," subparagraph (2), as follows:

(2) Dry or staple items shall be stored at least six inches (15 cm) above the floor in a ventilated room, not subject to sewage or wastewater backflow, contamination by condensation, leakage, rodents or vermin in accordance with the

Food Code, 1999 2001 Edition and 2003 Supplement, U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Washington, DC 20204.

ITEM 4. Amend subrule **51.20(2)**, paragraph "k," introductory paragraph, as follows:

k. Sanitation. Unless otherwise indicated, the sanitary provisions of the 1999 Food Code, 2001 Edition and 2003 Supplement, shall apply.

ITEM 5. Amend subrule **51.20(4)**, paragraph "a," subparagraph (3), as follows:

(3) Fixed and mobile equipment in the food service area shall meet the American Institute of Architects Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1996-1997 2001 Edition, and the 1999 Food Code, 2001 Edition and 2003 Supplement. Equipment shall be located to ensure sanitary and safe operation and shall be of sufficient size to handle the needs of the hospital.

ITEM 6. Amend subrule 51.53(1) as follows:

51.53(1) The hospital shall be no less than 35 miles from another hospital or no less than 15 miles over secondary roads or shall be designated by the department of public health as a necessary provider of health care prior to January 1, 2006.

ITEM 7. Amend subrule 51.53(2) as follows:

51.53(2) The hospital shall be a public or nonprofit hospital and shall be located in a county in a rural area. *Rural counties do not include Black Hawk, Johnson, Linn, Polk, Pottawattamie, Scott and Woodbury Counties. All other counties are considered to be in rural areas for purposes of this subrule.*

[Filed 7/13/05, effective 9/7/05]

[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4384B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 57, "Residential Care Facilities," Iowa Administrative Code.

The adopted amendments make technical corrections by changing the name of the "care review committee" to the "resident advocate committee," clarifying the acceptable wash and rinse temperature for dishwashing machines used in some residential care facilities, rewriting the service plan requirements for the admission of residents into a residential care facility, and modifying the medication administration rules to allow certified medication managers to administer medications in certain facilities.

The amendments were initially reviewed by the State Board of Health at its May 11, 2005, meeting and were approved by the Board at its July 13, 2005, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 8, 2005, as **ARC 4205B**. No

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

public comments were received on the amendments. The adopted amendments are identical to those published under Notice of Intended Action.

These amendments will become effective September 7, 2005.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135C.14.

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 [57.19(3), 57.21(4), 57.22, 57.24, 57.37(3)] is being omitted. These amendments are identical to those published under Notice as **ARC 4205B**, IAB 6/8/05.

[Filed 7/13/05, effective 9/7/05]

[Published 8/3/05]

[For replacement pages for IAC, see IAC Supplement 8/3/05.]

ARC 4386B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 58, "Nursing Facilities," Iowa Administrative Code.

The adopted amendments correct a typographical error in the subparagraph regarding the frequency with which resident progress notes are to be recorded by a nursing facility's activity coordinator and change the name of the "care review committee" to the "resident advocate committee" pursuant to Iowa Code section 135C.25.

The amendments were initially reviewed by the State Board of Health at its May 11, 2005, meeting and were adopted by the Board at its July 13, 2005, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 8, 2005, as **ARC 4206B**. No public comments were received on the amendments. The adopted amendments are identical to those published under Notice of Intended Action.

These amendments will become effective September 7, 2005.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135C.14.

The following amendments are adopted.

ITEM 1. Amend subparagraph **58.26(3)"c"(2)** as follows:

(2) Individual resident progress notes recorded at regular intervals (at least ~~every two months~~ *quarterly*). A copy of these notes shall be placed in the resident's clinical record; (III)

ITEM 2. Amend rule 481—58.27(135C) as follows:

481—58.27(135C) Care review Resident advocate committee. Each facility shall have a ~~care review resident advocate~~ committee in accordance with Iowa Code section 135C.25, which shall operate within the scope of the rules for ~~care review resident advocate~~ committees promulgated by the department of elder affairs. (II)

58.27(1) Role of committee in complaint investigation.

a. The department shall notify the facility's ~~care review resident advocate~~ committee of a complaint from the public. The department shall not disclose the name of a complainant.

b. The department may refer complaints to the ~~care review resident advocate~~ committee for initial evaluation or investigation by the committee pursuant to rules promulgated by the department of elder affairs. Within ten days of completion of the investigation, the committee shall report to the department in writing the results of the evaluation ~~of~~ *or* the investigation.

c. When the department investigates a complaint, upon conclusion of the investigation, it shall notify the ~~care review resident advocate~~ committee and the department of elder affairs of its findings, including any citations and fines issued.

d. Results of all complaint investigations addressed by the ~~care review resident advocate~~ committee shall be forwarded to the department within ten days of completion of the investigation.

58.27(2) The ~~care review resident advocate~~ committee shall, upon department request, be responsible for monitoring correction of substantiated complaints.

58.27(3) When requested, names, addresses and telephone numbers of family members shall be given to the ~~care review resident advocate~~ committee, unless the family refuses. The facility shall provide a form on which a family member may refuse to have ~~their~~ *the family member's* name, address or telephone number given to the ~~care review resident advocate~~ committee.

This rule is intended to implement Iowa Code section 135C.25.

ITEM 3. Amend subrule 58.41(3) as follows:

58.41(3) The facility shall post in a prominent area the name, telephone number, and address of the ombudsman, survey agency, local law enforcement agency, ~~care review and resident advocate~~ committee members, *and* the text of Iowa Code section 135C.46, to provide to residents a further course of redress. (II)

[Filed 7/13/05, effective 9/7/05]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4377B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 10A.104(5), the Department of Inspections and Appeals hereby amends Chapter 104, "Amusement Devices," and Chapter 105, "Registered Amusement Devices," Iowa Administrative Code.

The adopted amendments implement changes made by 2004 Iowa Acts, chapter 1118, concerning who may offer electrical and mechanical amusement devices to the public, providing for limits on the total number of devices allowed to be registered, modifying the fees required for registering the devices, and establishing penalties applicable for underage use of the devices and for other improper uses of the devices. The amendments provide that electrical and mechanical amusement devices that are required to be registered can be

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

located only at a location which has been issued a Class "A," "B," "C," or "D" liquor control license or a Class "B" or a Class "C" beer permit. Persons who have registered an amusement device as of April 28, 2004, that is not located at one of these liquor control or beer permit locations may offer the devices only until July 1, 2005. The adopted amendments also require the installation of a counting mechanism by January 1, 2006, prohibit advertising the availability of amusement devices as anything other than an electrical and mechanical amusement device, provide for an annual registration fee of \$5,000 for distributors, provide for the revocation of registrations under certain circumstances, and provide that a person under the age of 21 who operates a device in violation of this provision commits a scheduled violation with a scheduled fine of \$250.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 2005, as **ARC 4144B**. A public hearing on the amendments was held June 1, 2005, at which time representatives from the Iowa Operators of Music and Amusements (IOMA) presented comments on the Noticed amendments. IOMA's comments primarily focused on the counting mechanisms, access to the devices by the Department or the Department's designee, and the reporting requirements. The Department considered the comments, and changes were made to the amendments that pertain to the counting mechanisms and reporting requirements. Additional changes to the Noticed amendments address further restrictions on the types of games that can be played on amusement devices as a result of the enactment of 2005 Iowa Acts, House File 646.

These amendments are intended to implement Iowa Code chapter 99B as amended by 2004 Iowa Acts, chapter 1118, and 2005 Iowa Acts, House File 646.

These amendments will become effective September 7, 2005.

The following amendments are adopted.

ITEM 1. Amend rule 481—104.1(10A,99B) as follows:

Amend the introductory paragraph as follows:

481—104.1(10A,99B) Definitions. Definitions in rule 481—100.1(10A,99B) and 481—105.1(10A,99B) are incorporated by reference in this chapter.

Amend the definition of "amusement device" as follows: "Amusement device" means an electrical ~~or~~ and mechanical device possessed and used in accordance with Iowa Code section 99B.10. An amusement device is ~~neither~~ *not* a game of skill or chance as defined in Iowa Code section 99B.1, ~~nor~~ a gambling device, *or a device that plays poker, blackjack, or keno*. Roulette wheels, slot machines, and other devices specified in Iowa Code section 725.9 as gambling devices are not amusement devices.

ITEM 2. Amend rule 481—104.2(99B), introductory paragraph, as follows:

481—104.2(99B) Device restrictions. An electrical ~~or~~ and mechanical amusement device may be owned, possessed, or offered for use by any person at any location *which has a Class "A," Class "B," Class "C," or Class "D" liquor control license issued pursuant to Iowa Code chapter 123*, but only if the amusement device complies with all of the following:

ITEM 3. Amend rule **481—104.6(99B)** by adding the following **new** numbered paragraphs:

4. Violation of any laws pertaining to gambling may result in revocation of a registration.

5. The department may revoke a registration or refuse to issue a registration for cause.

6. A registration may be revoked if the registrant or agent of the registrant violates or permits a violation of Iowa Code chapter 99B.

7. A registration may be revoked upon the violation of any rule adopted by the department under this chapter.

8. A registration may be revoked if the registrant or an agent of the registrant engages in any act or omission that would have permitted the department to refuse to issue a registration under Iowa Code chapter 99B.

9. The registration of a registered amusement device may be revoked upon evidence of noncompliance with any laws or rules governing such devices.

10. A person under the age of 21 shall not participate in the operation of an electrical and mechanical amusement device. A person who violates the provisions of Iowa Code section 99B.10C(1) commits a scheduled violation under Iowa Code section 805.8C(4).

11. A person who owns or leases an electrical and mechanical amusement device and knowingly allows a person under the age of 21 to participate in the operation of an electrical and mechanical amusement device or a person who knowingly participates in the operation of an electrical and mechanical amusement device with a person under the age of 21 is guilty of a simple misdemeanor.

ITEM 4. Rescind rule 481—105.1(10A,99B) and adopt in lieu thereof the following **new** rule:

481—105.1(10A,99B) Definitions. The definitions in rule 481—104.1(10A,99B) are incorporated by reference in this chapter. In addition, the following definitions apply to the possession and use of registered amusement devices.

"Amusement device registration availability" means a registration position which becomes available when a distributor or owner is going out of business, fails to renew a registration within time frames established by the department, has an electrical and mechanical device seized by law enforcement and the seizure is upheld through a forfeiture hearing, or any other legal order has been issued which pertains to violations of Iowa Code chapter 99B, 123, or 123A. The maximum number of registration positions available is 6,928.

"Counting mechanism" means an appliance that tallies the volume of business of an individual amusement device.

"Distributes" means to deliver, to provide or to otherwise make available in Iowa amusement devices required to be registered in accordance with these rules.

"Distributor" means, for the purposes of Iowa Code sections 99B.10, 99B.10A, and 99B.10B, any person who owns electrical and mechanical amusement devices that are registered as provided in Iowa Code section 99B.10(4) and that are offered for use at more than a single location or premises.

"Manufacturer" means, for the purposes of Iowa Code sections 99B.10, 99B.10A, and 99B.10B, any person engaged in business in this state that originally produces an electrical and mechanical amusement device required to be registered under Iowa Code section 99B.10(4) or produces individual components for use in such a device.

"Manufacturer's representative" means, for the purposes of Iowa Code sections 99B.10, 99B.10A, and 99B.10B, any person engaged in business in this state that promotes or sells electrical and mechanical amusement devices required to be registered under Iowa Code section 99B.10(4) or promotes or sells individual components for use in such devices on behalf of a manufacturer of such devices or components.

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“Operation” means that a registered amusement device is made available for use by the public or made available for use on the premises of a charitable organization.

“Organization” means an entity that meets the requirements of Iowa Code section 99B.7(1)“m.”

“Owner” means, for the purposes of Iowa Code sections 99B.10A and 99B.10B, any person that owns an operable electrical and mechanical amusement device required to be registered under Iowa Code section 99B.10(4). An owner that operates for profit is allowed up to two machines at a single location. An owner that meets the requirements of Iowa Code section 99B.7(1)“m” is allowed up to four machines at a single location.

“Person” means a person as defined by Iowa Code section 4.1.

“Premises” means a location where one or more registered amusement devices are available for public use.

“Prize” means a ticket(s) or token(s) that is dispensed by a registered amusement device as an award for use and that is worth up to \$5 in merchandise.

“Registered amusement device” means an electrical and mechanical amusement device in operation subject to registration by the department pursuant to Iowa Code section 99B.10(4) and includes both the external and internal components. Any change in the registered amusement device, including the external and internal components of the registered amusement device, constitutes a new registered amusement device for which registration by the owner is required. The word “change” as used herein does not include repairs or replacement of parts that do not change or alter the operation of the device as originally registered by the owner. If the repairs or replacement parts alter the operation of the device as originally registered, then the device must be reregistered before it is made available for operation.

“Responsible party,” as listed on the amusement device registration, means the owner of the amusement device(s).

“Security mechanism” means an appliance which prevents a person from operating an electrical and mechanical amusement device by not allowing the acceptance of money until action is taken by the owner or owner’s designee to allow the person to operate the device.

ITEM 5. Rescind rule 481—105.2(99B) and adopt in lieu thereof the following **new** rule:

481—105.2(99B) Registered amusement device restrictions. Each registered amusement device shall be located on premises for which a Class “A,” Class “B,” Class “C,” or Class “D” liquor control license or a Class “B” or a Class “C” beer permit has been issued pursuant to Iowa Code chapter 123.

105.2(1) The number of electrical and mechanical amusement devices registered by the department shall not exceed 6,928, the total number of devices registered by the department as of the effective date of 2004 Iowa Acts, chapter 1118, April 28, 2004.

105.2(2) The department shall not initially register an electrical and mechanical amusement device that is required to be registered pursuant to Iowa Code section 99B.10(4) to an owner for a location for which only a Class “B” or a Class “C” beer permit has been issued pursuant to Iowa Code chapter 123 on or after the effective date of 2004 Iowa Acts, chapter 1118, April 28, 2004.

105.2(3) An owner at a location for which only a Class “B” or a Class “C” beer permit has been issued pursuant to Iowa Code chapter 123 shall not relocate an amusement device registered as provided in this chapter to a location other

than the location of the device on the effective date of 2004 Iowa Acts, chapter 1118, April 28, 2004, and shall not transfer, assign, sell, or lease an amusement device as provided in this chapter to another person for which only a Class “B” or a Class “C” beer permit has been issued pursuant to Iowa Code chapter 123 after the effective date of 2004 Iowa Acts, chapter 1118, April 28, 2004.

EXAMPLE 1: An electrical and mechanical amusement device is registered with the department and is located at a convenience store that has a Class “C” beer permit.

1. If the amusement device needs to be repaired, the owner may repair it without losing the registration position or buying a new registration tag.

2. If the amusement device needs to be replaced because it is defective, it must be replaced with the same game in order to keep the registration position.

3. The amusement device cannot be moved from one location to another under a Class “B” or a Class “C” beer permit, even if the number of registered devices at a location does not change.

4. If a location with a Class “B” or a Class “C” beer permit had only one amusement device registered on April 28, 2004, the maximum number of devices allowed at that location shall be one.

105.2(4) On or after July 1, 2005, an owner of an electrical and mechanical amusement device located on a premises that does not have a Class “A,” Class “B,” Class “C,” or Class “D” liquor control license or a Class “B” or a Class “C” beer permit issued pursuant to Iowa Code chapter 123 shall not offer the amusement device for use by the public. However, the owner of an amusement device shall be permitted to sell the device to a distributor registered by the department or to a person authorized to offer the device to the public pursuant to Iowa Code section 99B.10(4) for which a Class “A,” Class “B,” Class “C,” or Class “D” liquor control license has been issued pursuant to Iowa Code chapter 123. The purchaser must obtain a new registration tag for the device by applying to the department for a registration availability. The purchaser may not place the device for use by the public until a registration tag is received for the device. The seller must notify the department within ten days of the change in ownership of the device and return the registration tag, if available, to the department.

105.2(5) By July 1, 2004, each electrical and mechanical amusement device at a location for which only a Class “B” or a Class “C” beer permit has been issued pursuant to Iowa Code chapter 123 shall include on the amusement device a security mechanism which prevents a person from operating the amusement device by not allowing the acceptance of money until the machine is activated by the owner or owner’s designee. A sign shall be posted stating that a person must be 21 years of age to operate the registered amusement device.

EXAMPLE 2: A patron in a convenience store tries to put money in an amusement device, but the amusement device will not take the money. The patron approaches the person working behind the counter, who then asks the patron for an ID. If the patron is 21 years of age or older, the amusement device is activated, thereby allowing the patron to play the amusement device. The owner or owner’s designee shall reactivate the security mechanism once the patron has finished playing the amusement device.

105.2(6) The registered amusement device shall be registered in accordance with these rules and shall comply with all of the requirements of Iowa Code section 99B.10 and rule 481—104.2(99B).

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105.2(7) The registered amusement device shall not be designed or adapted to facilitate gambling, nor shall the device be capable of playing poker, blackjack, or keno.

105.2(8) If the department, or the department's designee, determines that a registered amusement device is not in compliance with the requirements of this chapter or any other provision of Iowa law, the device may be subject to seizure, and any registration associated with the device, including the registration of the manufacturer, manufacturer's representative, or the distributor, may be revoked.

105.2(9) A person owning or leasing an electrical and mechanical amusement device shall not advertise or promote the availability of the amusement device to the public as anything other than an electrical and mechanical amusement device. Situations that constitute advertising and promoting include, but are not limited to, posted signs, newspaper/magazine advertisements, radio and television ads, word of mouth and Internet posting.

105.2(10) A person who is interested in being included on a waiting list for an amusement device registration position may obtain an application form by telephone at (515)242-5264. A registration position request shall be processed by the department in the same order in which the application is received. Each person shall have no more than one registration position request on the waiting list at one time. After receipt of an amusement device registration position from the waiting list, the person may make an additional request for a registration position. If the person does not pay the appropriate registration fees within ten calendar days of the notification of registration availability, the person shall forfeit the position to the next applicant on the waiting list, and the person's name shall be moved to the bottom of the waiting list.

105.2(11) A new amusement device registration shall only be allowed at a location that has a Class "A," Class "B," Class "C," or Class "D" liquor control license issued pursuant to Iowa Code chapter 123.

EXAMPLE 3: An amusement device is located in a bar that has the appropriate liquor license. On April 28, 2004, this location had only one amusement device. An additional amusement device may be added to this location.

1. If the amusement device needs to be repaired, it may be repaired without the loss of the device's registration position.

2. If the amusement device is defective and needs to be replaced, it can be replaced with the same game under the original registration without the incurring of additional charges.

3. If the amusement device is replaced with a new amusement device that has a different game, a new registration tag shall be purchased from the department.

105.2(12) If a person purchases an amusement device that is registered with the department, the registration tag, if available, must be removed from the purchased amusement device and returned to the department. The department shall be notified in writing within ten calendar days of the change in ownership of any amusement device. The purchased device shall be removed from the inventory of the original owner, thus creating a registration position on the waiting list. The purchaser must apply for a registration position on the waiting list for the device.

105.2(13) An amusement device that is registered with the department and located in a warehouse may be placed in a location that has a Class "A," Class "B," Class "C," or Class "D" liquor license issued pursuant to Iowa Code chapter 123. Such a device may also be used as a replacement device.

105.2(14) The registration application for all new amusement devices must be accompanied by the receipt, invoice, or bill of sale containing the seller's name, company name, and address and transaction date.

ITEM 6. Amend rule **481—105.3(99B)**, numbered paragraph "3," as follows:

3. Any registered amusement device that does not conform to the requirements in these rules or Iowa Code chapter 99B as amended by 2003 Iowa Acts, chapter 147.

ITEM 7. Rescind rule 481—105.5(99B) and adopt in lieu thereof the following **new** rule:

481—105.5(99B) Registration by a manufacturer, manufacturer's representative, distributor, or an owner that operates for profit. A person engaged in business in Iowa as a manufacturer, a manufacturer's representative, a distributor, or an owner that operates for profit shall be registered with the department prior to engaging in business in Iowa. A person shall register under each of the categories that apply to the business to be conducted in Iowa and shall pay the designated fee for each category of registration.

105.5(1) Each person that registers with the department shall pay an annual registration fee as follows:

a. For a manufacturer or manufacturer's representative, \$2,500, effective upon renewal.

b. For a distributor, \$5,000, effective upon renewal.

c. For an owner of no more than two electrical and mechanical amusement devices registered as provided in Iowa Code section 99B.10(4) at a single location or premises that is not an organization that meets the requirements of Iowa Code section 99B.7(1)"m," \$2,500. The registration fee shall be effective immediately.

105.5(2) Registration forms are available from the Department of Inspections and Appeals, Amusement Devices, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083, or by telephone at (515)242-5462.

105.5(3) If registration information changes, the person shall notify the department in writing of the changes within ten calendar days.

105.5(4) Registration fees are nonrefundable.

ITEM 8. Rescind rule 481—105.6(99B) and adopt in lieu thereof the following **new** rule:

481—105.6(99B) Registration of registered amusement devices. Each owner of an amusement device subject to registration by the department pursuant to Iowa Code section 99B.10(4) shall obtain a registration. A registration issued pursuant to Iowa Code chapter 99B is required to offer a registered amusement device for use.

105.6(1) Each owner of an amusement device subject to the registration requirements imposed by this chapter shall register the device before it is made available for operation.

105.6(2) In the event a registration position is not open, the distributor's or owner's name may be placed on the department's waiting list. The distributor or owner will be notified by the department when a position is available and the distributor's name or owner's name reaches the top of the waiting list. Upon the distributor's or owner's completion of the application form and payment of the required fee, the department shall issue a registration tag valid for one year from the date of issuance.

a. Application forms are available from the Department of Inspections and Appeals, Amusement Devices, Lucas State Office Building, 321 East 12th Street, Des Moines,

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Iowa 50319-0083. The application form shall contain all information required by the department.

b. Prior to placement of the amusement device for public use, the registration tag shall be prominently displayed on the front of the registered amusement device in such a manner as to be clearly visible to the general public.

c. Any changes to the information provided on the application, including but not limited to changes in ownership, registered amusement device location, and the cessation of business in this state, shall be reported to the department in writing or electronically within ten calendar days of the occurrence of any of the above events.

d. Registration fees are nonrefundable.

105.6(3) A registered amusement device must be obtained from a manufacturer, a manufacturer's representative or a distributor that is registered with the department pursuant to Iowa Code section 99B.10A. For new machines, proof of purchase, which includes the seller's name, company name, and address, must accompany the application for registration of the machine.

The owner of the registered amusement device shall exercise due diligence in ensuring that the amusement device is in compliance with these rules and all laws governing such devices. Upon request by the department or the department's designee, any manufacturer, manufacturer's representative or distributor registered with the department, or any owner of a registered device, shall permit the inspection of any amusement device and shall make available for inspection all records, documents, and agreements pertaining to the amusement device.

105.6(4) An organization that meets the requirements of Iowa Code section 99B.7(1)"m" shall not permit or offer for use more than four registered amusement devices at any single premises. All other persons shall not permit or offer for use more than two registered amusement devices at any single premises. The single premises where the registered amusement device(s) is located shall have a Class "A," Class "B," Class "C," or Class "D" liquor control license or a Class "B" or a Class "C" beer permit issued pursuant to Iowa Code chapter 123.

105.6(5) Each electrical and mechanical amusement device required to be registered pursuant to Iowa Code section 99B.10 shall, by January 1, 2006, include on the amusement device a counting mechanism.

a. The department of inspections and appeals and the department of public safety shall upon request have access to the information provided by the counting mechanism.

b. The counting mechanism shall be at least six digits in length and shall cumulatively count the total amounts inserted in the device during game play. If the mechanism being used tallies in dollars and cents, at least six digits must be used for the dollar amount. The counting mechanism must not be able to be reset.

c. The counting mechanism shall be equipped with a battery backup, or an equivalent, and shall be capable of accurately maintaining all required information for 30 days after power is discontinued from the device.

105.6(6) Each electrical and mechanical device required to be registered pursuant to Iowa Code section 99B.10 at a location for which only a Class "B" or a Class "C" beer permit has been issued pursuant to Iowa Code chapter 123 shall include on the device a security mechanism that prevents the device from being operated by a person until action is taken by the owner or owner's designee to allow the person to operate the device.

ITEM 9. Amend rule 481—105.7(99B), introductory paragraph, as follows:

481—105.7(99B) Violations. Failure to comply with the limitations imposed on the use and possession of registered amusement devices in Iowa Code chapter 99B as amended by 2003 Iowa Acts, chapter 147, may result in the following:

ITEM 10. Amend rule **481—105.7(99B)**, numbered paragraphs "6" and "8," as follows:

6. A registration may be revoked if the registrant or agent of the registrant violates or permits a violation of Iowa Code chapter 99B as amended by 2003 Iowa Acts, chapter 147.

8. A registration may be revoked if the registrant or an agent of the registrant engages in any act or omission that would have permitted the department to refuse to issue a registration under Iowa Code chapter 99B as amended by 2003 Iowa Acts, chapter 147.

ITEM 11. Amend rule **481—105.7(99B)** by adding the following **new** numbered paragraphs:

10. A person under the age of 21 shall not participate in the operation of an electrical and mechanical amusement device. A person who violates the provisions of Iowa Code section 99B.10C(1) commits a scheduled violation under Iowa Code section 805.8C(4).

11. A person owning or leasing an electrical and mechanical amusement device who knowingly allows a person under the age of 21 to participate in the operation of an electrical and mechanical amusement device or a person who knowingly participates in the operation of an electrical and mechanical amusement device with a person under the age of 21 is guilty of a simple misdemeanor.

ITEM 12. Amend 481—Chapter 105 by adding the following **new** rules:

481—105.9(10A,99B) Revocation of registration.

105.9(1) The department may revoke for cause any registration issued pursuant to Iowa Code chapter 99B following at least ten days' written notice and opportunity for an evidentiary hearing pursuant to rule 105.8(10A,99B).

105.9(2) If a person awards a cash prize in violation of Iowa Code chapter 99B, the department shall revoke a registration issued pursuant to Iowa Code chapter 99B for a period of ten years following at least ten days' written notice and opportunity for an evidentiary hearing pursuant to rule 105.8(10A,99B).

a. A person whose registration is revoked under the provisions of Iowa Code chapter 99B and for whom a Class "A," Class "B," Class "C," or Class "D" liquor control license has been issued pursuant to Iowa Code chapter 123 shall have the person's liquor control license suspended for a period of 14 days in the same manner as provided in Iowa Code section 123.50(3)"a."

b. A person whose registration is revoked under the provisions of Iowa Code chapter 99B and for whom only a Class "B" or a Class "C" beer permit has been issued pursuant to Iowa Code chapter 123 shall have the person's Class "B" or Class "C" beer permit suspended and that person's sales tax permit suspended for a period of 14 days in the same manner as provided in Iowa Code section 123.50(3)"a."

105.9(3) Any person under the age of 21 who operates an electrical and mechanical amusement device subject to registration by the department shall be fined \$250 pursuant to Iowa Code section 805.8C(4).

481—105.10(80GA,ch147) Reports. Each distributor, owner, or qualified organization that owns electrical and mechani-

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cal amusement devices shall semiannually submit a report of the volume of business activity for each device by location and a cumulative total for all locations.

105.10(1) The report forms are available from the Department of Inspections and Appeals, Amusement Devices, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083. The report form shall contain all information required by the department of inspections and appeals to accurately determine the volume of business activity for each device. Information collected by the department as part of the reporting process shall be considered confidential pursuant to 481—paragraph 5.13(1)“c.”

105.10(2) Distributors, owners, and qualified organizations may also complete the report form electronically at the following Web site: <https://www.egov.state.ia.us/gmms/>.

105.10(3) The reports ~~completed on forms provided by the department~~ are due 30 calendar days after the end of each reporting period. The end of the first reporting period shall be December 31, and the end of the second reporting period shall be June 30. When the due date falls on Saturday, Sunday or a legal holiday, the report is due on the next business day. Records pertaining to the volume of business of the amusement device shall be maintained for a period of five years and shall be made available upon request to representatives of the department or the department's designee.

ITEM 13. Amend the implementation clause at the end of **481—Chapter 105** as follows:

These rules are intended to implement Iowa Code chapter 99B and 2003 Iowa Acts, chapter 147 as amended by 2004 Iowa Acts, chapter 1118, and 2005 Iowa Acts, House File 646.

[Filed 7/12/05, effective 9/7/05]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4387B**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 41, “Licensure of Chiropractic Physicians,” Chapter 44, “Continuing Education for Chiropractic Physicians,” and Chapter 46, “Fees,” Iowa Administrative Code.

These amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add grounds for disciplinary action, and establish the fee for reactivation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 25, 2005, as **ARC 4176B**. A public hearing was held on June 14, 2005, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building.

Public comment received regarding Item 12 requested clarification about whether the continuing education obtained for the administrative rules and law class could be used in both the first and second renewal period. A comment

questioned whether independent study credits beyond the 24-hour maximum that were obtained prior to the effective date would be accepted. In regard to Item 16, the Iowa Chiropractic Society requested a statement to clarify that a class needs to be conducted in a manner that permits the instructor to have either in-person or live or real-time electronic interaction with class participants. Another comment suggested that the Iowa Society of Chiropractic Orthopedists be added to the list of providers in Item 18.

In response to public comments, in Item 12, the Board added a statement to subrule 44.2(3) to clarify that the hours for the two-hour administrative rules and law course could not be carried over to the second renewal period. Subrule 44.2(3) now reads as follows:

“**44.2(3)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses with the exception of two hours in the content areas of Iowa Administrative Code, 645—Chapters 40 through 46 and Iowa Code chapter 151. Continuing education hours acquired anytime from the initial licensing until the second license renewal with the exception of two hours in the content areas of Iowa Administrative Code, 645—Chapters 40 through 46 and Iowa Code chapter 151 may be used. The new licensee will be required to complete a minimum of 60 hours of continuing education per biennium for each subsequent license renewal.”

In Item 16 and Item 19, a statement was added to change the implementation to the next renewal cycle to provide sufficient time for licensees to comply. In Item 16, the Board also added a statement to clarify how an instructor may conduct a class. Subparagraph 44.3(2)“a”(1) and paragraph 44.3(2)“c” now read as follows:

“(1) At least 36 hours of continuing education credit obtained from a program that directly relates to clinical case management of chiropractic patients. Beginning with the July 1, 2006, to June 30, 2008, renewal cycle, these hours shall be earned by completing a program in which an instructor conducts the class in a manner that permits either in-person or live or real-time electronic interaction with the participants.”

“c. Beginning with the July 1, 2006, to June 30, 2008, renewal cycle, a maximum of 24 hours per biennium will be allowed for independent study.”

In Item 11, the definition of “PACE” has not been adopted in rule 645—44.1(151), and in Item 18, the reference to PACE has not been adopted in subparagraph 44.3(2)“b”(4). In addition, in Item 18, the Board has added a cross reference to rule 645—44.3(151,272C) in subparagraphs 44.3(2)“b”(3) and (4) to clarify that, just as other providers, the Iowa Society of Chiropractic Orthopedists may provide courses that comply with the criteria in rule 645—44.3(151,272C). Subparagraphs 44.3(2)“b”(3) and (4) now read as follows:

“(3) A licensee who is a presenter of a continuing education program that meets criteria in 645—44.3(151,272C) may receive credit on a one-time basis for the initial presentation of the program.

“(4) Completing continuing education that meets criteria in 645—44.3(151,272C) or a program provided by a CCE-accredited chiropractic college in the United States, the Iowa Chiropractic Society, American Chiropractic Association or International Chiropractic Association.”

The amendments were adopted by the Board of Chiropractic Examiners on July 13, 2005.

These amendments will become effective September 7, 2005.

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These amendments are intended to implement Iowa Code chapters 21, 147, 151 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 [amendments to Chs 41, 44, 46] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 4176B**, IAB 5/25/05.

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ARC 4388B**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 41, "Licensure of Chiropractic Physicians," Chapter 44, "Continuing Education for Chiropractic Physicians," and Chapter 45, "Discipline for Chiropractic Physicians," Iowa Administrative Code.

The amendments remove reference to the form in which payment is to be made, remove language in subrule 44.2(2) that is no longer applicable, add a new subrule that provides the Board the ability to discipline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee, and modify the cause for discipline statement regarding advertisements.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 25, 2005, as **ARC 4175B**. A public hearing was held on June 14, 2005, from 10 to 11 a.m. in the Fifth Floor Board Conference Room. No public comment was received. These amendments are identical to those published under Notice of Intended Action.

The amendments were adopted by the Board of Chiropractic Examiners on July 13, 2005.

These amendments will become effective September 7, 2005.

These amendments are intended to implement Iowa Code chapters 21, 147, 151 and 272C.

The following amendments are adopted.

ITEM 1. Amend subrule **41.2(1)**, paragraph "c," as follows:

c. An applicant shall submit the appropriate fee payable by check or money order to the Iowa Board of Chiropractic Examiners. The fee is nonrefundable.

ITEM 2. Rescind and reserve subrule **44.2(2)**.

ITEM 3. Amend subparagraph **44.3(2)"a"(4)** as follows:

(4) Classes on child abuse, dependent adult abuse, and OSHA training that meet the criteria in subrule 44.3(1). ~~These classes are approved by the board and do not require prior approval or postapproval.~~

ITEM 4. Amend subrule 45.2(5) as follows:

45.2(5) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation *or representations that are likely to cause the average person to misunderstand.*

ITEM 5. Adopt **new** subrule 45.2(30) as follows:

45.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

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ARC 4369B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Optometry Examiners adopts amendments to Chapter 180, "Licensure of Optometrists," Chapter 181, "Continuing Education for Optometrists," and Chapter 184, "Fees," Iowa Administrative Code.

These amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add the grounds for disciplinary action, and establish the fee for reactivation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 2005, as **ARC 4141B**. A public hearing was held on June 2, 2005, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received.

The amendments were adopted by the Board of Optometry Examiners on July 7, 2005.

These amendments will become effective September 7, 2005.

These amendments are intended to implement Iowa Code chapters 21, 147, 154 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 [amendments to Chs 180, 181, 184] is being omitted. These amendments are identical to those published under Notice as **ARC 4141B**, IAB 5/11/05.

[Filed 7/8/05, effective 9/7/05]
[Published 8/3/05]

[For replacement pages for IAC, see IAC Supplement 8/3/05.]

ARC 4375B
PROFESSIONAL LICENSURE
DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Optometry Examiners adopts amendments to Chapter 180, "Licensure of Optometrists," Chapter 181, "Continuing Education for Optometrists," and Chapter 183, "Discipline for Optometrists," Iowa Administrative Code.

The amendments remove references to continuing education sponsors, remove the requirement to submit a notarized copy of the diploma and the reference to the form in which a payment is to be made, and add a new subrule that provides the Board the ability to discipline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 2005, as **ARC 4140B**. A public hearing was held on June 2, 2005, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. These amendments are identical to those published under Notice.

The amendments were adopted by the Board of Optometry Examiners on July 7, 2005.

These amendments will become effective September 7, 2005.

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

The following amendments are adopted.

ITEM 1. Amend subrule **180.2(1)**, paragraph "c," as follows:

c. An applicant shall submit the appropriate fees payable ~~by check or money order~~ to the Board of Optometry Examiners. The fees are nonrefundable.

ITEM 2. Amend subrule **180.3(3)**, paragraph "a," as follows:

a. The applicant shall provide ~~a notarized copy of the diploma, no larger than 8½" x 11"~~, along with an official copy of the transcript sent directly from the school to the board of office. The transcript shall show a doctor of optometry degree from an accredited school. In the case of foreign graduates, applicants shall provide evidence of adherence to the current requirements of the NBEO to sit for the examination;

ITEM 3. Amend subrule **181.3(2)**, paragraph "a," subparagraph (1), as follows:

(1) The continuing education programs of the Iowa Optometric Association, the American Optometric Association, the American Academy of Optometry, and national regional optometric congresses, schools of optometry, and all state optometric associations, ~~and The the~~ department of ophthalmology of the school of medicine of the University of Iowa ~~shall be one of the approved providers of continuing education for Iowa optometrists;~~

ITEM 4. Amend subrule **181.3(2)**, paragraph "b," subparagraphs (1) and (7), as follows:

(1) Twelve hours of credit for local study group programs ~~that have prior approval or an approved sponsorship meet the criteria.~~

(7) Twenty hours of credit in the treatment and management of ocular disease from ~~the University of Iowa an~~ *accredited school of optometry.*

ITEM 5. Adopt **new** subrule 183.2(30) as follows:
183.2(30) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

[Filed 7/8/05, effective 9/7/05]

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ARC 4378B

PROFESSIONAL LICENSURE
DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Podiatry Examiners adopts amendments to Chapter 220, "Licensure of Podiatrists," Chapter 222, "Continuing Education for Podiatrists," and Chapter 225, "Fees," Iowa Administrative Code.

These amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add the grounds for disciplinary action, and establish the fee for reactivation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 2005, as **ARC 4145B**. A public hearing was held on June 2, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. These amendments are identical to those published under Notice.

The amendments were adopted by the Board of Podiatry Examiners on July 8, 2005.

These amendments will become effective September 7, 2005.

These amendments are intended to implement Iowa Code chapters 21, 147, 149 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 [amendments to Chs 220, 222; 225.1(4) to 225.1(6)] is being omitted. These amendments are identical to those published under Notice as **ARC 4145B**, IAB 5/11/05.

[Filed 7/12/05, effective 9/7/05]

[Published 8/3/05]

[For replacement pages for IAC, see IAC Supplement 8/3/05.]

ARC 4379B

PROFESSIONAL LICENSURE
DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Podiatry Examiners adopts amendments to Chapter 220, "Licensure of Podiatrists," Chapter 222, "Continuing

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Education for Podiatrists,” and Chapter 224, “Discipline for Podiatrists,” Iowa Administrative Code.

These amendments adopt changes to the licensure chapter that remove references to the requirement that diplomas be submitted; provide that applicants may request that the board retain an incomplete application; add language to clarify which tests are required; remove the payment mechanism; and add new subrule 224.2(31) to provide the Board the ability to discipline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 2005, as **ARC 4146B**. A public hearing was held on June 2, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. These amendments are identical to those published under Notice.

The amendments were adopted by the Board of Podiatry Examiners on July 8, 2005.

These amendments will become effective September 7, 2005.

These amendments are intended to implement Iowa Code chapters 21, 147, 149 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 [220.2, 220.3, 220.6, 220.7, 222.3(2), 224.2(31)] is being omitted. These amendments are identical to those published under Notice as **ARC 4146B**, IAB 5/11/05.

[Filed 7/12/05, effective 9/7/05]
[Published 8/3/05]

[For replacement pages for IAC, see IAC Supplement 8/3/05.]

ARC 4394B**PUBLIC HEALTH
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 139A.8(8), the Department of Public Health hereby amends Chapter 7, “Immunization of Persons Attending Elementary or Secondary Schools or Licensed Child Care Centers,” Iowa Administrative Code.

The rules in Chapter 7 describe immunization requirements for attendance at elementary or secondary schools or licensed child care centers.

These amendments add definitions for “competent private instruction,” “electronic signature,” “institution of higher education,” “nurse,” “on-campus residence hall or dormitory,” “postsecondary school,” “postsecondary student,” and “signature”; change the definition of “licensed child care”; and delete the definition of “public health nurse.” The amendments delete language concerning the use of a medical waiver and specify how the medical exemption can be used. The immunization requirements are updated to more accurately reflect the recommendations of the Advisory Committee on Immunization Practices (ACIP). Guidelines are provided to institutions of higher education about informing their postsecondary students of the risk of meningococcal disease and about reporting data to the Department. The amendments also allow a faxed copy or photocopy of the immunization certificate, delete language concerning the

source of immunizations as a requirement on the certificate, increase from 30 days to 60 days the amount of time a local board of health has to report the audit data, update the provisional enrollment language and update the language on registry usage.

The Department expects complete compliance with subrule 7.4(1) for licensed child care centers by January 1, 2006. Complete compliance with subrule 7.4(1) for elementary and secondary schools is expected on the effective date of September 7, 2005. The Department expects complete compliance with subrule 7.8(4) for postsecondary schools by December 1, 2006.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 25, 2005, as **ARC 4194B**.

A public hearing was held on Tuesday, June 14, 2005. Fourteen individuals attended the hearing. Of those, ten voiced their support for allowing certified medical assistants to sign Certificates of Immunization; one person representing parents expressed support for the four-day grace period and asked the Department to consider a parental exemption; one person asked that the meningococcal language be clarified; one person who asked the Department to consider increasing the time allowed for provisional enrollment and to allow a transfer student to be provisionally enrolled also made note that the Department of Education’s costs were not included in the fiscal note; and one individual voiced support for allowing a faxed copy or photocopy of the Certificate of Immunization.

The Department received 208 letters in support of and 8 letters in opposition to allowing certified medical assistants to sign Certificates of Immunization. The Department received an additional 6 letters that expressed opposition to allowing a certified medical assistant or a medical assistant to sign a Certificate of Immunization, including a letter from the Iowa Nurses’ Association and from the Iowa Osteopathic Medical Association. In addition, the Department received 25 letters whose comments: opposed the proposed 45 days allowed for provisional enrollment; asked that children already enrolled in school be grandfathered in for the fourth dose of DTaP; requested that the source of immunization not be deleted as a requirement; requested that language of the Advisory Committee on Immunization Practices regarding minimum age and vaccination intervals be added; and requested that a provision be included to allow provisional enrollment of transfer students. Comments included in the letters also concerned the McKinney-Vento Homeless Assistance Act; clarification questions; disagreement on allowing the four-day grace period; requests that meningococcal education be provided to and meningococcal data be collected from dormitory or residence hall students only; and requests from colleges and universities for an extended compliance date. In addition to one letter which stated that the amendments to Chapter 7 are positive overall, the letters also showed support for the following: allowing faxed copies, photocopies and electronic copies of Certificates of Immunization; the definitions of “competent private instruction” and “electronic signature”; the elimination of the source of immunization; the four-day grace period; the 45 days for provisional enrollment; changing the Board of Health audit report time from 30 days to 60 days; and deletion of language allowing provisional enrollment for transfer students.

The following changes have been made as a result of these comments:

A definition of “certified medical assistant” and language allowing a certified medical assistant to sign the Certificate of Immunization have been added. The time allowed for provisional enrollment has been changed to 60 days. Language

PUBLIC HEALTH DEPARTMENT[641](cont'd)

has been added to allow a transfer student from one U.S. school to another to be provisionally enrolled. A new subrule has been added to require that the minimum age and intervals for vaccine administration recommended by the Advisory Committee on Immunization Practices be followed, and wording has been changed so that, for elementary and secondary students who are enrolled or attempting to enroll, the fourth dose of DTaP is required only for those applicants born on or after September 15, 2001.

The State Board of Health adopted these amendments on July 13, 2005.

These amendments will become effective September 7, 2005.

These amendments are intended to implement Iowa Code sections 139A.8 and 139A.26.

The following amendments are adopted.

ITEM 1. Amend **641—Chapter 7**, title, as follows:

CHAPTER 7

IMMUNIZATION AND IMMUNIZATION EDUCATION:
OF PERSONS ATTENDING ELEMENTARY OR
SECONDARY SCHOOLS OR,
LICENSED CHILD CARE CENTERS OR
INSTITUTIONS OF HIGHER EDUCATION

ITEM 2. Amend rule **641—7.1(139A)** as follows:

Amend the following definitions:

“Licensed child care center” means a facility *or program* licensed by the Iowa department of human services to provide child day care for seven or more children or a prekindergarten or preschool, ~~learning center regardless of the source of funding, operated by a local school districts district, an accredited nonpublic school, an area educational agencies education agency, or a colleges college or universities uni-~~ *versity.*

“Provisional enrollment” means enrollment for a period of time not to exceed the limit specified in subrule ~~7.6(2)~~ *7.7(2)* to allow the applicant to meet the requirements of these rules. A provisionally enrolled applicant is entitled to access to all the benefits, activities, and opportunities of the school or *licensed* child care center. Provisional enrollment shall not deny the school funding for the applicant.

Rescind the definition of “public health nurse.”

Adopt the following **new** definitions in alphabetical sequence:

“Certified medical assistant” means a person certified to practice as a certified medical assistant following completion of a postsecondary medical assistant program accredited by the Commission on Accreditation of Allied Health Education Programs or the Accrediting Bureau of Health Education Schools and successful completion of the certification examination.

“Competent private instruction” means private instruction as defined by the department of education pursuant to Iowa Code section 299A.1.

“Electronic signature” means a confidential personalized digital key, code, or number that is used for secure electronic data transmission and that identifies and authenticates the signatory.

“Institution of higher education” means a postsecondary school.

“Nurse” means a person licensed to practice as a nurse pursuant to Iowa Code chapter 152.

“On-campus residence hall or dormitory” means campus housing for students that is owned or leased by the institution of higher education and located on a recognized campus site.

“Postsecondary school” means a postsecondary institution under the control of the state board of regents, a community college established under Iowa Code chapter 260C, or an accredited private institution as defined in Iowa Code section 261.9, subsection 1.

“Postsecondary student” means a person who has officially registered with a postsecondary school, as determined by the school, and who physically attends class on the school’s campus. For purposes of these rules, “postsecondary student” does not include a person who is exclusively registered in a correspondence course or continuing education class or who attends class exclusively by means of the Internet or the Iowa communications network or through other means which do not require the person’s physical presence on the school’s campus.

“Signature” means an original signature, or authorized use of stamped signature, or electronic signature of a physician, physician assistant, or nurse.

ITEM 3. Amend rule **641—7.2(139A)** as follows:

641—7.2(139A) Persons included. The immunization requirements specified elsewhere in these rules apply to all persons enrolled or attempting to enroll in a licensed child care center or a public or nonpublic elementary or secondary school in Iowa *including those who are provided competent private instruction.*

ITEM 4. Amend subrule 7.3(1) as follows:

7.3(1) A medical exemption may be granted to an applicant when, in the opinion of a physician, nurse practitioner, or physician assistant, the required immunizations would be injurious to the health and well-being of the applicant or any member of the applicant’s family or household. A medical exemption may apply to *a specific vaccine(s) or all the required immunizations.* ~~A waiver to a specific vaccine due to an age restriction or medical contraindication shall be indicated on the certificate of immunization.~~ A certificate of immunization exemption for medical reasons is valid only when signed by a physician, nurse practitioner, or physician assistant. If, in the opinion of the physician, nurse practitioner, or physician assistant issuing the medical exemption, the exemption should be terminated or reviewed at a future date, an expiration date shall be recorded on the certificate of immunization exemption.

ITEM 5. Rescind rule **641—7.4(139A,75GA,ch1068)** and adopt the following **new** rule in lieu thereof:

641—7.4(139A) Required immunizations.

7.4(1) Applicants enrolled or attempting to enroll shall have received the following vaccines in accordance with the doses and age requirements listed below:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

IMMUNIZATION REQUIREMENTS

Institution	Age	Vaccine	Total Doses Required
Licensed child care center	< 2 months	None	
	2 through 5 months	Diphtheria/Tetanus/Pertussis ¹ Polio Haemophilus influenzae type B	1 dose 1 dose 1 dose
	6 through 14 months	Diphtheria/Tetanus/Pertussis ¹ Polio Haemophilus influenzae type B	2 doses 2 doses 2 doses
	15 through 18 months	Diphtheria/Tetanus/Pertussis ¹ Polio Haemophilus influenzae type B Measles/Rubella ²	3 doses 3 doses 3 doses, with the final dose in the series received when the applicant is ≥ 12 months of age; or 1 dose received when the applicant is ≥ 15 months of age. 1 dose of measles/rubella-containing vaccine received after the applicant was at least 12 months of age; or the applicant demonstrates a positive antibody test for measles and rubella.
	19 months and older	Diphtheria/Tetanus/Pertussis ¹ Polio Haemophilus influenzae type B Measles/Rubella ² Varicella	3 doses 3 doses 3 doses, with the final dose in the series received when the applicant is ≥ 12 months of age; or 1 dose received when the applicant is ≥ 15 months of age. 1 dose of measles/rubella-containing vaccine received after the applicant was at least 12 months of age; or the applicant demonstrates a positive antibody test for measles and rubella. 1 dose if the applicant was born on or after September 15, 1997, unless the applicant has had a reliable history of natural disease. This dose shall have been received after the applicant was at least 12 months of age.
Elementary school/ secondary school	4 years of age and older	Diphtheria/Tetanus/Pertussis ^{1,3} Polio Measles/Rubella ² Hepatitis B Varicella	3 doses, with at least 1 dose of diphtheria/tetanus/pertussis containing vaccine received after the applicant's fourth birthday if the applicant was born before September 15, 2001; or 4 doses, with at least 1 dose of diphtheria/tetanus/pertussis-containing vaccine received after the applicant's fourth birthday if the applicant was born on or after September 15, 2001. Applicants ≥ 7 years of age are exempt from receiving further doses of pertussis-containing vaccine; therefore, tetanus and diphtheria-containing vaccine should be used. 3 doses, with at least 1 dose on or after the applicant's fourth birthday. 2 doses of measles/rubella-containing vaccine; or the applicant demonstrates a positive antibody test for measles and rubella. The first dose shall have been received on or after the applicant's first birthday; the second dose shall have been received no less than 28 days after the first dose. 3 doses if the applicant was born on or after July 1, 1994. 1 dose if the applicant was born on or after September 15, 1997, unless the applicant has had a reliable history of natural disease. This dose shall have been received after the applicant was at least 12 months of age.

¹ Pediatric diphtheria and tetanus vaccine may be substituted for the pertussis-containing vaccine, without a medical exemption, when pertussis vaccine is contraindicated for the child < 7 years of age.

² Mumps vaccine may be included in measles/rubella-containing vaccine.

³ If a child received the first dose of tetanus/diphtheria-containing product when the child was < 12 months of age, 4 doses are required, with 1 dose on or after the child's fourth birthday. If a child received the first dose of tetanus/diphtheria-containing product when the child was ≥ 12 months of age, 3 doses are required, with 1 dose on or after the child's fourth birthday.

7.4(2) Vaccine doses administered ≤ 4 days before the minimum interval or age shall be counted as valid. Doses administered ≥ 5 days earlier than the minimum interval or

age shall not be counted as valid doses and shall be repeated as age-appropriate.

7.4(3) For vaccine administration, the minimum age and

PUBLIC HEALTH DEPARTMENT[641](cont'd)

intervals recommended by the advisory committee on immunization practices shall be followed.

ITEM 6. Adopt **new** rule 641—7.5(139A) as follows and renumber current rules **641—7.5(139A)** through **641—7.11(22)** as **641—7.6(139A)** through **641—7.12(22)**:

641—7.5(139A) Required education. Each institution of higher education that has an on-campus residence hall or dormitory shall provide vaccination information on meningococcal disease to each postsecondary student enrolled in the institution of higher education. Meningococcal disease information shall be contained on student health forms. For purposes of this rule, student health form(s) means a document(s) prepared by an institution of higher education that contains, at a minimum, information on meningococcal disease, vaccination information and any recommendations issued by the national Centers for Disease Control and Prevention regarding meningococcal disease. The student health form(s) shall also include space for the postsecondary student to indicate whether or not the postsecondary student has received vaccination against meningococcal disease, including, at a minimum, the date of vaccination. The student health form(s) shall also include space for the postsecondary student to indicate whether or not the postsecondary student has received information on meningococcal disease and benefits of vaccine. If a traditional student health form is not utilized by the institution of higher education, any document(s) containing the above information is acceptable.

ITEM 7. Amend renumbered rule 641—7.6(139A) as follows:

641—7.6(139A) Proof of immunization.

7.6(1) Applicants, or their parents or guardians, shall submit a valid Iowa department of public health certificate of immunization to the admitting official of the school or licensed child care center in which the applicant wishes to enroll. To be valid, the certificate shall be the certificate of immunization issued and provided by the department, a computer-generated copy from the immunization registry, or a certificate of immunization which has been approved in writing by the department and shall be signed by a physician, a physician assistant, a nurse ~~in an attending physician's office, a nurse practitioner, a county public health nurse, a school nurse, or an official of a local health department~~, or a certified medical assistant directed to sign by a supervising physician, physician assistant, or nurse practitioner. A faxed copy, photocopy, or electronic copy of the valid certificate is acceptable. The judgment of the adequacy of the applicant's immunization history should be based on records kept by the person signing the certificate of immunization or personal knowledge of the applicant's immunization history, or comparable immunization records from another person or agency, or an international certificate of vaccination, or the applicant's personal health records. If personal health records are used to make the judgment, the records shall provide the ~~types of immunizations received, vaccine(s) administered and the dates, and the sources of the immunizations date given.~~ Persons validating the ~~certificates~~ certificate of immunization are not held responsible for the accuracy of the information used to validate the ~~certificates~~ certificate of immunization if the information is from sources other than their own records or personal knowledge.

7.6(2) Persons wishing to enroll who do not have a valid Iowa department of public health certificate of immunization available to submit to the admitting official shall be referred to a physician, a physician assistant, a nurse ~~in an attending~~

~~physician's office, a nurse practitioner, a county public health nurse, a school nurse, or an official of a local health department~~, or a certified medical assistant directed by a supervising physician, physician assistant, or nurse practitioner to obtain a valid certificate.

ITEM 8. Amend renumbered rule 641—7.7(139A) as follows:

641—7.7(139A) Provisional enrollment.

7.7(1) Applicants who have begun but not completed the required immunizations may be granted provisional enrollment. To qualify for provisional enrollment, applicants shall have received at least one dose of each of the required vaccines or be a transfer student from another school system. A transfer student is an applicant seeking enrollment from one United States elementary or secondary school into another. Applicants shall submit a valid Iowa department of public health provisional certificate of immunization to the admitting official of the school or licensed child care center in which the applicant wishes to be provisionally enrolled. To be valid, the provisional certificate shall be signed by a physician, a physician assistant, a nurse ~~in an attending physician's office, a nurse practitioner, a county public health nurse, a school nurse, or an official of a local health department~~, or a certified medical assistant directed to sign by a supervising physician, physician assistant, or nurse practitioner. Persons validating the provisional ~~certificates~~ certificate of immunization are not held responsible for the accuracy of the information used to validate the provisional certificate of immunization if the information is from sources other than their own records or personal knowledge.

a. Any person wishing to be provisionally enrolled who does not have a valid Iowa department of public health provisional certificate of immunization to submit to the admitting official shall be referred to a physician, a physician assistant, a nurse ~~in an attending physician's office, a nurse practitioner, a county public health nurse, a school nurse, or an official of a local health department~~, or a certified medical assistant directed by a supervising physician, physician assistant, or nurse practitioner to obtain a valid certificate.

b. Reserved.

7.7(2) The amount of time allowed for provisional enrollment shall ~~be as soon as medically feasible but shall not exceed 120 60 calendar days or the remainder of the semester in which the applicant is currently provisionally enrolled, whichever is greater.~~ The period of provisional enrollment shall begin on the date the provisional certificate is signed. The person signing the provisional certificate shall assign an expiration date to the certificate and shall indicate the remaining immunizations, ~~if any,~~ required to qualify for a certificate of immunization.

7.7(3) No change.

7.7(4) If the applicant has not submitted a certificate of immunization by ~~30 10~~ calendar days prior to the expiration of the provisional enrollment, the admitting official shall notify the applicant, or if the applicant is a minor, the minor's parents or guardian, in writing of the impending expiration of provisional enrollment and invite the applicant and parents or guardian for a conference to discuss the rules regarding provisional enrollment.

7.7(5) If at the end of the provisional enrollment period the applicant or parent or guardian has not submitted a certificate of immunization, the admitting official shall immediately exclude the applicant from the ~~total~~ benefits, activities, and opportunities of the school ~~program~~ or licensed child care

PUBLIC HEALTH DEPARTMENT[641](cont'd)

center until the applicant or parent or guardian submits a valid certificate of immunization.

7.7(6) If at the end of the provisional enrollment period the applicant has not completed the required immunizations due to minimum interval requirements, the provisional enrollment may be extended if the applicant or parent or guardian submits another Iowa department of public health provisional certificate of immunization accompanied by a statement from a doctor that the necessary immunization(s) could not be given due to the applicant's medical status during the provisional enrollment period.

ITEM 9. Amend renumbered subrule 7.8(1) as follows:

7.8(1) It shall be the duty of the admitting official of a licensed child care center or elementary or secondary school to ensure that the admitting official has a valid Iowa department of public health certificate of immunization, certificate of immunization exemption, or provisional certificate of immunization on file for each child enrolled. The admitting official shall ensure that the certificate be properly completed and include dates of immunization, sources of immunization, at a minimum, last name, first name, date of birth, vaccine(s) administered, date(s) given, and validation by the appropriate party.

a. and b. No change.

ITEM 10. Amend renumbered subrule **7.8(2)** by striking "30 days" and inserting in lieu thereof "60 days".

ITEM 11. Amend renumbered rule 641—7.8(139A) by adopting the following new subrule:

7.8(4) The admitting official of an institution of higher education shall provide to the department of education by December 1 each year aggregate data regarding compliance with Iowa Code section 139A.26. The data shall be forwarded to the department within 30 days. The data shall include, but not be limited to, the total number of incoming postsecondary freshmen students living in a residence hall or dormitory who have:

- a. Enrolled in the institution of higher education; and
- b. Been provided information on meningococcal disease; and
- c. Been immunized with meningococcal vaccine.

ITEM 12. Amend renumbered subrule 7.11(1) as follows:

7.11(1) ~~Iowa's immunization registry.~~ The department shall maintain a statewide immunization registry. Enrolled users are responsible for purchasing and maintaining all computer hardware related to use of the registry and for providing an Internet connection to transfer information between the user's computer and the registry.

ITEM 13. Amend renumbered subrule **7.11(4)**, paragraph "a," by adopting new subparagraphs (4) and (5) as follows:

(4) Agencies that complete an agreement with the department which specifies conditions for access to registry data and how that data will be used. Agencies shall not use information obtained from the registry to market services to patients or nonpatients, to assist in bill collection services, or to locate or identify patients or nonpatients for any purposes other than those expressly provided in this rule.

(5) A representative of a state or federal agency, or entity bound by that state or federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state or federal agency is subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa. State or federal agencies shall not use information obtained

from the registry to market services to patients or nonpatients, to assist in bill collection services, or to locate or identify patients or nonpatients for any purposes other than those expressly provided in this rule.

ITEM 14. Amend renumbered rule 641—7.12(22) as follows:

641—7.12(22) Release of immunization information.

7.12(1) Between a physician, a physician assistant, a nurse in an attending physician's office, a nurse practitioner, or a county public health nurse, or a certified medical assistant directed by a supervising physician, physician assistant, or nurse practitioner and the elementary or secondary school or licensed child care center that the child attends. A physician, a physician assistant, a nurse in an attending physician's office, a nurse practitioner, or a county public health nurse, or a certified medical assistant directed by a supervising physician, physician assistant, or nurse practitioner shall disclose a student's immunization information, including the student's name, date of birth, and demographic information, the day, month, day, year and name of vaccine vaccine(s) administered, and clinic source and location, to an elementary or secondary school or a licensed child care center upon written or verbal request from the elementary or secondary school or licensed child care center. Written or verbal permission from a student or parent is not required to release this information to an elementary or secondary school or licensed child care center.

7.12(2) Among physicians, physician assistants, nurses in an attending physician's office, a nurse practitioner, or a county public health nurse, or certified medical assistants directed by a supervising physician, physician assistant, or nurse practitioner. Immunization information, including the student's name, date of birth, and demographic information, the day, month, day, year and name of vaccine vaccine(s) administered, and clinic source and location, shall be provided by one physician, physician assistant, nurse in an attending physician's office, nurse practitioner, or county public health nurse, or a certified medical assistant directed by a supervising physician, physician assistant, or nurse practitioner to another health care provider without written or verbal permission from the student or the parent.

[Filed 7/15/05, effective 9/7/05]

[Published 8/3/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/3/05.

ARC 4383B

**PUBLIC HEALTH
DEPARTMENT[641]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 73, "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)," Iowa Administrative Code.

These amendments update the language and definitions for consistency with the federal guidelines for the Special Supplemental Nutrition Program for Women, Infants, and Children, and implement a new WIC data system by September 2005.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Notice of Intended Action was published in the June 8, 2005, Iowa Administrative Bulletin as **ARC 4208B**. No public comment was received. These amendments are identical to those published under Notice of Intended Action.

The State Board of Health adopted these amendments on July 13, 2005.

These amendments will become effective September 7, 2005.

These amendments are intended to implement Iowa Code section 135.11.

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 [73.5, 73.7(3), 73.8(3) to 73.8(5), 73.13, 73.19(1), 73.19(2)] is being omitted. These amendments are identical to those published under Notice as **ARC 4208B**, IAB 6/8/05.

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[For replacement pages for IAC, see IAC Supplement 8/3/05.]



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

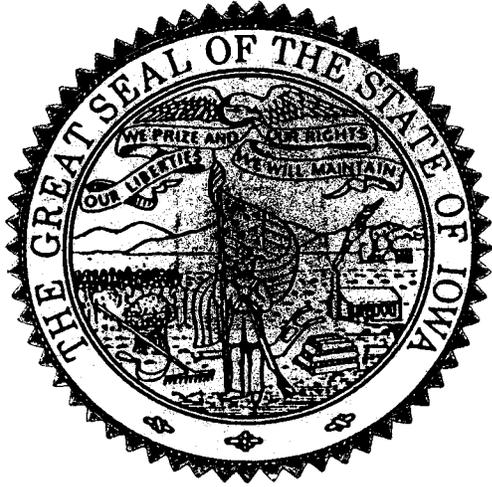
*** EXECUTIVE ORDER NUMBER FORTY-TWO**

- WHEREAS,** the right to vote is the foundation of a representative government; and
- WHEREAS,** under the Constitution of the State of Iowa, an individual convicted of a felony or aggravated misdemeanor is denied the right to vote, a disability which may continue long after a sentence has been fully served; and
- WHEREAS,** tens of thousands of Iowans who are living, working, and paying taxes in the state are denied the right to vote as a result of a prior conviction; and
- WHEREAS,** disenfranchisement of offenders has a disproportionate racial impact thereby diminishing the representation of minority populations; and
- WHEREAS,** research indicates ex-offenders that vote are less likely to re-offend; and
- WHEREAS,** restoration of the right to vote is an important aspect of reintegrating offenders in society to become law-abiding and productive citizens; and
- WHEREAS,** Iowa is one of only five states that does not currently provide an automatic process for restoring voting rights for offenders upon discharge of their sentences; and
- WHEREAS,** the current means by which offenders seek to have their rights restored is unnecessarily time consuming and not used by all offenders that are eligible; and
- WHEREAS,** Article IV, section 16 of the Constitution of the State of Iowa authorizes the Governor of Iowa to restore the rights of citizenship that were forfeited by reason of conviction.

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 and direct as follows:

- I. The rights of citizenship, including that of voting and qualification to hold public office, which were forfeited by reason of conviction shall be restored for all offenders that are completely discharged from criminal sentence, including any accompanying term of probation, parole, or supervised release, as of July 4, 2005, but have not made an application pursuant to Iowa Code Chapter 914. This executive order shall serve as evidence of restoration of citizenship rights for such individuals.
- II. From this date forward, offenders that wholly discharge their criminal sentence, including any accompanying term of probation, parole, or supervised release, will be given consideration for a restoration of citizenship rights without undue delay. Beginning August 1, 2005, the Director of the Department of Corrections shall submit monthly a record of offenders meeting this criterion to the Governor's Office. The list of eligible offenders, along with any recommendations made pursuant to Iowa Code section 907.9(4), will be reviewed forthwith to determine whether restoration of citizenship rights is warranted.
- III. Notwithstanding this executive order, offenders still may make application for a restoration of citizenship rights pursuant to Iowa Code Chapter 914. All applications, unless withdrawn, will be processed according to the procedures set forth in Chapter 914 of the Code of Iowa.
- IV. This executive order, and all future restorations of citizenship rights, shall not include rights with respect to the receipt, transportation, or possession of firearms as provided by federal law or Chapter 724, Weapons, of the Code of Iowa, nor shall it relieve an offender of any unpaid restitution, fine, or other financial obligation resulting from a conviction.
- V. This executive order, and all future restorations of citizenship rights, shall not be construed as a pardon or as a remission of guilt or forgiveness of the offense and shall not operate as a bar to greater penalties for second offenses or a subsequent

Nothing in this executive order shall be construed to contravene any applicable state or federal law.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 4th day of July, in the year of our Lord two thousand five.



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 FORTY-THREE**

WHEREAS, the State of Iowa's Medicaid Home and Community Based Waiver programs provide assistive services to Iowa residents who would not otherwise be able to remain in their homes as a result of a disability caused by an accident, prolonged illness, or advanced age; and

WHEREAS, the State of Iowa's Medicaid Home and Community Based Waiver programs allow individual consumers to choose consumer-directed attendant care (CDAC), and this option lets an individual consumer obtain the personal assistance services that he or she needs either through an agency or directly from an individual provider; and

WHEREAS, CDAC enables the elderly and the disabled to have a voice over the services they receive, and thus is key to independent living; and

WHEREAS, the Iowa Department of Human Services is establishing a new program, to be called Developing Choices – Empowering Iowans, that will enable more people with disabilities and seniors who receive Medicaid services at home to select their own caregivers and remain independent as long as possible; and

WHEREAS, an individual provider in the CDAC program is in a special employment arrangement. The consumer selects, directs, and may terminate the individual provider. The State of Iowa approves the hire of, determines the method and level of reimbursement, and may terminate the contract of the individual provider; and

WHEREAS, an individual provider in the Developing Choices – Empowering Iowans program will also be in a special employment relationship in which the consumer will recruit and select their support service worker(s), as well as provide training and direction on a day-to-day basis, and will be able to dismiss their worker(s), while a fiscal management service selected by the

Iowa Department of Human Services will receive public funds on behalf of the consumer and will perform the payroll function for the consumer as an employer agent responsible for withholding, filing and paying of federal and state employment taxes and income taxes; and

WHEREAS, it is essential to maintain consumer control over the selection, direction of service activities, and termination of individual providers and, simultaneously, to preserve the State's ability to ensure efficient and effective delivery of personal assistance services, to terminate providers and to control the economic terms of the individual providers' employment under the Waiver programs; and

WHEREAS, individual CDAC consumers do not control the economic terms of individual providers' employment under the Waiver programs, and individuals in the Developing Choices – Empowering Iowans program will only have flexibility within the approved amounts of their highly personalized individual budgets, and therefore cannot effectively address concerns common to all individual providers, nor can they individually address issues related to workforce retention; and

WHEREAS, Iowa has the nation's third highest percentage of residents aged 65 and over, the second highest percentage of those over 75, and the highest percentage of people over 85 years of age, and thus faces an increased demand for attendant care services; and

WHEREAS, the Iowa Olmstead Action Plan notes an inadequate supply of personal assistance services for the elderly and disabled, and notes that rates for caregivers are inadequate to attract and maintain quality staff and caregivers, and that the state intends to remedy these deficiencies; and

WHEREAS, the State has a responsibility to ensure that a stable workforce exists to serve the elderly and people with disabilities who have a right to remain in the community; and

WHEREAS, individual providers work in the homes of consumers throughout Iowa and therefore cannot effectively voice their concerns about the organization of the Waiver program, their role in the program, or the terms and conditions of their employment without representation; and

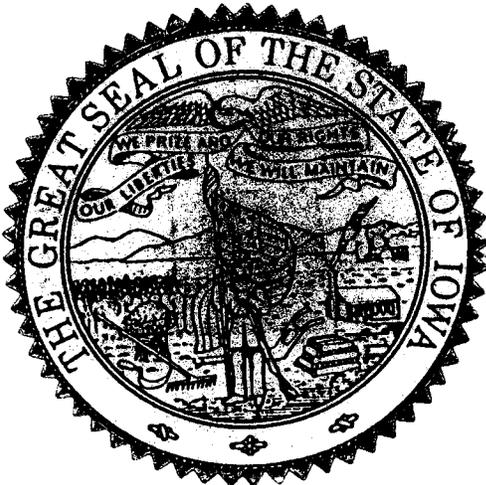
WHEREAS, it is important for the individual providers to be able to provide feedback so that the Waiver programs can be managed, and personal assistance services can be provided, as effectively and efficiently as possible, while reducing turnover among qualified providers.

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 and direct as follows:

1. The Director of Iowa Department of Human Services, or his or her designee, in order to promote recruitment and retention among providers and to establish a more effective and efficient homecare delivery system, shall meet and confer with the authorized representative of the individual providers, as designated by the majority of the individual providers. The verification of majority status shall be based on signed authorization cards, and shall be conducted by a mutually agreed upon, neutral party. In meeting and conferring with the authorized representative, the Department of Human Services shall discuss the organization of the Waiver program, including standards of care, the role of the individual providers and the training required, the terms and conditions of their employment, the desirability of establishing a registry of individual providers, and any other issues related to the effective provision of high quality personal assistance services under the program. In addition, the Department of Human Services shall provide for dues check off for those individual providers who choose to pay their membership dues to the recognized majority representative.

2. The provisions of this Order are not intended to alter or infringe upon the special employment arrangement of the providers and consumers as established by the Department of Human Services.

Nothing in this executive order shall be construed to contravene any applicable state or federal law.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 4th day of July, in the year of our Lord two thousand five.

Thomas J. Vilsack

 THOMAS J. VILSACK
 GOVERNOR

ATTEST:

Chester J. Culver

 CHESTER J. CULVER
 SECRETARY OF STATE

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