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PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Chapter 17A, The Code, and supersedes Part I of the Iowa Administrative Code Supplement.

The Bulletin contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies [continue to refer to General Information for drafting style and form], all proclamations and executive orders of the Governor which are general and permanent in nature, and other "materials deemed fitting and proper by the Administrative Rules Review Committee."

The Bulletin may also contain economic impact statements to proposed rules and filed emergency rules, objections filed by Administrative Rules Review Committee, Governor or the Attorney General, any delay by the Committee of the effective date of filed rules, and agenda for monthly committee meetings.

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

The ARC number which appears before each agency heading is assigned by the Administrative Rules Co-ordinator for identification purposes and should always be used when referring to this item in correspondence and other communications.

The Iowa Administrative Code Supplement is also published every other week in loose-leaf form, pursuant to section 17A.6, The Code. It contains replacement pages for the Iowa Administrative Code. These replacement pages incorporate amendments to existing rules, new rules or emergency or temporary rules which have been filed with the administrative rules co-ordinator and published in the Bulletin.

WAYNE A. FAUPEL, Code Editor
PHYLLIS BARRY, Deputy Code Editor
LAVERNE SWANSON, Administrative Code Assistant

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
3	Friday, July 16, 1982	August 4, 1982
4	Friday, July 30, 1982	August 18, 1982
5	Friday, August 13, 1982	September 1, 1982

SUBSCRIPTION INFORMATION

Iowa Administrative Bulletin

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First quarter	July 1, 1982, to June 30, 1983	$91.00 plus $2.73 sales tax
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Fourth quarter	April 1, 1983, to June 30, 1983	$22.75 plus $0.68 sales tax

Single copies may be purchased for $4.00 plus $0.12 tax. Back issues may be purchased if the issues are available.

Iowa Administrative Code

The Iowa Administrative Code and Supplements are sold in complete sets and subscription basis only. All subscriptions for the Supplement (replacement pages) must be for the complete year and will expire on June 30 of each year.

Prices for the Iowa Administrative Code and its Supplements are as follows:

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Iowa State Printing Division
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Des Moines, IA 50319
Phone: (515) 281-5231

Recycled Paper

The Administrative Rules Review Committee will hold a special meeting Tuesday and Wednesday, August 3 and 4, 1982, 9:00 a.m., Committee Room 24, State Capitol. This meeting will be held in lieu of the statutory date of August 10, 1982. The following rules will be reviewed.

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	City Council Chambers Sac City Municipal Utility Building Sac City, Iowa	August 11, 1982 9:00-11:00 a.m.
	Senior Haven Main Street Cumberland, Iowa	August 11, 1982 9:00-11:00 a.m.
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	City Council Chambers Sac City Municipal Utility Building Highway 20 East Sac City, Iowa	August 11, 1982 9:00-11:00 a.m.
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Waiver of probable cause hearing, 7.7(2) IAB 7/7/82 **ARC 3005**	Fifth Floor Hoover State Office Bldg. Des Moines, Iowa	July 30, 1982 10:00 a.m.
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ATTENTION

CITATION — CODE OF IOWA AND SESSION LAWS

All rulemaking agencies should be cognizant of the following amendments passed by the 1982 General Assembly, Senate File 2250, re citation of the Code and Session Laws to be effective July 1, 1982:

Sec. 5. Section 14.17, Code 1981, is amended to read as follows:

14.17 CITATION OF PERMANENT CODE OR SUPPLEMENTS. The permanent Codes or supplements thereto published subsequent to the adjournment of the ~~extra~~ *1982 regular* session of the ~~Fortieth~~ *Sixty-ninth* General Assembly shall be known and cited as ~~"The Code ——", or "supplement to the Code ——", giving year of edition of such Code or supplement thereto~~ *"Iowa Code chapter (or section)", inserting the appropriate chapter or section number and year of edition.*

Sec. 6. Section 14.18, Code 1981, is amended to read as follows:

14.18 CITATION OF SESSION LAWS. The session laws of each general assembly shall be known ~~and cited~~ as "—— ~~Session~~ *Acts* of the..... General Assembly, ... *Session,* Chapter (or File No.)....., Section ....." (inserting the appropriate number) *and shall be cited as "..... Iowa Acts, chapter ....., section ....." (inserting the appropriate year, chapter, or section number).*

The revised format for citations should be followed in all new rulemaking.

EXAMPLES:

Pursuant to the authority of Iowa Code Section 135C.14, the Department of Health hereby gives Notice of Intended action to amend Chapter 58.....

This rule is intended to implement 1982 Iowa Acts, Chapter _____ or Senate File 1212, Sections 6 and 7.

ARC 3074

AGING, COMMISSION ON[20]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 17A.3, the Iowa Commission on the Aging hereby gives Notice of Intended Action to amend Rule 20—4.2(249B) Long-Term Care Ombudsman Program, [Iowa Administrative Code] that was published as adopted on June 9, 1982 (ARC 2926).

These amendments are proposed in response to public comment requesting additional detail on program substance and administrative procedures.

This rule provides information on the scope and responsibilities of the long-term care ombudsman program, including the pursuit or resolution of complaints received from long-term care facility residents and residents of supportive living arrangements. The confidentiality of information collected in that process and a reporting system are also outlined. It should be noted that "long-term care facility" is defined in 20—1.7(249B)"aa", and will not be repeated as part of this amended rule.

Any interested person may submit written comment on these proposed rules prior to August 12, 1982. Written material should be directed to: Executive Director, Iowa Commission on the Aging, 415 Tenth Street, Des Moines, Iowa 50319.

There will also be four public hearings as follows:

Washington: 9:00-11:00 a.m., Tuesday, August 10, 1982
Washington Key Center, Dining Room
322 South Avenue D

Vinton: 2:00-4:00 p.m., Tuesday, August 10, 1982
Senior Citizen Congregate Meal Site
120 East Fifth

Sac City: 9:00-11:00 a.m., Wednesday, August 11, 1982
City Council Chambers
Municipal Utility Building
Highway 20 East

Cumberland: 2:00-4:00 p.m., Wednesday, August 11, 1982
Senior Haven
Main Street

Persons may present their views at these public hearings either orally or in writing. Persons who wish to make oral presentations at the public hearings should contact the executive director at least two working days prior to the hearing dates.

This rule is intended to implement Iowa Code chapter 249B.

The following amendment is proposed.

Strike rule 20—4.2(249B) and insert the following:

20—4.2(249B) Long-term care ombudsman program.

4.2(1) General rule. The state agency shall operate a statewide long-term care ombudsman program in cooperation with the office of the state citizen's aide/ombudsman, the state department of health, and the area agencies on aging. The program shall include the administration of the care review committee system (Iowa Code section 135C.25).

4.2(2) The following definitions apply to this rule:

a. "Administrative action" means any action or decision made by an owner, employee or agent of a long-term care facility, or supportive living arrangement, or by a government agency which affects the provision of services to residents covered by the ombudsman program.

b. "Supportive living arrangement" means any category of institution, foster home, or group living arrangement in which recipients of supplemental security income benefits may reside.

4.2(3) Full-time ombudsman. The executive director shall employ a full-time individual to administer the long-term care ombudsman program in accordance with the requirements of the Act.

4.2(4) Responsibilities of the ombudsman. The ombudsman shall have the following responsibilities:

a. To research and pursue the resolution of complaints about administrative actions that may adversely affect the health, safety/welfare or rights of older persons residing in long-term care facilities or who may reside in supportive living arrangements.

b. To monitor the development and implementation of federal, state and local laws, regulations and policies that relate to long-term care facilities in the state.

c. To provide information to the public and agencies about problems of older persons in long-term care facilities.

d. To train volunteers.

e. To assist in the development of organizations to participate in the ombudsman program.

f. To administer the care review committee program described in Iowa Code section 135C.25.

1. Care review committees shall consist of community volunteers appointed by the ombudsman.

2. Care review committee members will serve as advocates who may provide such services as consultation, problem-solving, reviewing complaints and serving as advocates on behalf of institutionalized persons in the resolution of complaints.

3. Care review committee members will refer complaints to the ombudsman if necessary.

4.2(5) Access requirements. The ombudsman, in response to complaints, shall have access to long-term care facilities and supportive living arrangments, private access to residents of long-term care facilities and supportive living arrangements, and to the personal and medical records of residents on whose behalf a complaint is being pursued.

a. The ombudsman may enter any long-term care facility or supportive living arrangement without prior notice. After notifying the person in charge of the facility of his or her presence, the ombudsman may communicate privately and without restriction with any resident who consents to the communication.

b. The ombudsman may inspect and copy the clinical and other records of a resident with the express written consent of the resident.

c. The ombudsman may inspect and copy any books, files or other records of a long-term care facility or supportive living arrangement, or of any government agency pertaining to the care of residents that may be considered necessary by the ombudsman for the resolution of a complaint.

d. The ombudsman will not observe the private living area of any resident who protests the observation.

AGING, COMMISSION ON[20] *(cont'd)*

e. The ombudsman may request from any government agency or area agency on aging, co-operation, assistance and data that will enable the ombudsman to execute any of his or her functions, duties and powers under the Older Americans Act.

f. The facility staff member in charge may refuse or terminate an ombudsman's visit with a resident only when proof is provided to the ombudsman that the visit is a threat to the health and safety of the resident. The information must be documented by the resident's physician in the resident's medical record.

1. An exception may occur when the resident, with full information related to her or his medical condition, waives medical advice and chooses to meet with the ombudsman.

2. The facility may request that the resident sign a written statement in which the resident assumes responsibility for her or his action.

4.2(6) Reporting. The ombudsman must maintain a statewide uniform reporting system to collect and analyze information on complaints and conditions in long-term care facilities in accordance with requirements of the Act. Information provided by the department of health shall be used in this system.

a. The complaint documentation and reporting system shall include:

1. The source of the complaint;
2. Name, location and type of facility;
3. Facility licensure and certification status;
4. Description of the problem;
5. Billing status of the resident;
6. Method by which the complaint was received; and,
7. Description of follow-up activities.

b. The ombudsman shall prepare an annual report analyzing the complaint statistics collected and submit this report to AoA and the Iowa departments of health and social services (45CFR 1321.43(f), 1981).

4.2(7) Confidentiality and disclosure. The complaint files maintained by the long-term care ombudsman program shall be maintained as confidential information and may not be disclosed unless the executive director authorizes disclosure.

a. The ombudsman shall not disclose the identity of any complainant or resident, or any identifying information obtained from a resident's personal or medical records unless:

1. The complainant or resident, or the legal representative of either, consents in writing to the disclosure and specifies to whom the information may be disclosed; or

2. A court orders the disclosure.

b. The ombudsman may use materials in the files for the preparation and disclosure of statistical, case study and other pertinent reports provided that the means of discovering the identity of particular persons is not disclosed.

c. When the ombudsman encounters a deficiency that pertains to compliance with state or federal laws or regulations, the ombudsman may make referrals directly to the appropriate agency for action.

d. When the research conducted by the ombudsman discloses facts that may warrant the institution of civil proceedings against an offender, the matter may be referred to the agency with authority to institute proceedings.

e. When the research conducted by the ombudsman reveals information relative to the misconduct or breach of duty of any officer or employee of a facility, supportive living arrangement or government agency, the ombudsman may refer the matter to the appropriate authorities for any necessary action.

f. The agency or authority to which a referral has been made shall report to the ombudsman all follow-up activities within thirty days and every thirty days thereafter until final action on each referral. The ombudsman shall maintain records and may make disclosures that may be necessary to resolve the matter.

ARC 3075

AGING, COMMISSION ON[20]

NOTICE OF INTENDED ACTION

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

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 §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 17A.3, the Iowa Commission on the Aging hereby gives Notice of Intended Action to amend Chapter 8 [Iowa Administrative Code], relating to nutrition services that were published as adopted rules on June 9, 1982, to be effective July 14, 1982, (ARC 2926).

These amendments are proposed in response to public requests to reorganize rules to clarify responsibilities and to identify standards for better nutrition program management. These amendments additionally bring rules on nutrition services into compliance with federal mandates. The rules provide guidance to area agencies, subcontractors and service providers in the provision of both congregate and home-delivered meals and related services.

Any interested person may submit written comments on these proposed rules prior to August 12, 1982. Written material should be directed to: Executive Director, Iowa Commission on the Aging, 415 Tenth Street, Des Moines, Iowa 50319.

There will also be four public hearings as follows:

Washington:	9:00 — 11:00 a.m., Tuesday, August 10, 1982 Washington Key Center, Dining Room 322 South Avenue D
Vinton:	2:00 — 4:00 p.m., Tuesday, August 10, 1982 Senior Citizen Congregate Meal Site 120 East Fifth
Sac City:	9:00 — 11:00 a.m., Wednesday, August 11, 1982 City Council Chambers Sac City Municipal Utility Building Highway 20 East
Cumberland:	2:00 — 4:00 p.m., Wednesday, August 11, 1982 Senior Haven Main Street

AGING, COMMISSION ON[20] *(cont'd)*

Persons may present their views at these public hearings either orally or in writing. Persons who wish to make oral presentations at the public hearings should contact the director at least two working days prior to the hearing dates.

These rules are intended to implement Iowa Code chapter 249B.

The following amendments are proposed.

Amend chapter 8 by rescinding rules 8.45(249B), 8.47(249B), 8.49(249B) and 8.51(249B), and inserting the following:

20—8.45(249B) Nutrition services.

8.45(1) Purpose of making awards. The area agency may award nutrition services funds to provide meals and other nutrition services, including outreach and nutrition education to older persons.

8.45(2) Assessment of need. The area agency must assess the level of need for congregate and home-delivered meals within the planning and service area and must base the awards on that assessment.

8.45(3) Use of funds. The area agency must assure that funds are used to:

a. Provide meals in a congregate nutrition site, and provide home-delivered meals based upon a determination of need.

b. Provide other nutrition services including outreach activities to assure that the maximum number of eligible individuals, with emphasis on the frail, those with greatest social and economic need, and the isolated will have an opportunity to participate.

c. Provide a nutrition education program planned by a registered dietitian or nutritionist, including the dietitian employed by the state agency, who has determined the nature and extent of nutrition needs and problems of the target population. The program is to be based on desired objectives and conducted on a consistent basis by personnel trained to provide quality service.

20—8.46(249B) Selection of nutrition service providers.

8.46(1) General rule. The area agency may make awards for congregate and home-delivered nutrition services to a provider that furnishes either or both types of services. The area agency shall make awards only to providers that meet the requirement of rules 8.50(249B) and 8.51(249B).

8.46(2) Existing nutrition services projects. On September 30, 1978, area agencies on aging were the recipients of subgrants to provide nutrition services throughout the state of Iowa. Therefore, 45CFR §1321.143(b) is not applicable to the state of Iowa.

8.46(3) Preference. The area agency must give preference in making awards for home-delivered meals to the public, private nonprofit and voluntary organizations which demonstrated an ability to provide home-delivered meals efficiently and reasonably as defined in rule 8.2(249B), and have furnished assurances to maintain efforts to solicit voluntary support and not to use funds received under the Act to supplant funds from nonfederal sources pursuant to rule 8.12(249B).

20—8.47(249B) Registered dietitian or nutritionist. Each area agency must utilize the services of a registered dietitian or nutritionist to provide technical assistance in areas of food service management, and other nutrition services.

8.48 Reserved.

20—8.49(249B) Special requirements for area agencies related to nutrition services.

8.49(1) Contracts. The area agency must maintain a contract system according to procedures issued by the executive director to ensure that congregate and home-delivered nutrition service providers perform in accordance with terms, conditions and specifications for funding. At a minimum, the procedures must require that the contract includes the specific number of units of service to be served to eligible persons and detailed terms such as meal pattern, use of project income, length of contract, cost per unit, and performance requirements to ensure accountability and monitoring.

8.49(2) Meal performance by area agencies.

a. The area agency must provide a number of meals which bears at least the same ratio to the elderly population of the planning and service area, as eighty percent of the statewide number of meals bears to the elderly population of the state.

b. At least ninety-five percent of the total number of meals served by an area agency during the fiscal year must be served to persons age sixty or older or their spouse.

8.49(3) Noncompliance. When a grantee's performance falls below the planning and service area standard in subrule 8.49(2), the commission will:

a. Notify the grantee of the performance deficiency;

b. Provide technical assistance in determining the reasons for the deficiency;

c. Assist the grantee in developing a specific action plan for correcting the deficiency within twelve months;

d. Monitor the grantee's progress towards compliance;

e. Include a probationary condition on the next approved notification of grant award if the deficiency has not been corrected;

f. Initiate withdrawal of area agency grantee designation as provided in rule 20—5.2(249B) if the grantee has not achieved compliance or demonstrated significant progress towards compliance in the first six months of the probationary period.

g. Consider the grantee ineligible for discretionary funds.

8.49(4) County meal performance. The area agency must:

a. Provide for hot or other appropriate meals in each county of the planning and service area at least once a day, five or more days a week; and

b. Provide a number of meals in each county which bears at least the same ratio to the elderly population of the county as forty percent of the statewide number of meals bears to the elderly population of the state; or

c. Provide meals in each county three or four days a week with a minimum ratio of eighty percent.

d. Noncompliance. When a grantee's performance falls below the planning and service area standards in 8.49(4)"a" and "b" or "c", the commission will:

1. Notify the grantee of the performance deficiency;

2. Provide technical assistance in determining the reasons for the deficiency;

3. Assist the grantee in developing a specific action plan for correcting the deficiency within twelve months;

4. Monitor the grantee's progress towards compliance;

5. Include a probationary condition on the next approved notification of grant award which will require compliance within twelve months or termination by the area agency of nutrition service in the noncompliant county.

8.49(5) Food borne illness. The area agency must develop written procedures for handling suspected cases of food borne illnesses. The food service provider must report the occurrence of a food borne illness or suspected case to the area agency within twelve hours. The area agency must then notify the state agency within twelve hours.

8.49(6) Evaluation of providers. Conduct, record and keep on file systematic on-site evaluations of nutrition service providers on a semiannual basis in order to document program compliance and analyze areas for ongoing monitoring.

8.49(7) Requirements for opening or closing congregate nutrition sites. The executive director must be notified in writing thirty days before the area agency may open, relocate, or terminate a nutrition site.

20—8.50(249B) Congregate nutrition services.

8.50(1) Eligibility.

a. A person age sixty or older and the spouse of the person, regardless of age, are eligible participants of congregate nutrition services.

b. Noneligible individuals may eat at a congregate nutrition site if that does not deprive an eligible participant of a meal in accordance with subrule 8.11(5).

8.50(2) Requirements for area agencies. In making awards for congregate nutrition service, the area agency must:

a. Select and designate as a congregate meal site any location where meals are served in a group setting with federal AoA nutrition funds or contributions from an AoA federal nutrition program, or both.

b. Require hot or other appropriate meals to be provided in each congregate nutrition site at least once a day, three or more days a week.

c. Assure that any facility housing an AoA program or service will fully comply with federal, state or local health, fire, safety, sanitation, accessibility, and licensure requirements. All congregate nutrition sites must be inspected by the department of agriculture and must have a current restaurant license posted in the congregate nutrition site.

d. Have procedures developed to handle weather and emergency situations at the congregate nutrition sites.

e. Provide to the extent that such services are needed and are not already available and accessible to the individual's participation in the nutrition program, information and referral services, health and welfare counseling, recreation activities, and access to nutrition services.

f. Where feasible and appropriate, make arrangements for the availability of food to older persons in weather and disaster related emergencies.

g. Noncompliance. When a grantee's performance falls below the planning and service area standards in subrule 8.50(2), the commission will:

1. Notify the grantee of the performance deficiency;
2. Provide technical assistance in determining the reasons for the deficiency;
3. Assist the grantee in developing a specific action plan for correcting the deficiency within twelve months;
4. Monitor the grantee's progress towards compliance;
5. Include a probationary condition on the next approved notification of grant award which will require compliance within twelve months or termination by the area agency of nutrition service in the noncompliant nutrition site.

8.50(3) Congregate nutrition services provider requirements. In making awards for congregate nutrition services, the area agency must require the congregate providers to:

a. Provide hot or other appropriate meals at least once a day, five or more days a week.

b. Assess the individual need for home-delivered meals among participants.

c. Locate congregate nutrition sites as close as possible to the majority of eligible older persons.

20—8.51(249B) Home-delivered nutrition services.

8.51(1) Eligibility. A person age sixty or over who is homebound by reason of illness, incapacitating disability, or is otherwise isolated, is eligible to receive a home-delivered meal.

a. The spouse of the older person, regardless of age or condition, may receive a home-delivered meal, if according to criteria determined by the area agency, receipt of the meal is in the best interest of the homebound older person.

b. The area agency or the home-delivered meals provider, subject to area agency approval shall establish procedures for the determination of an individual's eligibility for home-delivered nutrition services, including specific criteria for:

1. Initial and subsequent six-month assessments of the individual's eligibility for home-delivered meals;
2. Determination of the number of days per week the individual has a need for home-delivered meals;
3. Determination of the individual's need for other home-delivered nutrition services.

8.51(2) Requirements for area agencies. In making awards for home-delivered meals, the area agency must require the service providers to:

a. Provide other nutrition and supportive services to meet the need of the homebound individual.

b. Provide nutrition education for recipients that includes emphatic instruction in the storage and preparation of the home-delivered meal.

8.51(3) Requirements for home-delivered meals providers. In making awards for home-delivered nutrition services, the area agency must require the home-delivered meal provider to:

a. Provide home-delivered meals at least once a day, five or more days a week.

b. Assess, every six months, the individual need for home-delivered meals among participants provided home-delivered meals.

c. Provide for home-delivered meals to participants according to the frequency of need determined pursuant to 8.51"b". Meals may be hot, cold, frozen, dried, canned or supplemental foods with a satisfactory storage life. The provider is not required to provide meals more than five days per week but is encouraged to do so.

d. With the consent of the older person or his or her representative, bring to the attention of appropriate officials for follow-up conditions or circumstances which place the older person or the household in imminent danger. The area agency should make provision for other agencies to provide services to the homebound elderly person to reduce isolation and dependency.

e. Where feasible and appropriate, make arrangements for the availability of meals to older persons in weather and disaster related emergencies.

20—8.52(249B) Food requirements for all nutrition service providers.

8.52(1) Food standards. The area agency must require that the service provider, when purchasing food

AGING, COMMISSION ON[20] *(cont'd)*

and preparing and delivering meals, follows appropriate procedures to preserve nutritional value and food safety.

a. Each service provider must establish and implement procedures on handling foods prepared for a meal but not served. The procedures shall address which foods may be saved, which foods need to be destroyed, and instructions for cooling and storing foods for reuse.

b. All raw fruits and vegetables and other foods utilized must be free from spoilage, filth or contamination and must be safe for human consumption.

c. Foods prepared, canned or preserved in the home shall not be used. The use of hermetically sealed noncommercially packaged foods is prohibited because of the history of such food causing food borne illness.

d. Standardized tested quantity recipes, adjusted to yield the number of servings needed, shall be used to achieve the consistent and desirable quality and quantity of meals.

e. Leftover foods shall not be given away or sold.

8.52(2) Preparation, handling and serving. The nutrition service providers must comply with all state and local health laws and ordinances concerning preparation, handling and serving food.

8.52(3) Menus.

a. Each meal served by the nutrition service provider must contain at least one-third of the current recommended dietary allowances as established by the food and nutrition board of the National Academy of Sciences-National Research Council.

b. All menus must be planned for a minimum of four weeks, certified in writing by the dietitian/nutritionist whose services are utilized by the area agency and submitted to the state agency for review at least two weeks prior to the initial use of the menu. For purposes of audit, area agencies shall keep on file for a period of one year copies of the certified menus used.

c. All certified menus must be posted in a conspicuous location in each congregate meal site. The certified menus may be modified occasionally if the provisions of 8.52(3) are maintained and a dietitian/nutritionist or nutrition director is consulted prior to the change.

8.52(4) Special diet menus. The area agency must assure that the nutrition service provider provides special menus, where feasible and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals.

a. The provider must use the following criteria to determine feasibility and appropriateness:

1. Sufficient numbers of persons exist who need the special menus to make their provision practical.

2. Skills and food necessary to prepare the special menus are available.

b. Special diet menus must be planned under the supervision of a registered dietitian in accordance with a current diet manual approved by the executive director and supplied to each area agency by the state agency. Certified menus must be submitted to the state agency at least two weeks prior to the initial use of the menus.

c. A written physician's order for each individual requesting a special diet must be obtained prior to receipt of the meal, and kept on file where the meal is prepared and served. The order must be interpreted by a registered dietitian and renewed periodically by the dietitian and the individual's physician.

8.52(5) Special utensils. The service provider must have available for use, upon request, appropriate food containers and utensils for blind and handicapped participants.

20—8.53(249B) USDA food assistance programs.

8.53(1) USDA commodities and cash.

a. The area agency must have an agreement with the state agency to receive USDA commodities, cash or a combination of commodities and cash.

b. An area agency which receives commodities must enter into agreement with the department of public instruction for distribution.

c. The commission shall allocate all food, cash or the combination of food and cash received from USDA to area agencies based on each agency's proportion of the total number of meals served to eligible recipients in the state.

d. The area agency must comply with the requirements of 7 CFR, Part 250, for participation in the USDA program.

e. The area agency must maintain perpetual inventories of all USDA foods at each site and storage area, and must submit a quarterly areawide inventory to the state agency within thirty days after the reporting period.

f. Nutrition service providers must accept and use appropriate USDA foods made available by the area agency, and must assure appropriate and cost effective arrangements for the transportation, storage, inventory and use of the food.

g. USDA commodities shall be consumed as food only and shall not be sold, exchanged, traded, transferred, destroyed, or otherwise disposed of for any reason without prior approval from the executive director.

h. The area agency must report the loss, theft, damage, spoilage or infestation of USDA commodities to the state agency within five working days to initiate claim action.

i. An area agency which receives cash-in-lieu of commodities must spend all cash received from the USDA to purchase United States' agricultural food items.

8.53(2) Food stamp program. The area agency and nutrition service providers must assist participants in taking advantage of benefits available to them under the food stamp program by providing current information to participants in both the congregate and home-delivered meals programs by co-ordinating activities with agencies responsible for administering the food stamp program, and by being certified to accept, and accepting food stamps as contributions for meals.

8.54 Reserved.

AUDITOR OF STATE

NOTICE-INTEREST ON ESCROW ACCOUNTS

Pursuant to the provisions of Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2300, Section 36, every June 30 and December 31 the Auditor of State shall determine the average of the lowest interest rates paid on thrift certificates by industrial loan companies required to be members of the industrial loan thrift guaranty corporation of Iowa. The purpose is to establish what interest rate should be paid on escrow

AUDITOR OF State[130] *(cont'd)*

accounts by companies that do not issue thrift certificates, if escrow accounts are required in connection with real estate loans as defined under Iowa Code section 535.8(1).

The following rate applies based upon the indicated date:

July 21, 1982	9.08%

ARC 3071

AUDITOR OF STATE[130]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 534.41(2), 17A.4(1) and 1982 Iowa Acts, Senate File 2300, Section 30, the Supervisor of Savings and Loan Associations, under the direction of the Auditor of State, gives Notice of Intended Action to adopt new rules under the Savings and Loan Division. The new rules shall be placed under Chapter 6, and be entitled "Conversion From Mutual to Capital Stock Ownership."

1982 Iowa Acts, Senate File 2300, Section 30, authorizes conversions from mutual to stock form of ownership of savings and loan associations. Presently, all associations in the state are mutually owned. The legislation is designed to provide new sources of capital infusion for associations for which to build net worth and future staying power.

The plan of conversion must be approved by the converting association's board of directors and members, the Supervisor and the Federal Savings and Loan Insurance Corporation (FSLIC). Many of the requirements of the rules are similar to those required by the FSLIC, to ease the complex process of application. The ultimate issuance of stock is also governed by FSLIC regulations.

Any interested parties may make written suggestions or comments on the proposed rules. Such written materials should be delivered to the Supervisor of Savings and Loan Associations, Auditor of State, Lucas State Office Building, Des Moines, Iowa 50319, before August 13, 1982.

Persons who wish to convey their views orally may do so by contacting the Supervisor of Savings and Loan Associations at 515-281-5491. There will be a public hearing held on the Sixth Floor Conference Room, Lucas State Office Building, at 1:30 p.m. on August 12, 1982. Persons may present their views at the public hearing orally or in writing. Persons who wish to make oral presentation at the public hearing should contact the Supervisor at least one day prior to the date of the hearing.

These proposed rules are intended to implement the 1982 Iowa Acts, SF 2300, Section 30.

CHAPTER 6
CONVERSION FROM MUTUAL TO CAPITAL STOCK OWNERSHIP

130—6.1(534) Introduction. These rules shall govern the conversion of state-chartered savings and loan associations from mutual to stock form of ownership, pursuant to the 1982 Iowa Acts, Senate File 2300, Section 30, except as the supervisor of savings and loan associations may otherwise provide in supervisory cases.

130—6.2(534) Definitions.

6.2(1) "Applicant" means a mutual association, which is applying to the supervisor to convert to a capital stock association.

6.2(2) "Capital stock association" means an association which has authority to issue capital stock.

6.2(3) "FSLIC" means the Federal Savings and Loan Insurance Corporation.

6.2(4) "Mutual association" means an association which is organized on a mutual ownership basis and does not have authority to issue capital stock.

6.2(5) "Supervisor" means the supervisor of savings and loan associations.

130—6.3(534) Application to supervisor. An applicant shall file with the supervisor three copies of an "Application for Approval of Conversion", with supporting exhibits, in the form required by the FSLIC, including Forms AC, PS and OC. The applicant shall also furnish to the supervisor additional information as the supervisor may request which is not included in the applicant's filing with the FSLIC.

130—6.4(534) Content of restated articles of incorporation and bylaws.

6.4(1) As a part of the application, the applicant shall submit to the supervisor restated articles of incorporation and bylaws to operate as a capital stock association.

6.4(2) The restated articles of incorporation shall set forth:

a. The name of the association;

b. That the association is a capital stock association and became such by conversion from mutual to stock form in accordance with the Code of Iowa;

c. That the association will operate under Iowa Code chapter 534.

d. That the association will have perpetual duration;

e. The designation by title of the officer or officers, authorized to sign instruments pertaining to real estate;

f. Whether the association's corporate seal must be affixed to instruments pertaining to real estate;

g. The amount of authorized capital stock, the classes of stock and number of shares authorized for each class, with the par value and conditions of each class of the shares, and the time when and conditions under which it is to be paid in;

h. Reference to the liquidation account established for the benefit of eligible savings account holders upon conversion;

i. Whether holders of capital stock shall be entitled to preemptive rights with respect to any shares of the association which may be issued;

j. The minimum number of directors;

k. The manner in which the articles may be amended;

l. Other provisions that are not inconsistent with these rules and the Code of Iowa, and are approved by the supervisor.

AUDITOR OF STATE[130] *(cont'd)*

130—6.5(534) Content of applicant's plan of conversion. The applicant's plan of conversion shall comply with the requirements of the FSLIC, including the determination of the eligibility record with respect to subscription rights to purchase the applicant's conversion stock. The plan of conversion shall state the effect of the conversion on each type of member of the converting association. The plan of conversion may also provide for employment contracts for the applicant's officers and employees upon conversion and for a stock option plan which shall be subject to approval by the supervisor. The supervisor may require provisions in an applicant's plan of conversion in addition to the requirements of the FSLIC if he determines that such additional provisions are necessary for an equitable conversion. An applicant shall attach to its plan of conversion, and incorporate by reference, the applicant's proposed restated articles of incorporation and proposed restated bylaws.

130—6.6(534) Approval of plan of conversion by supervisor. The plan of conversion must be submitted to the supervisor for approval. The supervisor will reject a plan of conversion if he finds that plan is inconsistent with applicable statutes or regulations, or does not contain all required information, or is inequitable to a class of members of the applicant. The supervisor will notify the applicant of his decision, and the reasons for rejection if the plan is rejected. If the plan of conversion is approved, the supervisor will also give preliminary approval to the applicant's proposed restated articles of incorporation and bylaws. In addition to approval of the plan by the supervisor, the plan must also be approved by the FSLIC, a majority of the board of directors of the converting association and a majority vote of the members of the association present in person or by proxy at an annual meeting or a special meeting of the members.

130—6.7(534) Vote by applicant's members on plan of conversion.

6.7(1) No plan of conversion shall be implemented unless it is approved at a meeting of the voting members of an applicant called to consider such action, by a majority vote of the total number of votes present, in person or by proxy. The board of directors shall cause written notice of the meeting at which the members will be asked to vote on the proposal, to be mailed by first class mail, postage prepaid to each member of the association not less than thirty days prior to the date of the meeting. The board shall also cause a copy of this notice to be posted in a conspicuous location in each of the association's offices from the date of mailing until the date of the meeting. The mailed notice may be included in an envelope containing a periodic statement of account to the member.

6.7(2) The notice required in subrule 6.7(1) shall contain the date, time and purpose of the meeting. In addition, the following statement shall also be included in the notice:

In the event that any member or members desire to communicate with other members of the association, with reference to this special meeting, they shall:

1. Request of the association a statement of the approximate number of members of the association;
2. Request of the association an estimate of the cost of forwarding the communication to the members;
3. Submit the communication to the supervisor for review;
4. If approved by the supervisor, make payment to the association of the expenses for the preparation and mailing of the communication.

6.7(3) The supervisor shall approve the communication if he finds it to be appropriate, truthful and in the best interests of the association and all its members.

6.7(4) The supervisor may require that the date for the meeting of the members be postponed to a date certain, not more than thirty days after the date originally prescribed, if the supervisor determines that additional time is necessary to enable members who have requested communication with other members, to properly exercise that right.

6.7(5) The applicant shall file with the supervisor promptly after the meeting of the applicant's voting members called to consider the plan of conversion, a certified copy of each resolution adopted at the meeting relating to the plan of conversion together with the following information:

a. The total number of votes eligible to be cast;
b. The total number of votes represented in person or by proxy at the meeting;
c. The total number of votes cast in favor of and against each matter; and
d. The percentage of votes present in person or by proxy cast in favor of and against each matter.

6.7(6) The applicant shall also file with the supervisor an opinion of counsel that the meeting was held in compliance with all applicable state and federal laws.

6.7(7) The certified copy of each resolution adopted at the meeting (being part of the minutes of the meeting), when filed, shall be presumptive evidence of the holding of the meeting and of the action taken.

130—6.8(534) Filing of offering circulars. The offering circulars for the applicant's subscription offering and any additional offering to the general public shall be prepared in compliance with regulations of the FSLIC and any additional requirements imposed by the supervisor. Three copies of each offering circular in preliminary form shall be filed with the supervisor, and no offering circular shall be distributed to the applicant's members or to the general public in final form unless it has first been declared effective by the supervisor.

130—6.9(534) Effective date of conversion. Subsequent to a meeting of the members, upon a finding by the supervisor that the procedures outlined in Iowa Code chapter 534 and these rules have been complied with, and prior to the execution of orders for the applicant's conversion stock, the supervisor shall issue to the applicant a certificate of conversion, which will include the name of the applicant before and after conversion and the effective date of conversion. The original of the certificate shall be filed by the supervisor with the secretary of state and the applicant's restated articles of incorporation and restated bylaws shall become effective. Concurrently, the applicant shall execute all orders received for its conversion stock.

ARC 3068

BANKING DEPARTMENT[140]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code Section 524.213, the Iowa Department of Banking hereby gives Notice of Intended Action to adopt Rule 140—9.2, Loans on Real Property, Iowa Administrative Code.

The Acts of the 69th General Assembly, 1982 Regular Session, Senate File 2300, Section 2, amends Iowa Code Section 524.905 to provide that state banks may make loans secured by liens on real property as authorized by rules adopted by the Department of Banking. The Department of Banking does not presently have rules that apply to real property loans.

The proposed rule is intended to ensure the safety and soundness of the loans and to ensure full and fair disclosure to borrowers of the effects of provisions in agreements for the loans.

Any interested person may make written suggestions or comments on this proposed rule prior to August 11, 1982. The written materials should be directed to the Superintendent of Banking, 530 Liberty Building, 418 Sixth Avenue, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Superintendent of Banking at 515/281-4014 or in the office of the superintendent at 530 Liberty Building. Also, there will be a public hearing on Wednesday, August 25, 1982 at 1:30 p.m. in the board room of the Department of Banking at 530 Liberty Building. Persons may present their views at this public hearing either in writing or orally.

Persons who wish to make oral presentations at the public hearing should contact the Superintendent of Banking at least ten working days prior to the date of the public hearing.

This rule is intended to implement Iowa Code section 524.905, as amended by Acts of the 69th General Assembly, 1982 Regular Session, Senate File 2300.

140—9.2(17A,524) Loans on real property.

9.2(1) Other than one- or two-family residences. A state bank may make permanent loans, or combined construction and permanent loans, secured by liens on residential real property housing more than two families, and on real property consisting of farmland, industrial, manufacturing and commercial properties including a leasehold in such properties. Any such loan may be made in an amount not to exceed seventy-five percent of the appraised value of the property offered as security and for a term not longer than twenty-five years, or for more than seventy-five percent of the appraised value of the property offered as security if at least all of the amount by which the loan exceeds seventy-five percent of the appraised value is insured by a financially responsible private mortgage insurance company authorized to do business in this state. In the case of a combined construction and permanent loan made pursuant to this rule, the amount of the loan shall not exceed seventy-five percent of the value of the property upon completion of the construction unless all of the amount which exceeds seventy-five percent of the appraised value is insured by a financially responsible private mortgage insurance company authorized to do business in this state.

9.2(2) One- or two-family residences. A state bank may make permanent loans or combined construction and permanent loans, secured by liens on residential real property consisting of single-family or two-family residences as follows:

a. In an amount not to exceed ninety percent of the appraised value of the real property offered as security and for a term not longer than thirty years.

b. In the case of a combined construction and permanent loan made pursuant to this rule the amount of the loan shall not exceed ninety percent of the value of the property upon completion of the construction.

9.2(3) Construction and development. A state bank may make loans secured by liens on real property for the purpose of:

a. Financing the construction of single-family and two-family residences.

b. Financing the construction of industrial, manufacturing or commercial buildings or residences housing more than two families provided there is an unconditional commitment by a financially responsible permanent lender to advance the full amount of the loan of the state bank upon completion of the buildings.

c. Financing the acquisition and development of unimproved real property if the maturity of any such loan does not exceed three years from the date thereof and the amount of any such loan does not exceed seventy-five percent of the cost of the real property acquired for development plus seventy-five percent of the cost of development exclusive of the cost of construction of buildings.

9.2(4) Requirements. Any loan made pursuant to this rule shall be subject to the following requirements:

a. The loan shall be evidenced by a bond, note or other obligation and secured by a lien in the form of a mortgage, deed of trust or similar instrument.

b. In the case of loans secured by liens on residential real property consisting of single-family or two-family residences, the aggregate of the bank's lien and all prior liens shall not exceed ninety percent of the appraised value of the real property offered as security. The state bank shall maintain written proof verifying the outstanding balance of any prior liens at the date of the loan.

c. In the case of loans secured by liens on residential real property housing more than two families, and on real property consisting of farmland, industrial, manufacturing and commercial properties including a leasehold in such properties, the aggregate of the bank's lien and all prior liens shall not exceed the loan to appraisal limitations set forth in subrule 9.2(1). The state bank shall maintain written proof verifying the outstanding balance of any prior liens at the date of the loan.

d. For the purpose of paragraphs "b" and "c" of this subrule the existence of taxes or assessments that are not delinquent, instruments creating or reserving mineral, oil, or timber rights, rights of way, joint driveways, sewer rights, rights in walls or by reason of building restrictions or other like restrictive covenants, or when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner shall not be deemed to be prior liens within the meaning of paragraphs "b" and "c" of this subrule.

e. The value of the real property shall be determined by the appraisal of a qualified person, selected in a

BANKING DEPARTMENT[140] *(cont'd)*

manner authorized by the board of directors, who is familiar with real property values in the vicinity where the real property is located, and who inspects the real property and states its value to the best of his or her judgment in a written report to be retained by the state bank during the term of the loan.

f. Insurance against loss from fire on all buildings, which are included in the appraised value, and against other hazards, issued by insurers, acceptable to the state bank, authorized to do business where the real property is located, and in form and amount satisfactory to the state bank, shall be maintained during the term of the loan by or at the expense of the customer including the costs of any mortgage guaranty insurance required by the state bank except that the state bank may at its own expense maintain such insurance covering only its interest as lender.

g. The state bank shall obtain either a written opinion by an attorney admitted to practice in Iowa describing any existing liens and stating that the state bank's mortgage, deed of trust or similar instrument is a lien on the real property, or title insurance written by an insurance company licensed to do business in the state in which the real property is located describing any existing liens and insuring the title to the real property and the validity and enforceability of the mortgage, deed of trust or similar instrument as a lien on the real property.

h. Real property securing loans under this rule shall be located in this state or an adjoining state.

i. The maturity date of a loan to a lessee on a leasehold shall occur prior to the expiration of two-thirds of the time from the inception of the lease to its expiration, including in such lease period the periods of time for which the lessee may exercise an option to renew but in no event shall the date of maturity be less than five years prior to such expiration date.

9.2(5) Exceptions. The restrictions and requirements of subrules 9.2(1) to 9.2(4) shall not apply to:

a. Loans guaranteed at least to the extent of twenty percent thereof, or for which a written commitment for such guarantee has been issued by the veterans administration under the laws of the United States.

b. Loans insured, or for which a written commitment to insure has been issued by the federal housing administration under the laws of the United States.

c. Loans insured, or for which a written commitment to insure has been issued by the farmers home administration under the laws of the United States.

d. Loans in which the small business administration participates, or has agreed in writing to participate, on an immediate or deferred basis under the laws of the United States.

e. Loans in connection with which a state bank takes a real property mortgage, deed of trust or other such instrument, as security but as to which it is relying for repayment:

(1) In the case of a loan made, with or without other security, for industrial, manufacturing, commercial or agricultural purposes, on the operations of the customer based primarily on the general credit of the customer and projection of his operations.

(2) On an unconditional commitment by a financially responsible person to advance the full amount of the loan or to provide funds for payment thereof, within a period not to exceed three years from the date of the loan.

(3) On a financially responsible lessee of the real property provided that the lease shall be assigned to the state bank and the lease by its terms shall be sufficient to amortize the entire principal of the loan within a period of not more than twenty-five years.

(4) On collateral other than the real property.

(5) On a guaranty or an agreement by a financially responsible person, other than a person engaged in the business of guaranteeing real property loans, to take over or purchase the loan in the event of default.

(6) In the case of a loan made for the purpose of the construction or purchase by the borrower of a single-family or two-family residence, on the borrower's general credit and income.

f. Bonds and securities secured entirely or in part by real property, but in which a state bank is authorized to invest for its own account under Iowa Code section 524.901.

g. Loans made to families of low or moderate income as a part of programs authorized in Iowa Code sections 220.1 to 220.36 and approved by the Iowa housing finance authority.

9.2(6) Condominiums. A state bank may make a loan secured by a lien on an apartment constituting a part of a condominium constructed or established pursuant to the provisions of Iowa Code chapter 499B, subject to the provisions of this rule.

9.2(7) Purchased loans. Any loan, evidence of indebtedness or agreement for the payment on money secured by real property which is purchased by a state bank shall conform to the provisions of subrules 9.2(1) to 9.2(4).

9.2(8) Debts previously contracted. Nothing contained in this rule shall prevent any state bank from accepting real property as security to secure debts previously contracted to it in good faith, or to further secure a loan if such loan is otherwise secured.

9.2(9) Prepayment. If a customer elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or two-family dwelling or agricultural land at a date earlier than is required by the terms of the loan, the state bank shall be governed by Iowa Code section 535.9.

9.2(10) Disclosure. Prior to making a loan on real property, a state bank must provide each loan applicant with a written disclosure describing in plain language the specific terms of the loan offered to the applicant. The purpose of the disclosure is to ensure full understanding of the operation of the loan being offered. The disclosure shall contain such of the following information as is relevant to the type of loan being offered:

a. A general explanation of the fact that (1) the state bank and the applicant become bound by the terms of the loan contract upon signing it, (2) even though subsequently either party may request modification of the contract, neither party is bound to agree to such a request, and (3) since normally the contract and mortgage, deed of trust, or other such instrument alone establish the rights of the borrower, the borrower should be familiar with and understand the provisions of the contract;

b. The term to maturity, and any provisions of the loan contract that would authorize the state bank to lengthen or shorten the term;

c. The initial interest rate and, if the contract provides for adjustment of either the interest rate, the payment, the loan balance or the term in accordance with changes in an index, the base index rate, or, if neither fact is known, the manner in which the initial interest rate and base index rate will be established;

d. The amount of the initial payment, if known, and an explanation of how the state bank establishes an amortization schedule for the loan, including how the state bank determines both the amount of each payment and what proportion of each payment is credited to interest;

e. A full explanation of how the interest rate, the payment, the loan balance, or the term to maturity may be adjusted (including identification of the index(es) to be used and how index values may be obtained by the borrower), and how the adjustment of one item may affect the others;

f. What information will be contained in each notice of an adjustment or, in the case of non- or partially-amortized loans, of maturity, and how far in advance of an adjustment or maturity each notice will be provided;

g. If the loan is non- or partially-amortized and the state bank does not intend to contractually obligate itself to refinance the loan unless the loan is formally in default, a statement that a large payment will be due at maturity of the loan; if the loan is non- or partially-amortized and the state bank intends to obligate itself contractually to refinance the loan, the terms and conditions under which it will do so;

h. A description of all contractual contingencies under which the loan may become due or which may result in a forced sale of the real property;

i. Whether the loan contract will provide for escrow payments, the purpose of requiring escrow payments, and how the amount of an escrow payment is established;

j. An example of the interaction of all variable features of the loan over any period of time;

k. A copy of the written disclosure described in this subrule shall be given to the borrower and a signed copy shall be maintained by the state bank during the term of the loan.

This rule is intended to implement Iowa Code section 524.905 as amended by Acts of the 69th General Assembly, 1982 Regular Session, Senate File 2300.

ARC 3046

BEER AND LIQUOR CONTROL DEPARTMENT[150]

TERMINATION OF NOTICE

Pursuant to the authority of Iowa Code Chapters 17A and 123, the Iowa Beer and Liquor Control Department gives notice of its intention to terminate [4.32(123)] ARC 2436 (IAB 10/28/81).

This rule would have required customers in state liquor stores to sign a Verification of Eligibility Form in addition to producing an ID when asked by state liquor store employees to prove their age. It has been over 180 days since the Notice of Intended Action for this rule was published in the IAB. The agency finds that this rule is not necessary at this time.

ARC 3056

COMMERCE COMMISSION[250]

AMENDED NOTICE OF INTENDED ACTION

The Iowa State Commerce Commission hereby gives notice that on October 9, 1981 [IAB 10/28/81, ARC 2462] the commission issued an order in Docket No. RMU-81-19, In Re: Iowa State Commerce Commission Rules Regarding Treatment of Costs Associated With the Inside Wiring Portion of Station Connections for Intrastate Telephone Utilities Subject to Commission Jurisdiction over Regulation of Rates. Thereafter, written comments were filed and oral presentations were received by the commission on December 14, 1981. As a result thereof, the commission developed proposed rules.

On February 12, 1982 [IAB 3/3/82, ARC 2762] the commission entered its Order Requesting Further Comments on Proposed Rules. The commission established March 25, 1982, as the final date upon which comments by interested parties could be filed with the commission regarding these proposed rules. The commission requested that such comments specifically address the proposed rules and not be duplicative of comments and oral presentations previously submitted in this proceeding.

On March 26, 1982 [IAB 4/14/82, ARC 2826] the commission entered its Order Granting Request for Oral Presentation and Motion for Extension of Time to File Written Comments, and Providing Clarification of Previous Order. Interested parties were allowed until May 6, 1982, to submit written comments and oral presentations were received on May 11, 1982.

Pursuant to the authority of Iowa Code Chapter 476, the commission proposes adoption of the rules hereinafter set forth which amend subrules 22.1(3), 16.5(21), 16.5(22), 16.5(27), 16.5(29), 16.5(30), 16.5(31), 16.5(32), 16.5(33), 16.5(36), 16.5(39) and 16.5(42); and add new subrules 22.11(1) to 22.11(4) and 22.11(6); and amend subrules 16.5(5), 16.5(19), 16.5(20), and 16.5(26).

These amendments and new selections serve to make the accounting, definitional and other provisions of Commerce Commission Rules consistent with new proposed subrules in rule 22.11(476) which establishes a transition date prior to the expiration of one hundred twenty days following the effective date of the rules for inside station wiring to become a competitive and nonutility function. Further, these amendments and new subrules provide for proper accounting and ratemaking treatment of inside station wiring installed prior to the aforementioned transition date.

The substantive changes between the rules hereinafter proposed and the rules proposed in the commission's Amended Notices of Intended Action issued on the 12th day of February, 1982, and the 26th day of March, 1982, in this proceeding involve the provision of a maximum one hundred twenty-day compliance period; the provision of no rate differential between existing and new inside station wiring; the provision for customer ownership, and customer responsibility for installation, repair and maintenance, of existing and new inside station wiring; the provision for purchase, at the customer's option, of existing inside station wiring; the provision for new inside station wiring installation, repair and maintenance to be treated as nonutility functions for ratemaking purposes; and the provision for the customer to utilize any supplier for installation, repair and maintenance of existing and new inside station wiring. Due to these proposed

COMMERCE COMMISSION[250] *(cont'd)*

changes, the commission desires interested parties to have the opportunity to submit further written comments in regard thereto. Accordingly, the commission has established the procedural schedule hereinafter set forth to serve this end.

ITEM 1. Amend subrule **22.1(3)** by adding the following definitions to be inserted alphabetically:

"Addition" means new inside station wiring installed on the customer's premises which has inside station wiring in existence before transition date.

"Ancillary equipment" means any equipment not included in the definitions of transmission service, terminal equipment or inside station wiring.

"Asset life" means the average number of years of service for a given asset account. All items within that asset account will depreciate within a fixed number of years and each will be depreciated to zero at the same point in time.

"Central office access line" means a circuit extending from the central office equipment to the demarcation point.

"Demarcation point" means the Standard Network Interface. The Standard Network Interface is a standard registration program jack or equivalent provided by the telephone company as part of exchange access line service. The Standard Network Interface will be located on the customer premises. All premises service will connect to the telecommunications network through the Standard Network Interface. This Standard Network Interface shall generally be the point of connection provided and maintained by the telephone utility to which the telephone utility-owned or customer-provided inside station wiring becomes dedicated to an individual customer's use. For single customer dwellings, this point of connection will generally be the protection affixed to the customer's premises.

"Inside station wiring" means the portion of the wiring located on the customer's premises, extending from the demarcation point to the terminal or ancillary equipment.

"New inside station wiring" means the inside station wiring installed by a telephone utility or other supplier on and after transition date; new inside wiring installed by a telephone utility shall be accounted for as a nonutility function.

"Other supplier" means the customer or any entity other than the telephone utility providing inside station wiring.

"Premises" means the space occupied in a single exchange by a customer in a building or in adjoining buildings.

"Protector" means a utility-owned electric device located in the central office, at a customer's premises or anywhere along any telephone facility which protects both the telephone utility's and the customer's property and facilities from over-voltage and over-current by shunting excessive voltages and currents to ground.

"Terminal equipment" means telephone instruments, the common equipment of key and PBX systems, and other devices and apparatus, together with their associated wirings, which are intended to be connected electrically, accoustically or inductively to the telecommunication system of the telephone utility.

"Transition date" means any date selected by a utility as the effective date for implementation of its tariff, subject to commission acceptance, which allows customers to provide, repair and maintain their own inside station wiring. Each utility must have such tariff sheets on file with the commission within one hundred twenty days after the effective date of these rules.

ITEM 2. Amend rule **250—22.11(476)** by adding the following new subrules:

22.11(1) Treatment of inside station wiring on and after the transition date.

a. On and after the transition date, all telephone utilities shall, if new inside station wiring continues to be offered, sell all new inside station wiring on a time and material basis and the customer receiving such new inside station wiring shall be the owner thereof. No telephone utility shall be required to sell or install new inside station wiring. The repair and maintenance of existing or new inside station wiring and the installation of new inside station wiring by a telephone utility shall be nonutility functions and each function will be priced on the basis of time and material. The costs and revenues associated therewith shall not be included in a telephone utility's revenue requirement for ratemaking purposes.

b. A telephone utility may sell inside station wiring which was in existence prior to the transition date at the customer's option. No customer shall be required to purchase such inside station wiring from a telephone utility. Permissible sales of existing inside station wiring shall be made separately by the telephone utility and not in conjunction with sales of other equipment or systems. Each telephone utility shall within one hundred twenty days after the effective date of these rules file a revised tariff which allows customers to provide, repair and maintain their own inside station wiring.

22.11(2) Suppliers.

a. Customers can secure new inside station wiring from their telephone utility, if new inside station wiring continues to be offered, or from any other supplier. Customers can secure repair or maintenance for existing or new inside station wiring from their telephone utility, if repair or maintenance continues to be offered, or from any other supplier.

b. Complete retirement of subaccounts 233:1 and 233:2 shall be accomplished through utilization of the depreciation methodology established by this commission in the last completed rate proceeding of each telephone utility as of the effective date of these rules; provided, however, that under no circumstances shall complete retirement be accomplished over a period in excess of ten years from the effective date of these rules.

c. The inside station wiring in existence on the transition date automatically becomes the property of the respective customers, upon retirement of the respective subaccounts, except as hereinafter provided. In the case of customers who are tenants, the inside station wiring automatically becomes the property of the owner of the leasehold premises.

22.11(3) New inside station wiring. All new inside station wiring, including repair and maintenance, whether as an addition or as total wiring of a premises:

a. Shall be owned, maintained, and repaired by the customer;

b. May be provided by any supplier, including any telephone utility which elects to provide new inside station wiring;

c. Shall be a nonutility function of any telephone utility which provides new inside wiring.

22.11(4) Riser cable inside building. Cable entering a building but serving more than one customer within that building shall not be considered inside station wiring. Such cable shall be considered distribution cable and shall be accounted for as outside plant.

22.11(6) Telephone utility cable connected with customer provided equipment or inside station wiring

shall be treated as outside plant under certain circumstances.

If a telephone utility has cable which connects two or more buildings wherein any individual customer has provided the equipment or inside station wiring, such telephone utility cable shall be considered and accounted for as outside plant. An individual can, without limitation, continue to provide his or her own cable to two or more buildings.

ITEM 3. Add the following paragraph at the end of subrule **16.5(5)**:

The definitions for the uniform set of accounts shall include new definition 31:01—3(ss) "transition date," to read as follows: (ss) "Transition date" means any date selected by a utility as the effective date for implementation of its tariff, subject to commission acceptance, which allows customers to provide their own inside station wiring.

ITEM 4. Add the following at the end of subrule **16.5(19)**:

Add new note (d) to section 31:171 to read as follows:

(d) After transition date accumulated depreciation for inside station wiring will no longer be recorded in this account, but shall appear in account 177.

ITEM 5. Add the following at the end of subrule **16.5(20)**:

Add new section 31.177:1 as follows:

31.177:1 Accumulated reserve for inside station wiring-business.

(a) As of transition date this subaccount shall be credited with amounts accrued for depreciation of inside station wiring-business which are capitalized in subaccount 233:1 prior to transition date.

(b) The offsetting corresponding debits to credits made to this account shall be made to account 608, Depreciation and amortization expense.

Add new section 31.177:2 as follows:

31.177:2 Accumulated reserve for inside station wiring-residential.

(a) As of transition date this subaccount shall be credited with amounts accrued for depreciation of inside station wiring-residential which are capitalized in subaccount 233:2 prior to transition date.

(b) The offsetting debit to corresponding credits made to this account shall be made to account 608, Depreciation and amortization expense.

ITEM 6. Amend the reference to inside station wiring in subrule **16.5(21)** by adding the words "prior to transition date."

ITEM 7. Amend the reference to account 171, Depreciation reserve in subrule 16.5(22) to include references to subaccounts 177:1 and 177:2, and section 31.2—27 to read as follows:

16.5(22) Amend the reference in paragraph (b) of section 31.2—20 to include paragraph (1) in addition to paragraph (2) of section 31.5—50(b), and add references to subaccounts 177:1 and 177:2 and section 31.2—27.

(b) The telephone plant accounts shall not include the cost or other value of telephone plant contributed to the company. Contributions in the form of money or its equivalent toward the construction of telephone plant shall be credited to the accounts charged with the cost of such construction. Amounts of initial nonrecurring charges based on the cost of plant or equipment furnished in rendering service to a customer, other than as provided in section 31.5—50(b)(1) and (2) shall be credited to the accounts charged with the cost of the plant or equipment. Amounts of initial charges based on the estimated cost of removal of such plant or equipment shall be credited to account 171, Depreciation reserve; subaccount 177:1, Accumulated depreciation reserve for inside station wiring-business; and subaccount 177:2, Accumulated depreciation reserve for inside station wiring-residential. Amounts received for construction which are ultimately to be repaid wholly or in part, shall be credited to account 174; when final determination has been made as to the amount to be returned, any unrefunded amounts shall be credited to the accounts charged with the cost of such construction. Amounts received for the construction of plant, the ownership of which rests with or will revert to others, shall be credited to the accounts charged with the cost of such construction (see 31.2—27).

ITEM 8. Add the following at the end of subrule **16.5(26)**:

Add new instruction for telephone plant accounts.

Amend 31.2—27 to read as follows:

31.2—27 As of transition date the installation and maintenance of inside station wiring both new and existing by a telephone utility shall be a nonutility function, and the costs and revenues associated therewith shall not be included in a telephone utility's revenue requirement for ratemaking purposes.

ITEM 9. Revised Note A of subrule **16.5(27)** as follows:

Note A: Prior to transition date the first cost of new installation (including inside cabling and wiring) were charged to subaccount 233:1, Inside station wiring-business, or to subaccount 233:2, Inside station wiring-residential as appropriate (see 31.2—27).

ITEM 10. Add the words "that occurred prior to transition date (see 31.2—27)" to the paragraph describing subaccount 233:1 Inside station wiring-business in subrule **16.5(29)**. The paragraph, as amended, will read:

233:1 Inside station wiring-business.

This account shall include the original cost of installing station apparatus related to business service (together with the cost of material used in the installation) and the original cost of installing the inside station wiring related to business service that occurred prior to transition date (see 31.2—27).

ITEM 11. Add the words "that occurred prior to transition date (see 31.2—27)" to the paragraph describing subaccount 233:2, Inside station wiring-residential in subrule **16.5(30)**. The paragraph, as amended, will read:

This account shall include the original cost of installing station apparatus related to residential service (together with the cost of material used in the installation) and the original cost of installing the inside station wiring related to residential service that occurred prior to transition date (see 31.2—27).

ITEM 12. Amend the reference to account 233 in subrule 16.5(31) by adding reference to transition date, and add reference to section 31.2—27 to read as follows:

16.5(31) Revise Note A of section 31.242:1 by deleting the references to account 232 and inserting in their place account 233. Note A as revised will read:

Note A: House cables are considered to be extensions of aerial cable plant. They do not include the inside wires extending from terminal boxes of house cables to subscriber's stations which are included in account 233, which relates to inside station wiring prior to transition

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date, or the cables for subscriber's private branch exchange switchboards which are included in account 233 prior to transition date or account 234, as appropriate (see 31.2—27).

ITEM 13. Add reference to transition date to the reference to account 233 in subrule 16.5(32), and add reference to 31.2—27 to read as follows:

16.5(32) The cost of small cables used as drop wires shall be charged to account 232. The cost of small cables used in station installations prior to transition date appeared in account 233 (see 31.2—27).

ITEM 14. Amend the reference to account 233 in subrule 16.5(33) by adding reference to transition date, and add reference to section 31.2—27 to read as follows:

16.5(33) Revise Note D of section 31.242:2 by deleting the references to account 232 and inserting in their place account 233. Note D as revised will read:

Note D: House cables are considered to be extensions of aerial cable plant. They do not include the inside wires extending from terminal boxes of house cables to subscriber's stations which were included in account 233 prior to transition date, or the cables for subscriber's private branch exchange switchboards which were included in account 233 prior to transition date or account 234, as appropriate (see 31.2—27).

ITEM 15. Amend the references to account 233 in subrule 16.5(36) by adding the words "prior to transition date," and add references to section 31.2—27 to read as follows:

16.5(36) Add to paragraph "b" (2) of section 31.5(50) reference to the account number 233. The paragraph, as amended, will read:

(2) Amounts of initial nonrecurring charges for plant or equipment, furnished in rendering service to a customer, includable in accounts 231, 232, 233 prior to transition date, and 234, except initial charges based on the cost of specially assembled private branch exchanges includable in account 234. (Note 31.2—20(b) and 31.2—27).

ITEM 16. Delete the references to inside station wiring in the title and paragraph (a) of account 601 as given in subrule 16.5(39) and insert new subsections (c) and (d). Title and paragraph (a) of account 601 in 16.5(39) will read as follows:

31.601 Station removals and station changes.

(a) This account shall include the cost of removing or changing the location of stations, and the cost of disconnecting, reconnecting and reinstalling stations.

New subsections (c) and (d) will read as follows:

(c) The sale of existing inside station wiring permitted by 22.11(1) shall be credited to account 601 with corresponding debit to account 113. The retirement of such existing inside station wiring shall be credited to account 233 with corresponding debit to account 177.1 in an amount equal to or greater than original cost.

(d) When inside station wiring which is in existence prior to the transition date is disposed of through casualty loss, account 233 shall be charged with the original cost of the property and account 601 shall be credited with the salvage value and insurance recovered, if any.

ITEM 17. Remove the words "inside station wiring" in paragraph (a) of subrule 16.5(42). Remove the words "inside wire, and service wires" in paragraph (b) of subrule 16.5(42).

Subrule **16.5(42)** paragraphs (a) and (b), will read as follows:

(a) This account shall include the cost of repairing station apparatus and large private branch exchanges.

(b) This account shall include also amortization costs of extensive replacements of station apparatus which, under conditions provided in 31.6—64, have been included in account 138, Extraordinary maintenance and retirements.

An original and six copies of written comments on the above proposed rules, substantially complying with the form prescribed in subrule 250—2.2(2), Iowa Administrative Code, must be filed on or before August 11, 1982, with the commission. Such comments should not duplicate previously submitted comments and oral presentations, shall clearly indicate the author's name and address, and shall contain a reference to Docket No. RMU—81—19. All such written comments shall be directed to the Executive Secretary, Iowa State Commerce Commission, Lucas State Office Building, Des Moines, Iowa 50319.

This rulemaking proceeding has, and continues to be, conducted pursuant to Chapter 250—3, IAC and Iowa Code chapters 17A and 476, as amended.

ARC 3057

COMMERCE COMMISSION[250]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The Iowa State Commerce Commission hereby gives notice, pursuant to Iowa Code Sections 17A.4(1) and 476.2, that on June 25, 1982, the Commission, on its own motion, issued an order in Docket No. RMU-82-1, In Re: Deregulation of the Terminal Equipment Market of Intrastate Telephone Utilities, entitled "Order Commencing Rulemaking."

Pursuant to the authority of Iowa Code chapter 476, the commission intends to consider the adoption of rules relating to the deregulation of the terminal equipment market for intrastate telephone utilities subject to rate and/or service regulation by this commission. If rules are promulgated in this proceeding, those rules shall amend 250—chapter 22, "Telephone Utilities," Iowa Administrative Code. Such rules, if promulgated, shall implement Iowa Code sections 476.1, 476.5 and 476.8. The commission's "Order Commencing Rulemaking" should be consulted for a full discussion of this matter. The specific issues to be addressed in this proceeding are as follows:

1. What is meant by the phrase "deregulation of the terminal equipment market?"

2. What specific federal and Iowa statutes, rules or other legal authority are applicable, in whole or in part, to the "deregulation of the terminal equipment market,"

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and how does each affect this commission's jurisdiction? What pending federal legislation is relevant thereto?

3. What specific "deregulation" has occurred to date, how was it accomplished, and who authorized or mandated same (provide all sources, orders or rules relied upon and the explanation thereof)?

4. What specific "terminal equipment" has been deregulated to date (and provide all sources, orders or rules relied upon and the explanation thereof)?

5. What specific "market" is involved to date (and provide the explanation thereof)?

6. With respect to the subject matter of questions 3 to 5, inclusive, what is likely to be involved in the future with respect to each?

7. What are "communications services" as set forth in Iowa Code section 476.1?

8. What is the appropriate definition of the phrase "furnishing communications services to the public for compensation" as set forth in Iowa Code section 476.1?

9. What additional specific and detailed comments do interested parties have to the following inquiries initially propounded in Docket RMU-81-4:

A. How Iowa intrastate telephone utilities shall comply with the decision of the Federal Communications Commission in the Second Computer Inquiry (Docket No. 20828), 45 Fed. Reg. 31319 (May 13, 1980) and 46 Fed. Reg. 5984 (January 21, 1981), and all subsequent decisions in said Docket?

B. What is the extent, if any, of federal pre-emption of rate and/or service regulation of intrastate telephone utilities subject to rate and/or service regulation by this commission regarding deregulation of the terminal equipment market.

C. Whether intrastate telephone utilities can be required to continue to provide any or all terminal equipment now offered, including telephones, if they wish not to and the resultant effects if the provision of terminal equipment were abandoned, reduced or otherwise changed from current practice?

D. What is the effect on Iowa intrastate telephone utilities of pending, and anticipated, FCC proceedings concerning possible changes to depreciation schedules, adequacy of investment recovery, and the basis upon which unsold equipment should be removed from an intrastate telephone utility's regulated rate base and books of account as discussed in Section 166 in the original FCC decision entered on May 13, 1980. Additionally:

(i) Whether the results of such proceedings will preempt this commission's action on these matters?

(ii) Whether this commission should defer action until the completion of one or more of these FCC proceedings before addressing the subject matter of this Docket?

(iii) What action, if any, should be taken by this commission at this time concerning the subject matter of this Docket?

(iv) How this commission should treat profits or losses realized by intrastate telephone utilities before, and subsequent to, the transfer of terminal equipment to a subsidiary or affiliate.

(v) Should such profits or losses be treated in below-the-line accounts?

(vi) How intrastate telephone utility unamortized investment tax credits and the tax effects of accelerated depreciation on terminal equipment should be treated?

E. Whether this commission should take any action until final disposition of the pending appeal of the FCC decision in the Second Computer Inquiry?

F. Whether, with customer provision of terminal equipment, such equipment remains subject to this commission's rate regulatory authority.

G. If the exercise of such authority is discretionary, how this commission should exercise its discretion?

H. Whether, in the absence of rate regulation, this commission could or should mandate the provision of terminal equipment by intrastate telephone utilities as necessary to fulfill the legal mandate for reasonably adequate service? If yes, what equipment must be offered and on what basis?

I. What the effect of deregulation of terminal equipment will have on:

(i) Market structure.

(ii) The costs of developing a competitive market structure, particularly in sparsely populated rural areas or markets limited in size.

(iii) Cost of service and separations.

(iv) Ratemaking and accounting (with or without a separate subsidiary or subsidiaries handling the deregulated business).

J. Whether this commission should establish a uniform system of accounts or any specific rules for subsidiary or affiliate terminal equipment operations.

10. What items set forth in response to questions 1 to 9, inclusive, or other services and equipment constitute in part or in whole, "communications services" as set forth in Iowa Code section 476.1 (and provide full explanation thereof)? What items or other services and equipment do not (and provide explanation thereof)?

11. What items set forth in response to questions 1 to 9, inclusive, or other services and equipment constitute, in part or in whole, "furnishing communications services to the public for compensation" as set forth in Iowa Code section 476.1, (and provide explanation thereof)? What items or other services and equipment do not (and provide explanation thereof)?

12. What items set forth in response to questions 1 to 9 inclusive, or other services and equipment are subject, in part or in whole, to Iowa Code Section 476.5 and/or Section 476.8 (and provide explanation thereof)? What items or other services and equipment are not (and provide explanation thereof)?

13. If "deregulation of the terminal equipment market" were allowed or mandated by this commission:

A. Will exceptions be made for equipment used by the physically impaired?

B. What is the proper allocation of overheads and operating expenses between the regulated and nonregulated portions of the company's operation? How will this be verified?

C. What treatment is appropriate for investment which is capitalized on the books of the regulated portion of Company, yet sold through the nonregulated portion of the Company? How does this commission make certain that no "stranded investment" occurs in these types of transactions?

D. What is the responsibility, if any, of the intrastate telephone utility to existing customers when their leased vertical service breaks down or the customers change locations?

Other issues relevant to deregulation of the terminal equipment market may be addressed as the commenting party desires.

Any person interested in this matter may file written comments no later than August 20, 1982. An original and six copies of such comments, substantially complying with the form prescribed in subrule 2.2(2), Iowa Ad-

COMMERCE COMMISSION[250] *(cont'd)*

ministrative Code, must be filed. Such comments shall clearly indicate the author's name and address and shall contain a reference to Docket No. RMU-82-1. All such comments shall be directed to the Executive Secretary, Iowa State Commerce Commission, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Oral presentation, pursuant to Iowa Code section 17A.4(1)b., is hereby scheduled in this docket to commence at 10:00 a.m. on August 30, 1982, in the Commission's Hearing Room, First Floor, Lucas State Office Building, Des Moines, Iowa.

This rulemaking proceeding shall be conducted pursuant to 250—Chapter 3, IAC, and Iowa Code chapters 17A and 476, as amended.

ARC 3051

CREDIT UNION DEPARTMENT[295]

NOTICE OF INTENDED ACTION—HEARING

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 533.2, The Credit Union Department hereby gives Notice of Intended Action to adopt Chapter 12, "Bylaw Amendment Voting Procedure — Mailed Ballot" to set forth the procedure requirements pertaining to the membership voting by mail ballot on proposed amendments to the bylaws and Chapter 13, "Merger Voting Procedure — Mailed Ballot" to set forth the procedure requirements pertaining to the membership voting by mail ballot on a merger proposal. The substance of these rules was previously submitted as emergency adopted and implemented rules, ARC 3049 and ARC 3050, published in the Iowa Administrative Bulletin on July 21, 1982.

The purpose of this notice is to solicit public comment on that submission, the subject matter of which is incorporated by reference.

The administrator will hold a public hearing on August 12, 1982 at 2:00 p.m. in the 2nd floor conference room, Executive Hills West, 1209 East Court, Des Moines, Iowa 50319. Such action shall be in accordance with the provisions of the administrative procedures Act, Iowa Code chapter 17A.

Comments and requests to make an oral presentation shall be addressed to Betty Minor, Administrator, Credit Union Department, Executive Hills West, 1209 East Court Avenue, Des Moines, Iowa 50319.

Any person or agency described in Iowa Code section 17A.2, may submit written comments or requests to make an oral presentation. Such comments and requests shall include:

1. The name, address and telephone number of the person or agency submitting the comment or request.
2. The title and number of the proposed rule included in this notice which is the subject of the comment or request.
3. With regard to requests to make an oral presentation, the general content shall be indicated.

Written comments or written requests to make an oral presentation will be accepted if received by the Credit Union Department on or before August 11, 1982.

ARC 3069

EMPLOYMENT SECURITY[370]

(JOB SERVICE)

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code Sections 96.11(1) and 17A.3, the Iowa Department of Job Service hereby gives Notice of Intended Action to amend Chapter 3, "Employer's Contribution and Charges", Iowa Administrative Code.

This rule explains that the emergency tax will be added to the employer's regular rate during any quarter of 1983 in which the emergency tax is in effect. It explains how the department will break out the emergency tax to credit it to the temporary emergency tax fund and that the employer will not be given credit toward future contribution rates.

Interested persons, governmental agencies, and associations may present written comments or statements on the proposed amendments not later than 4:30 p.m., August 11, 1982, to James A. Hunsaker III, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., August 11, 1982, at the above address. The proposed amendment is subject to revisions after the department considers all written and oral presentations. Persons who want to convey their views orally should contact Mr. Hunsaker at (515)281-8093 or at the above address.

This rule is intended to implement Iowa Code section 96.7(15), as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2273.

The following amendments are proposed.

Amend rule 370—3.40(96) by adding new subrule 3.40(7) to read as follows:

3.40(7) Temporary emergency tax for 1983. If it becomes necessary to implement a temporary emergency tax on all employers (except zero rated employers, government employers, and nonprofit organizations as described in the U.S. Internal Revenue Code, 26 U.S.C. 501(c)(3)) for any quarter of 1983 to pay interest on moneys borrowed from the federal government to pay job insurance benefits, the emergency tax shall be collected and credited in the following manner.

a. The emergency tax rate (not to exceed one-tenth of one percent) will be added to the regular contribution (tax) rate on the employer's quarterly reporting form. A message printed on the form will state that the rate shown includes the temporary emergency tax and shall give the emergency tax rate.

EMPLOYMENT SECURITY[370] *(cont'd)*

b. The portion of each tax payment which is attributable to the emergency tax that is received from an employer for a quarter in which the emergency tax is in effect, shall be credited to the temporary emergency tax fund.

c. The portion of the employer's tax payment credited to the temporary emergency tax fund shall not be used in the computation of the employer's future contribution (tax) rates.

This rule is intended to implement Iowa Code section 96.7(15), as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2273.

ARC 3070

EMPLOYMENT SECURITY[370]

(JOB SERVICE)

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code Sections 96.11(1) and 17A.3, the Iowa Department of Job Service hereby gives Notice of Intended Action to amend Chapter 4, "Claims and Benefits", Iowa Administrative Code.

This rule amends rules 370—4.41(96) and 370—4.42(96) which contain the procedure for the unemployed parent to follow in contacting Job Service. The unemployed parent must register for work and file a claim for job insurance. If eligible for job insurance payments, the job insurance payments must be collected before receiving AFDC-UP benefits.

New rule 370—4.59(96) specifies that Job Service shall notify the child support recovery unit of Iowa department of social services of the persons filing new claims that owe child support payments. The Iowa department of social services will either obtain a voluntary agreement for deductions from the claimant and, if no agreement is reached, shall use garnishment procedures to have Job Service make the deductions from job insurance payments.

Interested persons, governmental agencies, and associations may present written comments or statements on the proposed amendments not later than 4:30 p.m., August 11, 1982, to James A. Hunsaker III, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., August 11, 1982, at the above address. The proposed amendment is subject to revisions after the department considers all written and oral presentations. Persons who want to convey their views orally should contact Mr. Hunsaker at (515) 281-8093 or at the above address.

These rules are intended to implement Iowa Code chapter 91, as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2304 and Public Law 94-566; and Iowa Code section 96.3, as amended by Acts of the Sixty-ninth General Assembly, House File 2347 and Public Law 97-35.

The following amendments are proposed.

ITEM 1. Amend rule 370—4.41(96) to read as follows:

370—4.41(96) Unemployed ~~fathers~~ *parents* program (~~ADC-UF~~ *AFDC-UP*). Unemployed ~~fathers~~ parents program (~~ADC-UF~~ *AFDC-UP*) under Public Law 94-566, an unemployed ~~father~~ *parent* who is eligible for both unemployment insurance and aid to dependent children-unemployed ~~father~~ *parent* program (~~ADC-UF~~ *AFDC-UP*) shall be required to collect any unemployment insurance to which ~~he~~ *the individual* is entitled before receiving any payments under the ~~ADC-UF~~ *AFDC-UP* program.

This rule is intended to implement *Iowa Code chapter 91, as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2304 and* Public Law 94-566 ~~section 507.~~

ITEM 2. Amend rule 370—4.42(96) as follows which includes deleting in their entirety subrules 4.42(1), 4.42(2) and 4.42(3) and inserting new subrules 4.42(1) and 4.42(2) to read as follows:

370—4.42(96) Retention of DSS referral form. When an unemployed ~~father~~ *parent* presents ~~his~~ *the* DSS referral form PA-2138-5 to the job ~~insurance~~ *service* representative, the representative will take the form, sign it and complete a form IESC 201. ~~The representative shall notate the form IESC 550 with an ADC-UF and retain the DSS form plus the self-addressed envelope in this form until the IESC 204, Iowa monetary records (determination), is returned.~~

4.42(1) The weekly benefit amount and maximum benefit amount of the claimant will be entered in job service comments on the form PA-2138-5. If the person is not monetarily eligible, that notation will be entered and the form mailed to social services.

4.42(2) An AFDC-UP claimant may have the claim protested which can affect eligibility. Social services may request additional information on a subsequent form PA-2138-5 concerning non-monetary allowances or disqualifications on the claim, which will be furnished in the comments section of the form.

This rule is intended to implement Iowa Code chapter 91, as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2304 and Public Law 94-566.

ITEM 3. Add new rule 370—4.59(96) to read as follows:

370—4.59(96) Child support intercept. An individual who owes a child support obligation and who has been determined to be eligible for job insurance benefits under Iowa Code chapter 96, shall have this information furnished to the child support recovery unit. Job service shall deduct and withhold from benefit payments the amount which is specified by the child support recovery unit. The term "benefits" for child support intercept purposes shall be defined as meaning any compensation payable under Iowa Code chapter 96, including any amounts payable pursuant to any job service agreement under any federal law administered by job service.

EMPLOYMENT SECURITY[370] *(cont'd)*

4.59(1) Information furnished to child support recovery unit. Job service shall furnish information to the child support recovery unit concerning all new claims filed that are monetarily eligible for benefits under any state or federal program administered by job service.

4.59(2) Action taken by child support recovery unit. The child support recovery unit shall contact the claimant so that an opportunity is afforded to the claimant for a signed agreement to have a specified amount deducted and withheld from the claimant's benefits. The child support recovery unit shall submit a copy of the signed agreement to job service and job service shall deduct and withhold the amount specified in the agreement.

4.59(3) Garnishments. Failure of the child support recovery unit to reach an agreement with the claimant for a specified amount to be deducted may result in the child support recovery unit initiating a garnishment action through legal process under Iowa Code chapter 642. Job service shall deduct and withhold from the claimant's benefits the amount specified. Notwithstanding section 96.15, benefits under chapter 96 are not exempt from garnishment, attachment, or execution if garnisheed by the child support recovery unit as established in Iowa Code section 252B.2, to satisfy the child support obligation of an individual who is eligible under this chapter. Child support obligation is defined as only those obligations which are enforced pursuant to the plan as described in section 454 of the social security Act under part D of Title IV entitled "State Plan for Child Support".

4.59(4) Treatment of amount deducted for child support. Any amount deducted from unemployment insurance payments for child support obligations shall be treated as if it were paid to the individual as benefits under Iowa Code chapter 96.

4.59(5) Processing of payments. The child support recovery unit shall furnish to job service the name and address of the designated public official to which the amount deducted must be mailed. After the deduction, the remaining balance shall be mailed to the claimant.

4.59(6) Notice to claimant. Job service shall mail a notice to the claimant which explains the beginning date and the amount of the deduction from the claimant's weekly benefit amount which satisfies the individual's child support obligation to the child support recovery unit. This notice will be issued when the first deduction is made from the benefit warrant. The notice shall explain the authority for the deduction and include the claimant's right of appeal.

4.59(7) Appeal rights on the child support deduction.

a. Any appeal on a child support deduction is limited to either the validity of job service authority to make the deduction or the accuracy of the amount deducted.

b. The claimant will be advised to seek remedy either through the child support recovery unit or through the court system whenever the question of reasonableness or fairness of the deducted amount is raised in terms of ability to pay.

c. Job service does not have the authority under Iowa Code chapter 96, to change the amount of the deduction as specified by garnishment or voluntary agreement or to adjudicate any appeal from said garnishment or voluntary agreement.

This rule is intended to implement Iowa Code section 96.3, as amended by Acts of the Sixty-ninth General Assembly, House File 2347 and Public Law 97-35.

ARC 3077

ENVIRONMENTAL QUALITY DEPARTMENT[400]

ENVIRONMENTAL QUALITY COMMISSION

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 455B.32 and 455B.71, the Environmental Quality Commission intends to take action on Chapter 19, "Waste Water Construction and Operation Permits", Iowa Administrative Code. The Commission intends to amend 19.2(12)"b" under which a state priority system for municipal waste water treatment construction grants is adopted by reference. This action will also involve a revision of the annual state project priority list which is generated from the priority system.

The proposed system entitled "Priority System for Administration of Federal Wastewater Treatment Works Construction Grants Under Authority of the Clean Water Act as Amended" [Priority System] is required by federal regulation to be reviewed annually. The Priority System is used to generate the list of projects which will be funded with Iowa's annual federal allotment of funds for municipal wastewater treatment construction grants. State and federal approval of the Priority System is required. The state project priority list must be revised annually, and the proposed "Fiscal Year 1983 — Construction Grants State Project Priority List" [Project List] has been revised in accordance with the proposed Priority System. Federal and state approval of the Project List is required for municipal projects to receive grant funds.

The proposed rule change would adopt the Priority System by reference, replacing the fiscal year [FY] 1981 Priority System presently in effect. The proposed rule change would be effective October 1, 1982. A public hearing is required on the Priority System to fulfill federal regulations and state rulemaking requirements. The Project List is the list of projects for which FY83 grant funding is anticipated. A public hearing on the Project List is required to fulfill federal public participation requirements. The Environmental Quality Commission intends to hold a public hearing on both the Priority System and the Project List on August 16, 1982.

Reductions in federal grant allotments have compelled the Environmental Quality Commission to consider changes in the present priority system that would allow the maximum number of projects to be funded. The Commission urges the public to offer comments on the proposed Priority System and Priority List. The following is a summary of the significant issues in the Priority System that will be considered at the public hearing on August 16, 1982. The issues are:

1. Whether projects should continue to be funded at 75% of the allowable costs or whether the grant percentage should be reduced to 55%;

2. Whether the allowable costs of qualifying sewer work should be funded concurrent with or subsequent to

treatment works funding or whether funding those costs should be permitted prior to treatment works funding;

3. Whether, with the exception of communities having a population of 3,500 or less who otherwise qualify for small community alternative reserve funds, innovative and alternative (I/A) funding should be limited to projects on the fundable list or whether replacement of projects on the fundable list should be permitted to make use of the I/A reserve;

4. Whether failed I/A projects should be provided 100% replacement funding or whether they should not be replaced;

5. Whether or not a reserve of 5% of the state's annual allotment should be established for obligation to unsewered communities with health hazard conditions;

6. Whether a proposal that projects receiving grant funds cannot have a contract completion date that exceeds 2 years should be adopted;

7. Whether Step 2 + 3 (Step 4) grants should be limited to a maximum of 3 million dollars;

8. Whether a proposal should be adopted that provides that a Step 2 + 3 (Step 4) grant could include a provision that unless a contract is awarded within a specific period, the Step 3 allowable costs could be reduced by 0.5% per month for each month of delay;

9. Whether the proposed guidelines for granting or denying grant increases should be adopted, as well as whether those increases should be identified or awarded within 12 months; and

10. Whether a cut-off date of September 1st for project certification should be adopted so that projects not ready could be bypassed, if necessary, to obligate allotted funds.

Amendments to the Clean Water Act in 1981, P.L. 97-117, have required certain changes in the Priority System. Those changes include the elimination of Step 1 and Step 2 grants, a provision for an allowance in a Step 3 grant for former Step 1 and Step 2 costs, the establishment of an "Advance of Allowance" reserve for small communities, and the establishment of a "Water Quality Management" reserve for water quality planning.

Project information contained in the proposed Project List has been revised to reflect current project cost estimates and schedules for funding based on anticipated federal appropriations for the construction grant program. The Project List includes both a fundable portion and a planning portion. The fundable portion includes projects scheduled for award of grant assistance from funds available during the fiscal year. The planning portion includes projects for which funding is anticipated from allotments authorized by the Clean Water Act.

A public hearing on the rule amendment to adopt the proposed Priority System by reference and on the proposed Project List will be held on August 16, 1982, at 9:00 a.m. in the auditorium of the Henry A. Wallace Building, 900 E. Grand Avenue, Des Moines, Iowa. Any interested person may make an oral presentation on the proposed Project List or rule change at the public hearing. Interested persons may also submit written comments on the Project List or rule change on or before August 26, 1982, to the Executive Director, Department of Environmental Quality, Henry A. Wallace Building, 900 E. Grand Avenue, Des Moines, Iowa 50319. Copies of the proposed Priority System and Project List may be requested from the Records Division of the Department of Environmental Quality at the address provided above after July 15, 1982.

The following amendment is proposed.

Subrule **19.2(12)**, paragraph "b" is amended to read as follows:

b. Beginning October 1, ~~1981~~ *1982*, the department endorsement of federal grants shall be in accordance with the document entitled ~~"State of Iowa — Fiscal Year 1981~~ "Priority System for Administration of the Federal Wastewater Treatment Works Construction Grants Under Authority of the Clean Water Act ~~of 1977~~ *As Amended"* [as adopted].

This rule is intended to implement Iowa Code section 455B.32 and part 3 of division III of chapter 455B.

ARC 3053

FAIR BOARD[430]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 173.14(8) and Chapter 17A, The Iowa State Fair Board proposes to amend 430—chapters 1, 2 and 6 of the Iowa Administrative Code.

The amendments are intended to correct or clarify the rules.

Interested persons may present written comments or statements on the proposed amendments not later than 1:30 p.m., August 24, 1982, to J.D. Taylor, Iowa State Fair, Statehouse, Des Moines, Iowa 50319, at the Administration Building, Iowa State Fairgrounds, Des Moines, Iowa.

These rules implement Iowa Code section 173.15.

ITEM 1. Amend rule 1.5(173) to read as follows:

430—1.5(173) Returned checks. A fee of $10.00 will be charged to anyone whose ~~check~~ *issued document* is not honored by the ~~bank~~ *issuing institution.*

ITEM 2. Amend subrule **2.2(2)** paragraph "b" to read as follows:

b. Violation of parking restrictions. Vehicles found in violation of posted parking areas are subject to towing at a $15.00 impoundment fee or the issuance of a citation to the driver or owner, *or both.*

FAIR BOARD[430] *(cont'd)*

ITEM 3. Amend rule 2.5(173) to read as follows:

430—2.5(173) Alcoholic beverages. Alcoholic beverages may be consumed only in areas *and during hours* designated by the Iowa state fair board.

ITEM 4. Amend rule 6.14(173) first sentence to read as follows:

430—6.14(173) Judges. Competitors may not in any way, whether in person or by agent, interfere with judges ~~while judging~~ *at any time.*

The Iowa state fair board approved the above changes at their regular meeting on June 16, 1982.

ARC 3052

FAIR BOARD[430]

TERMINATION OF NOTICE

Pursuant to the authority of Iowa Code Section 178.14(8) and 17A, The Iowa State Fair Board terminates action on proposed rule 4.8(173) Landlord Tenant Remedy ARC 2437 and published 10/28/81.

This rule is no longer necessary. The 180-day time limit since publication is up so this proposed rule is terminated.

ARC 3047

HEALTH DEPARTMENT[470]

TERMINATION OF NOTICE

Pursuant to the authority of Iowa Code Section 135.72, the State Department of Health proposes to terminate a rule affecting Chapter 203 of the Iowa Administrative Code which was published as a Notice of Intended Action on October 14, 1981 as ARC 2384. The rule was to provide numerical and qualitative standards for the implementation of criteria found in Iowa Code Section 135.64, to be applied by the Health Facilities Council to projects involving long term care facilities. The Department is terminating the rulemaking process because more than 180 days have elapsed since its original publication.

ARC 3072

REAL ESTATE COMMISSION[700]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 117.9, the Real Estate Commission proposes action by adding subrule 1.25(2) for the purpose of clarifying the requirements for duplicate or branch office licenses.

Persons interested in commenting on the proposed rule shall submit same to the Iowa Real Estate Commission no later than 4:30 p.m., August 24, 1982. Comments shall be submitted to the Commission by sending or delivering them to the Commission office at 1223 E. Court Avenue, Suite 205, Des Moines, Iowa 50319.

The Real Estate Commission will hold a public hearing concerning this rule at which time oral comments may be made to the Commission. The public hearing will be held at 2:00 p.m. August 26, 1982, in the Commission office at 1223 E. Court Avenue, Suite 205, Des Moines, Iowa 50319. Any individual wishing to present oral comments should notify the Commission office of their intent no later than the time prescribed for submitting written comments.

This rule is intended to implement Iowa Code section 117.31.

Rule 700—1.25(117) is amended by adding the following:

1.25(2) Branch office. A resident Iowa broker who is self-employed and maintains a branch office shall display a duplicate license in the branch office. A designated broker associate assigned to supervise the branch office shall also display a duplicate license in the branch office. A corporation or partnership which maintains a branch office shall display a duplicate license in the branch office. The designated broker or designated broker associate assigned to supervise the branch office shall also display a duplicate license in the branch office. A broker who is a principal in more than one real estate firm must display a duplicate license in the main office of each of the other real estate firms in which the broker is a principal. Tradenames are not required to display duplicate tradename licenses in branch offices.

ARC 3062

SOCIAL SERVICES DEPARTMENT[770]

NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 239.18, the Department of Social Services has filed emergency adopted and implemented rules relating to aid to dependent children (chapter 42), ARC 3059. These rules are the eligibility criteria for the aid to dependent children unemployed parent program.

Although the rules were emergency adopted and implemented, the department is soliciting comments on them and will consider those comments for possible changes.

Consideration will be given to written data, views, or arguments thereto, received by the Bureau of Policy, Research, and Analysis, Department of Social Services, Hoover State Office Building, Des Moines, Iowa 50319 on or before August 13, 1982.

These rules are intended to implement Iowa Code section 239.2.

ARC 3045

TRANSPORTATION, DEPARTMENT OF[820]

01 DEPARTMENT GENERAL DIVISION

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

On August 31, 1982, at their regular meeting at the Department of Transportation Complex, 800 Lincoln Way, Ames, Iowa, the transportation commission shall consider for adoption the administrative rules as described herein. Such action shall be in accord with the Iowa administrative procedures Act, Iowa Code Chapter 17A, and department of transportation rules 820—[01,B] chapter 1, "Administrative Rules".

Written comments concerning these proposed rules or written requests to make an oral presentation at the above specified commission meeting shall be addressed to the Department of Transportation, Office of Financial/Operational Analysis, 800 Lincoln Way, Ames, Iowa 50010. Written comments or written requests to make an oral presentation may be accepted if received by the department of transportation on or before August 17, 1982.

Any person or agency, as defined in section 17A.2, subsections 1 and 6 of Iowa Code, may submit written comments or written requests to make an oral presentation. Such comments or requests shall clearly state:

1. The name, address and phone number of the person or agency authoring the comment or request.
2. The title and number of the proposed rule as given in this notice which is the subject of the comment or request. (Comments pertaining to a specific section of a proposed rule shall reference that section by subrule, paragraph, and subparagraph as appropriate.)
3. With regard to requests to make an oral presentation, the general content shall be indicated.

Pursuant to the authority of Iowa Code Section 307.10, the Department of Transportation hereby gives Notice of Intended Action to amend 820—[01,B] chapter 3 entitled "Contested Cases".

Item 1 adds definitions to the chapter.

Item 2 combines the contents of current rules 3.1(17A) and 3.2(17A) into one rule. Cross references to other rules and references to the transportation regulation authority have also been updated.

Item 3 adds a new rule which provides that the department may be represented by paralegals or legal assistants at hearings conducted pursuant to Iowa Code chapter 321B. The substance of this new rule was also submitted as an emergency adopted and implemented rule, ARC 3044, published in the Iowa Administrative Bulletin on July 21, 1982.

Item 4 adds a requirement that parties to a contested case proceeding and their attorneys keep the department informed of their current addresses.

These rule amendments are intended to implement Iowa Code chapter 17A.

Proposed rulemaking actions:

Pursuant to the authority of Iowa Code Section 307.10, rules 820—[01,B] Chapter 3 entitled "Contested Cases" are hereby amended.

ITEM 1. Strike rule [01,B]3.1(17A) and insert in lieu thereof the following:

820—[01,B]3.1(17A) Definitions. For the purposes of this chapter of rules, the definitions contained in Iowa Code section 17A.2 are hereby adopted. In addition, the following definitions are adopted, unless the context otherwise requires:

3.1(1) "Department" means the Iowa department of transportation.

3.1(2) "Director" means the director of transportation or the director's designee.

ITEM 2. Rule [01,B]3.2(17A) is amended to read as follows:

820—[01,B]3.2(17A) *Statement of applicability and* ~~R~~reference to additional provisions.

3.2(1) *This chapter of rules is intended to set out the minimum procedural requirements applicable to all contested case proceedings conducted under the statutory authority of the department. This chapter does not apply to contested case proceedings which are statutorily jurisdictional to the transportation regulation authority.*

3.2(2) *Within the rules of the divisions of the department (divisions 01 through 11 of 820) are stated* ~~The following lists references to rules containing~~ additional provisions applicable to particular *types of* contested case proceedings. These proceedings shall be conducted in accord-

TRANSPORTATION, DEPARTMENT OF[820] *(cont'd)*

ance with both this chapter of rules and the *rules* applicable ~~referenced rules~~ *to the particular type of contested case proceeding;* where there is a conflict, this chapter of rules shall take precedence. (Exception: If a statute expressly provides for transportation regulation ~~board~~ *authority* jurisdiction over the proceeding, rules promulgated by the transportation regulation ~~board~~ *authority* shall apply.)

3.2(3) *The following is a listing of rules which contain additional provisions applicable to particular types of contested case proceedings (absence from this listing shall not invalidate other rules applicable to particular types of contested case proceedings):*

~~3.2(1)~~*a.* Proceedings concerning driver license suspension, revocation ~~and~~ *or* denial: 820—[07,C]*11,* ~~13.18,~~ 13.19, 13.20, 13.21 and 14.2;

~~3.2(2)~~*b.* Proceedings concerning motor vehicle dealers, manufacturers, distributors and lessors: 820—[07,D] ~~10.8~~*10.16;*

~~3.2(3)~~*c.* Proceedings concerning vehicle registration: 820—[07,D]11.56;

~~3.2(4)~~*d.* Proceedings concerning motor vehicle inspection: 820—[07,E]21.3, 21.15 and 21.16;

~~3.2(5)~~*e.* Proceedings concerning truck ~~operation~~ *operators* and contract carriers: 820—[07,F]*3.4 and* 3.7;

~~3.2(6)~~ *f.* Proceedings concerning motor carriers and charter carriers: 820—[07,F]*4.2 and* 4.5;

~~3.2(7)~~ *g.* Proceedings concerning liquid transport carriers: 820—[07,F]*13.2,* 13.4 and 13.7; and

~~3.2(8)~~*h.* Proceedings concerning railroads: ~~820—[10,B]1.1 to 1.5, 1.8, and 10.2~~ *(Reserved).*

3.2(4) *If there is no other rule applicable to a particular type of contested case proceeding, the proceeding shall be conducted exclusively in accordance with this chapter of rules.*

ITEM 3. [01,B] chapter 3 is amended by adding new rule [01,B]3.14(17A) as follows:

820—[01,B]3.14(17A) Use of legal assistants or paralegals. The department may be represented by legal assistants or paralegals at contested case hearings conducted pursuant to Iowa Code chapter 321B, as amended by the Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2369.

These authorized legal assistants or paralegals shall be under the supervision of attorneys from the department's general counsel division.

ITEM 4. [01,B] chapter 3 is amended by adding new rule [01,B]3.15(17A) as follows:

820—[01,B]3.15(17A) Address changes. All parties to a contested case proceeding shall keep the department informed of their current addresses. This shall also apply to attorneys representing these parties.

ARC 3048

COMMERCE COMMISSION[250]

The Iowa State Commerce Commission hereby gives notice that on June 25, 1982, the Commission issued an order in Docket No. RMU-82-7, In re: Technical Corrections To Iowa State Commerce Commission Rules Part 250, Iowa Administrative Code, "Order Adopting and Implementing Rules On An Emergency Bases," and, pursuant to the authority of Iowa Code Sections 17A.3, 474.5, 476.1 and 476.2 adopted certain technical corrections to its rules, Part 250, Iowa Administrative Code. The amendments adopted are intended to accomplish several purposes: Update references to the current edition of the Iowa Code and Iowa Administrative Code, correct typographical errors, correct the address of the commission, correct the references to other Iowa state agencies to reflect their current names, reflect the current structure of the commission, change the terminology used in the rules to reflect current commonly used technical language, and reduce the number of public filings to be submitted to the commission in certain instances as a conservation and cost-saving measure where the number presently required are not needed. References in the rules have been updated to current publications of the American National Standards Institute, which functions as the current industry reference. In addition, an amendment to 250—7.4(1)"c"(2), IAC, has been adopted to correct an inadvertent omission, by requiring billing notice form requirements for nonrate-regulated utilities to conform to those established for rate-regulated utilities.

Finally, the Order Adopting Rules authorizes the Code Editor to delete all references to Iowa Code ch. 490A, and 66GA, ch. 1206, and substitute references to Iowa Code ch. 476, and Iowa Code ch. 476A, respectively, whenever, for any reason, the page on which the incorrect reference is found is being revised or reprinted by the Code Editor. Since the out-of-date Code references are numerous and the costs to amend a page in IAC do not warrant a reprint for that reason only, this amendment is written in directive form only.

In compliance with Iowa Code section 17A.4(2), the commission finds that public notice and participation in this rulemaking is unnecessary, since the sole purpose in adopting the rules is to afford greater convenience and access to the public of this commission's administrative rules by updating and correcting the rules. The substantive rights and responsibilities of no party are changed by these amendments; rather, the changes made are all corrective in nature and designed to keep Part 250 of the Iowa Administrative Code current.

In compliance with Iowa Code section 17A.5(2)"b"(2), the commission finds that the normal effective date of the rules, thirty-five days after publication in the Iowa Administrative Bulletin, should be waived and the rules made effective upon filing with the Administrative Rules Coordinator. The commission finds that the changes currently being made confer a benefit on the public in that current information, addresses, and publications are of more value than out-of-date information. Further, a restriction on the public is removed in that difficulties in gaining access to this commission and participating meaningfully in any proceeding before the commission are reduced by supplying current and correct information to the public.

ITEM 1. Amend commerce commission rules of the Iowa Administrative Code by correcting the Code references whenever they appear.

The Code Editor is authorized to change the Code reference "chapter 490A" to "chapter 476." This change shall be made only when the page on which any reference to chapter 490A is being changed for some reason other than this directive.

The Code Editor is authorized to change the Code references in "66GA, Ch. 1206" to "chapter 476A." This change shall be made only when the page on which any reference to 66GA, Ch. 1206 is being changed for some reason other than this directive.

The Code Editor shall not print this item in the Iowa Administrative Code.

ITEM 2. Amend subrule **1.5(1)** by striking the words: "Appointed by the commission, the secretary is charged with the responsibility of directing the activities of the office of general administration. The secretary is the custodian of the commission seal. The secretary or the secretary's designee is responsible for attesting the signatures of the commissioners and placing the commission seal on original commission orders" and inserting in lieu thereof: *"The executive secretary is appointed by the commission and is its chief administrative officer. The executive secretary is also the custodian of the commission seal and the executive secretary or secretary's designee is responsible for attesting the signatures of the commissioners and placing the seal on original commission orders."*

ITEM 3. Amend 1.5(17A,474) by adding a new subrule 1.5(5) as follows:

1.5(5) The rates research and policy division. This division is to assist the commission by analyzing utility rate alternatives, conducting research on rate issues, and developing and implementing rate-related policy recommendations.

ITEM 4. Amend **1.7(1)** by deleting the words "Secretary, Iowa State Commerce Commission, 300 Fourth Street, Valley Bank Building." and inserting in lieu thereof: "Executive Secretary, Iowa State Commerce Commission, Lucas State Office Building."

ITEM 5. Amend **7.4(1)**"c"(1), the sixth unnumbered paragraph, first sentence to read: "You have the right to file a written objection to this proposed increase with the Iowa State Commerce Commission *and to request a public hearing.*"

ITEM 6. Amend **7.4(1)**"c"(2), third unnumbered paragraph, by striking the words "(average monthly increase per customer for the primary charges per customer) (is) (are) as follows:" and inserting in lieu thereof: *"(average monthly increase per customer for the primary customer classes) (and) (actual increase in nonrecurring charges per customer) (is) (are) as follows:"*

ITEM 7. Amend subrule **11.4(4)** by deleting from the third line the word "or" and inserting in lieu thereof the word *"of."*

ITEM 8. Amend **15.10(1)**"f" by deleting this paragraph in its entirety and replacing it with: paragraph "f *National Electrical Code ANSI/NFPA 70-1981.*"

ITEM 9. Amend **20.5(2)**"b" by deleting "NFPA No. 70-1978." and inserting in lieu thereof *"ANSI/NFPA 70-1981."*

COMMERCE COMMISSION[250] *(cont'd)*

ITEM 10. Amend **20.5(2)**"g" by changing the period to a comma, and adding the following words after the comma: *"and the supplement to that standard, ANSI C84.1a - 1980."*

ITEM 11. Amend 21.5(1), 21.5(2)"d", 21.7(1), 21.7(1)"a", 21.7(1)"a"(5), and 21.7(1)"c"(1) by striking the words "state department of health" wherever they appear, and inserting in lieu thereof the following: *"state department of health or the Iowa department of environmental quality."*

ITEM 12. Amend **21.4(1)**"c" by striking the upper-case letters beginning the words "Public Utility Matters" and replacing them with lower case letters. This amendment is authorized to be made whenever, and if, the page containing 21.4(1)"c" is reprinted for any reason.

ITEM 13. Amend **22.5(8)**"a" and **22.5(8)**"d" by striking from both paragraphs: "cycles" and inserting in lieu thereof *"hertz."*

ITEM 14. When at any time the Code Editor reprints the page which includes 24.6(2)"a" or revised pages of the IAC 250, and the words "Iowa natural resources commission" appear, the reference shall be corrected to read "Iowa natural resources council."

ITEM 15. Amend **24.3(2)**"a" by striking the words "twenty-five" and inserting in lieu of the word *"twenty."*

ITEM 16. Delete subrule 24.1(1) and insert in lieu thereof:

24.1(1) "Authority. The regulations contained herein are prescribed by the Iowa state commerce commission pursuant to authority granted the commission in Iowa Code chapter 476A relating to the location and construction of electric power generating facilities."

ITEM 17. Delete subrule **24.2(1)** and insert in lieu thereof:

24.2(1) " 'Act' means Iowa Code chapter 476A entitled Electric Power Generators."

These rules are intended to implement Iowa Code sections 17A.3, 474.5, 476.1 and 476.2.

[Filed emergency 6/28/82, effective 6/28/82]
[Published 7/21/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/21/82.

ARC 3049

CREDIT UNION DEPARTMENT[295]

Pursuant to the authority of Iowa Code Section 533.2, the Credit Union Department adopts new rules, Chapter 12, as approved by the Credit Union Review Board at their regular meeting June 21, 1982, to set forth the procedure requirements pertaining to the membership voting by mail ballot on proposed amendments to the bylaws.

In compliance with Iowa Code Section 17A.4(2), the department finds that public notice and participation is unnecessary in that this chapter stipulates the requirements to be observed by those credit unions authorized to utilize the mail ballot to determine the will of the voting membership on proposed amendments to the bylaws.

The department also finds, pursuant to Section 17A.5(2)"b"(1), that the normal effective date of this chapter, thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on July 1, 1982 as it confers a benefit upon the public, in this case credit union members, by providing immediately the means by which the credit union members are advised of this new voting power authorized by Senate File 256 enacted by the General Assembly effective July 1, 1982.

This chapter is simultaneously being submitted as Notice of Intended Action, ARC 3051.

These rules implement Iowa Code Section 533.2.

Add the following new Chapter:

CHAPTER 12
BYLAW AMENDMENT VOTING PROCEDURE — MAILED BALLOT

295—12.1(533) Authority for mailed ballots. At an annual or special meeting a majority of the members present must have approved amending bylaw Section 19.1 to include the balloting by mail provision.

12.1(1) Any and all amendments to the bylaws must be approved by the administrator before they become operative.

12.1(2) Reserved.

295—12.2(533) Notice to voting members.

12.2(1) The proposed amendment(s) shall be set forth in its entirety in a notice mailed to all members eligible to vote at least twenty days but not more than thirty days prior to the close of balloting by mail.

12.2(2) The notice shall state the date of the close of the balloting. Such closing date shall be not less than twenty days nor more than thirty days from the date of the notice.

12.2(3) The notice shall contain a summary of the board's reasons for recommending the bylaw amendment.

295—12.3(533) Balloting procedure.

12.3(1) A ballot shall be included with the notice to all eligible voting members of the credit union.

12.3(2) Ballots must be returned to the credit union by the date of the closing of the balloting.

12.3(3) Ballots hand delivered to the credit union must be received by the closing date.

12.3(4) Ballots returned to the credit union by mail must be postmarked no later than the closing date in order to be valid.

12.3(5) The ballot must be signed by the member.

295—12.4(533) Balloting in conjunction with membership meeting.

12.4(1) Should the board of directors determine that balloting by mail will be done in conjunction with an annual or special meeting such ballots must be mailed to the members at least twenty days but not more than thirty days prior to the meeting.

12.4(2) The board shall inform the members they have the right to vote on the proposed amendment(s) in person at the meeting or by written ballot.

12.4(3) Written ballots must be postmarked or received in the credit union office no later than the date of the meeting in order to be valid.

12.4(4) Notice requirements shall be identical to those set forth in 295—12.2(533).

295—12.5(533) Ballot.

12.5(1) Ballots referred to in this chapter shall be substantially in the following form:

CREDIT UNION DEPARTMENT[295] *(cont'd)*

SAMPLE SAMPLE

BALLOT

I, the undersigned member of XYZ Credit Union acknowledge receipt of the notice containing proposed amendment(s) to the bylaws and herewith cast my vote.

Shall the proposed amendment to the following be adopted?

Section 6.2 Yes ____ No ____

Section 7.4 Yes ____ No ____

Section 18.1 Yes ____ No ____

Signature of Member

Account Number

Date

12.5(2) Each proposed amendment must be listed separately on the ballot so that the member has the opportunity to vote on each proposal.

12.5(3) Bifold post cards which can be sealed by the member may be used as ballots.

12.5(4) Ballots shall be delivered to the election committee unopened.

295—12.6(533) Confidentiality of ballots.

12.6(1) The board shall appoint from the membership an election committee of not less than five members to be in charge of counting the ballots and verifying that no eligible member voted more than once. No member of the board may serve on the election committee.

12.6(2) Returned ballots become the property and responsibility of the election committee.

12.6(3) No director or employee or member of the election committee shall reveal the manner in which any member voted on the proposed amendment(s).

295—12.7(533) Certification of ballots in support of department approval.

12.7(1) No sooner than five days after the close of the balloting period the election committee shall certify the vote count to the board.

12.7(2) The following documentation shall be submitted by the board to the administrator in support of their request for approval:

a. A certified copy of the board minutes which contain the recommendation to submit the proposed amendment(s) to the membership.

b. A certified copy of the notice.

c. A certified copy of the ballot.

d. A certified statement, including the vote count that a majority of the eligible members voted in favor of the proposed amendment(s).

295—12.8(533) Reporting the results of the vote to the membership.

12.8(1) The board shall inform the membership of the results of the vote and whether the amendment received the approval of the administrator by conspicuously posting such notice in the credit union office for a period of sixty days and by one of the following methods:

a. Include the results in the next mailing of the member's statements of account, or

b. Include the results in the credit union newsletter, or

c. Include the results in the sponsor newsletter, or

d. A notice in a newspaper of general circulation within the credit union's area of operation.

295—12.9(533) Preservation of ballots.

12.9(1) Immediately upon certification of the vote by the election committee the ballots shall be sealed and appropriately labeled.

12.9(2) Ballots shall be retained in the credit union for a period of sixty days from the date of final approval or denial of the amendment(s) by the administrator.

This rule is intended to implement Iowa Code section 533.2, as amended by the Sixty-ninth General Assembly, 1982 Regular Session, Senate File 256.

[Filed emergency 6/30/82, effective 7/1/82]
[Published 7/21/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/21/82.

ARC 3050

CREDIT UNION DEPARTMENT[295]

Pursuant to the authority of Iowa Code Section 533.30(1), The Credit Union Department adopts new rules, Chapter 13 as approved by the Credit Union Review Board at their regular meeting June 21, 1982, to set forth the procedure requirements pertaining to the membership voting by mail ballot on a merger proposal.

In compliance with Iowa Code Section 17A.4(2), the department finds that public notice and participation is unnecessary in that this chapter stipulates the requirements to be observed to determine the will of the voting membership on the merger proposal.

The department also finds, pursuant to Section 17A.5(2)"b"(1), that the normal effective date of this chapter thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on July 1, 1982, as it confers a benefit upon the public, in this case credit union members, by providing immediately the means by which the credit union members are advised of their power to vote on a merger proposal authorized by Senate File 256 enacted by the General Assembly effective July 1, 1982. Immediate implementation is imperative because of the cost saving factor to credit unions anticipating merger simultaneously with the effective date of the amendment to 533.30(1).

This chapter is simultaneously being submitted as Notice of Intended Action, ARC 3051.

These rules implement Iowa Code Section 533.30(1). Add the following new Chapter:

CREDIT UNION DEPARTMENT[295] *(cont'd)*

CHAPTER 13
MERGER VOTING PROCEDURE — MAILED BALLOT

295—13.1(533) Notice to voting members.

13.1(1) Pursuant to a plan agreed upon by the majority of the board of directors of each credit union joining in the merger and approved by the administrator the board of each credit union shall provide each eligible voting member at least twenty days but not more than thirty days advance notice of the meeting at which the merger proposal is to be submitted.

13.1(2) The notice shall specify the purpose of the meeting and date, time and place.

13.1(3) The notice shall include a summary of the merger plan which shall contain, but not necessarily be limited to, current financial reports for each credit union, analysis of share values, explanation of any proposed share adjustments, explanation of any changes relative to insurance of member accounts.

13.1(4) The notice shall state the reason for the proposed merger.

13.1(5) The notice shall provide the name and address (and include branches) of the continuing credit union.

13.1(6) The notice shall inform the members they have the right to vote on the merger proposal in person at the meeting or by written ballot to be postmarked no later than the date of the meeting called for that purpose.

13.1(7) The notice shall be accompanied by a Ballot for Merger Proposal.

13.1(8) The merger proposal must be approved by an affirmative vote of a majority of the members of the credit union who vote on the proposal.

295—13.2(533) Ballot.

13.2(1) Ballots referred to in this chapter shall be substantially in the following form:

SAMPLE SAMPLE

Ballot for Merger Proposal

I, the undersigned member of XYZ Credit Union acknowledge receipt of the notice containing the proposed merger of ABC Credit Union into XYZ Credit Union. I hereby state that I will not be present at the annual/special meeting of the membership of XYZ Credit Union held at Anytown, Iowa on 4/3/82, and I hereby cast my vote.

Shall the proposed merger take place?

Yes _____ No _____

_____
Signature of Member

_____
Account Number

_____
Date

13.2(2) Ballots must be signed by the member.

13.2(3) Bifold post cards which can be sealed by the member may be used as ballots.

13.2(4) Ballots shall be delivered to the election committee unopened.

295—13.3(533) Confidentiality of ballots.

13.3(1) The board of each credit union shall appoint from the membership an election committee of not less than five members to be in charge of counting the ballots and verifying that no eligible member voted more than once. No member of the board may serve on the committee.

13.3(2) Returned ballots become the property and responsibility of the election committee.

13.3(3) No director or employee or member of the election committee shall reveal the manner in which any member voted on the proposed merger.

295—13.4(533) Certification of ballots.

13.4(1) No sooner than five days but no more than ten days after the close of the balloting period the election committee shall count the ballots and certify the vote count to the board.

13.4(2) The following documentation shall be submitted by each board to the administrator in support of their request for approval:

a. One completed copy, including the notary element of the affidavit certifying the vote count.

b. Certified copy of the board minutes authorizing the merger action.

c. Certified copy of the notice of the annual/special meeting.

d. Certified copy of the minutes of the annual/special meeting.

e. Most recent copy of financial statement and delinquent loan schedule.

295—13.5(533) Reporting the results of the vote to the members.

13.5(1) The board of the continuing credit union shall immediately inform the membership of the results of the vote and whether the merger proposal received the approval of the administrator by conspicuously posting such notice in the credit union office for a period of sixty days and by one of the following methods.

a. Include the results in the next mailing of the member's statements of account, or

b. Include the results in the credit union newsletter, or

c. Include the results in the sponsor newsletter, or

d. A notice in a newspaper of general circulation within the credit union's area of operation.

13.5(2) No more than ten days following the date of the meeting the board of the merging credit union shall inform the membership by mail the results of the vote and the date the merger is to take place.

295—13.6(533) Preservation of ballots.

13.6(1) Immediately upon certification of the vote by the election committee the ballots shall be sealed and appropriately labeled.

13.6(2) Ballots shall be retained in the continuing credit union for a period of sixty days following the issuance of a Certificate of Merger.

CREDIT UNION DEPARTMENT[295] *(cont'd)*

This rule is intended to implement Iowa Code section 533.30(1), as amended by the Sixty-ninth General Assembly, 1982 Regular Session, Senate File 256.

[Filed emergency 6/30/82, effective 7/1/82]
[Published 7/21/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/21/82.

ARC 3055

HEALTH DEPARTMENT[470]

Pursuant to the authority of Iowa Code Section 135.11(15),the Iowa State Department of Health emergency adopts rules amending Chapter 79 "Funds For Extending Public Health Nursing Services, Visiting Nurse Services, and Homemaker-Home Health Aide Services To Additional Low Income or Elderly Persons" and creates a new Chapter 80 "Homemaker-Home Health Aide Services", Iowa Administrative Code.

These rules separate and segregate the rules for Public Health Nurse Service and Homemaker-Home Health Aide Services. The newly created Homemaker-Home Health Aide Services chapter sets out legislatively mandated requirements for eligibility, sliding fee schedule, standards and appeals procedures.

In compliance with Iowa Code Section 17A.4(2), the department finds that public notice and participation is impracticable in that the Acts of the Sixty-ninth General Assembly, 1982, Second Session, Senate File 2304 appropriated funds for Homemaker-Home Health Aide Services effective July 1, 1982 and required certain rules be in place as of July 1, 1982.

The department also finds pursuant to Section 17A.5(2)"b"(2) that the normal effective date of the rules thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on July 1, 1982, as it confers a benefit upon the public. If these rules were not emergency adopted and implemented there would be a gap in the funding for local agencies providing Homemaker-Home Health Aide Services.

The department will hold a public hearing subsequent to the adoption of these rules so that public input and participation in these rules may be secured in a reasoned deliberate manner.

The public hearing will be held on August 11, 1982 at 1:00 p.m., in the Third Floor conference room, Lucas State Office Building, Des Moines, Iowa.

Written comments may be submitted prior to August 11, 1982, addressed to Chief, Division of Community Health, 3rd Floor Lucas State Office Building, Iowa State Department of Health, Des Moines, Iowa 50319.

The department adopted these rules on June 30, 1982.

These rules implement Section135.11(15)and the Acts of the Sixty-ninth General Assembly, Second Session, Senate File 2304.

ITEM 1. Rule 470—79 is amended as follows:

CHAPTER 79

~~FUNDS FOR EXTENDING~~ PUBLIC HEALTH NURSING ~~SERVICES, VISITING NURSE SERVICES, AND HOMEMAKER—HOME HEALTH AIDE SERVICES TO ADDITIONAL LOW INCOME OR ELDERLY PERSONS.~~

ITEM 2. All chapter 79 implementing references to 68GA chapter 9 and 69GA chapter 5 are to be stricken and insert in lieu thereof 69GA S.F. 2304 as implementing references.

ITEM 3. Rule 470—79.1(69GA, ch 5) is amended as follows:

470—79.1(69GA, Ch 5) Amount to be allocated. The initial allocations are to be determined as follows, according to Acts of the Sixty-ninth General Assembly, Chapter 5, Section 4, subsection 7, paragraph "d" (1), (2) and Chapter 9, Section 26, subsection 5:

~~Fiscal Year 1982~~

~~Total appropriation ..... $3,432,226~~
~~($1,771,119 for Nursing; $1,661,107 for HMHHA)~~

~~For administration (1% of original $3,202,226) ..... 32,022~~
~~For local use ..... 3,400,204~~
~~¼ for equal division between counties ..... 850,051~~
~~Share for each county (:99) ..... 8,586~~
~~¾ for proportionate division ..... 2,550,153~~
~~Share per person 60 and over and family between 75% and 125% of poverty guidelines (:537,075) ..... 4.75~~

Fiscal Year 1983

	Nursing	~~HMHHA~~
Total appropriation	$1,987,568	~~$1,824,392~~
For administration (1%)	19,876	~~18,244~~
For local use	1,967,692	~~1,806,148~~
¼ for equal division between counties	491,923	~~451,537~~
Share for each county (÷ 99)	4,969	~~4,561~~
¾ for proportionate division	1,475,769	~~1,354,611~~
Share per person 60 and over or family between 75% and 125% of poverty guidelines	~~To be determined when 1980 census data becomes available~~ *2.54*	

ITEM 4. Subrule 79.2(2) is amended to read as follows:

79.2(2) All nonprofit nurses' associations, independent nonprofit agencies, or local governmental bodies ~~or department of social services offices~~ that provide public health or visiting nursing services ~~or homemaker home health aide services~~ shall be notified via first class letter of the availability of funds and urged to contact their local board of health.

ITEM 5. Subrule 79.3(1) is amended to read as follows:

79.3(1) Every Iowan should be eligible for public health nursing service ~~or homemaker home health aide service~~ when they have the need for such services. Each agency which offers such services shall have written admission policies (or criteria for patient ~~or client~~ acceptance) which may cover such items as need for service, suitable home environment for safe care, patient interest in service and willingness to co-operate in care.

HEALTH DEPARTMENT[470] *(cont'd)*

ITEM 6. Subrule 79.3(3) is amended to read as follows:

79.3(3) Each agency shall regularly do a cost analysis to determine the cost of providing a unit of service. A full fee and a sliding scale shall be established and used for those people able to pay all or a part of the cost of service. Such sliding fee scales may be used as guidelines with additional circumstances taken into account in determining with the patient ~~or client~~ the fee that will be paid.

ITEM 7. Subrule 79.3(4) is amended to read as follows:

79.3(4) For the purposes of Sixty-ninth General Assembly, Chapter 5, agencies should continue to use the admission policies and sliding fee scales they now have if they meet the above criteria. The funds available from Sixty-ninth General Assembly, Chapter 5, can be used to pay salaries and expenses for added local board of health staff so that the volume of services provided to the elderly can be expanded, to provide subgrant to another nursing ~~or homemaker home health aide~~ agency for staff expansion, or to purchase service on a case-by-case basis from another agency. If staff is added in this way, they need not be restricted to services to persons age sixty or over, but the volume of services provided by the total agency staff to persons sixty and over must increase in relation to the amount of staff added with these funds. A copy of the sliding fee scale shall be submitted to the Iowa state department of health for each agency which expects to receive Sixty-ninth General Assembly, Chapter 5 funds either directly or through subcontract. Medicare, medicaid and health insurance carriers should be billed in all appropriate cases. All fee income from all sources shall be used to help support the nursing ~~or homemaker home health aide service~~ program.

ITEM 8. Subrule 79.3(5) is rescinded and the following adopted:

79.3(5) For the purpose of dividing three-fourths of the allocation for each county in proportion to the number of low-income and elderly persons in that county, the calculations shall be based on the census figures for the number of persons age sixty and over and the number of families between 75% and 125% of poverty guidelines. The population calculations for FY 1983 shall be based on the official figures from the 1980 census for the elderly population and the official figures from the 1970 census for the low income population.

ITEM 9. Subrule 79.4(1) is amended to read as follows:

79.4(1) The funds shall be used to expand home health nursing ~~and homemaker home health aide services~~ to low-income and elderly persons.

ITEM 10. Subrule 79.5(1) is amended to read as follows:

79.5(1) Nursing agencies ~~and homemaker home health aide agencies~~ shall submit routine statistical reports regarding service activities.

ITEM 11. Chapter 80 "Homemaker-Home Health Aide Services" is adopted and reads as follows:

CHAPTER 80

HOMEMAKER-HOME HEALTH AIDE SERVICES

470—80.1(69GA, SF 2304) Eligibility.

Every Iowan shall be eligible for homemaker-home health aide service when they have need for such services. Each homemaker-home health aide provider agency shall have written criteria for service. Any county receiving funding from the department of health for the provision of homemaker-health aide services shall ensure the provision of this service to children or adults and their families whenever this service is ordered by a juvenile or district court. Criteria may involve such factors as geographic area, social and health needs, hours of service, crisis or emergency services, safety of the home environment and others. The criteria shall be available to community professionals and organizations and persons applying for service. Criteria shall also be provided in writing to staff of the agency to enable them to determine which individuals or families should be served when the agency cannot meet the total immediate demand. The agency shall assist persons who do not need or cannot be provided homemaker-home health aide service to obtain other appropriate services.

470—80.2(69GA, SF2304) Sliding fee scale cost analysis.

80.2(1) Each homemaker-home health aide provider agency shall, at least annually, do a cost analysis according to a uniform process prescribed by the department. A full fee and a sliding fee scale shall be established and used for those persons able to pay all or a part of the cost of service. Such sliding fee scales may be used as guidelines with additional circumstances taken into account in determining with the patient or client the fee which will be paid.

80.2(2) Any person with an income of less than $3,600 annually who is provided homemaker-home health aide service shall be provided the service at no fee. For each additional family member living in the home $600 shall be added to this annual base figure for the purpose of determining if the service is to be provided at no fee. Counties and homemaker-home health aid provider agencies may provide more free service than required by this paragraph.

80.2(3) Service provided to children or adults to alleviate a situation involving abuse or neglect shall be provided at no fee.

80.2(4) Payments received from recipients of service based on the sliding fee scale or from third party payors shall be used to support homemaker-home health aide service.

470—80.3(69GA, SF 2304) Standards. In order to receive state homemaker-home health aide funds the provider agency must meet the following standards.

80.3(1) The agency shall have the necessary legal authority to operate in conformity with federal, state and local laws and regulations.

a. There shall be a governing authority and structure which is responsible for establishing policy and ensuring effective control of services and finances.

b. The governing authority shall employ an agency administrator to whom authority and responsibility for overall agency administration is delegated.

c. The agency shall be in compliance with all legislation relating to prohibition of discriminatory practices.

80.3(2) The agency shall have a personnel management system.

a. There shall be written job descriptions and qualifications for each job category.

b. There shall be established wage scales for each job category.

c. There shall be written personnel policies which include at least: Recruitment and selection processes, benefits, leaves and absences, hours of employment or method of scheduling, evaluation, discipline or termination, grievance procedure/appeals process.

d. The agency shall assure that each homemaker-home health aide has received adequate training for each case to which he or she is assigned. In general the training required shall fit one of four patterns.

(1) Those workers providing homemaker-home health aide service shall complete the sixty hour homemaker training course and the sixty hour home health aide training course or their equivalents.

(2) Those workers providing only homemaker service shall complete at least the sixty hour homemaker training course or its equivalent.

(3) Those workers providing only routine household maintenance services for self-directing clients shall complete a sixteen hour orientation course.

(4) An agency which provides only child protective homemaker-home health aide service may have a specialized training program subject to the approval of the Iowa state department of health.

e. Case management/supervision of service shall be provided in every case by agency staff or related professional persons. The case management shall include assessment of the need for service, development of the case plan, written assignment of duties, review of homemaker-home health aide progress notes, supervisory home visits with the homemaker-home health aide a minimum of once every three months, appropriate referral and plan for termination.

470—80.4 (69GA, SF 2304) Records. The agency shall maintain at a minimum the following records. Authorized representatives of the department of health shall have access to all administrative, fiscal, personnel, and case records.

80.4(1) Case records for each family, patient or client: The contents of the record shall include face sheet data; physician's diagnosis and treatment plan (if appropriate); assessments (initial and ongoing); initial plan of care, with updates as frequently as necessary in relation to the recipient's condition and in any case a minimum of once every three months; the assignment sheet for services to be rendered by the homemaker-home health aide; progress notes on the condition of the recipient and the services provided, made by the homemaker-home health aide; supervisory notes; the plan for termination; and referrals for other services. All notes shall be dated and signed. All case record information which is excluded from public access and inspection pursuant to Iowa Code section 68A.7, or designated as confidential by another statute shall be respected by the department of health.

80.4(2) Administrative and fiscal records. These records shall include agency policies; board minutes and reports; statistics on the number of persons served and hours of service provided; and accounting records which indicate all income, including fees collected, and all expenditures. The agency shall submit, no less than annually, a financial report including a computation of the cost per service hour on the form provided and by the method prescribed by the department. The agency shall submit, no less than quarterly, a statistical report of services provided, on forms provided by the department.

470—80.5(69GA, SF 2304) Evaluation. The homemaker-home health aide program shall have a written plan for an overall evaluation of the total program no less than annually. The evaluation may be done by agency staff, professional people outside the agency in conjunction with consumers or a combination thereof. Results of the evaluation shall be reported to and acted upon by those responsible for the operation of the agency.

470—80.6 (69GA, SF 2304) Mediation of homemaker-home health aide disputes. If a local department of social services worker requests service for a child protective, or adult protective case and the county or provider agency assessment is that the service is not needed or less service is needed than what was requested, the local agencies shall attempt to resolve the difference. If this is not possible, the disagreement shall be reported to the Iowa state department of health, division of community health, by telephone. A hearing will be held by a hearings officer within ten working days. The hearings officer will issue a written ruling within ten working days after the hearing. If the courts have ordered the service, their ruling cannot be modified by the hearings officer, however, the hearings officer could rule that the court should be approached again.

470—80.7(69GA, SF 2304) Local appeals. Whenever a homemaker-home health aide provider agency denies, reduces or terminates homemaker-home health aide service against the wishes of the applicant/recipient, the agency shall notify the individual of the action, the reason for the action, and of their right to appeal. The provider agency, alone or in co-ordination with the board of supervisors or other community agencies, shall establish a written local procedure to hear such appeals. The local procedure shall at a minimum include the method of notification of the right of appeal; the method of requesting a local hearing; the designation of the body to hear the appeal; the procedure for conducting the appeal hearing; the time-frame limits for each step; and the method of notification of the outcome of the hearing and notification of the appellant of the right to appeal to the state. Notification of the outcome of the local hearing shall include the facts used to reach a decision and the conclusions drawn from the facts to support the local agency decision. The written appeals procedure and the record of appeals filed (including the hearing record and disposition of each) shall be available for inspection by authorized Iowa state department of health representatives.

470—80.8(69GA, SF 2304) State review request. If an applicant/recipient is dissatisfied with the decision of the local appeal, they may appeal to the state. All requests for state review shall be submitted in writing no later than fifteen days following the local agency's appeal determination. Submission shall be in writing by certified mail, return receipt requested, addressed to the Hearings Officer, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

470—80.9 (69GA, SF 2304) State review procedure.

80.9(1) Appeals to the state shall be conducted as a review of the record of the local action and hearing only. Within ten days of receipt of a review request the hearings officer shall in writing, acknowledge receipt of the review request. The hearings officer shall request the local agency appeal record and review the record of the hearing to determine if required local procedures and criteria were properly applied. The hearings officer may, at his/her discretion, require further information, evidence or testimony prior to making a proposed decision. The hearings officer's proposed decision shall be in writing and be made within thirty days of receipt of the local hearing record.

80.9(2) When the hearings officer makes a proposed decision, that decision or order becomes a final decision or order of the department without further proceedings, ten days after mailing by certified mail, return receipt requested or delivered by personal service.

HEALTH DEPARTMENT[470] *(cont'd)*

470—80.10 (69GA, SF 2304) Appeal to commissioner. Appeal to the commissioner for review of the proposed decision shall be in writing by certified mail, return receipt requested or personal service, within ten days after the mailing of the proposed decision or order. Notice of the appeal shall state the reason(s) for the appeal.

470—80.11 (69GA, SF2304) Judicial review. A decision or order of the commissioner becomes a final order upon mailing by certified mail, return receipt requested. Unless otherwise provided by statute, any petition for judicial review of a decision or order shall be made within thirty days after the decision or order becomes final. All administrative remedies must be exhausted prior to judicial review.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/21/82.

ARC 3054

HEALTH DEPARTMENT[470]

MEDICAL EXAMINERS, BOARD OF

Pursuant to the authority of Iowa Code Section 148C.7, the Iowa Board of Medical Examiners hereby adopts amendments to Chapter 136, "Physicians' Assistants", Iowa Administrative Code. These rules are intended to implement the provisions of the Acts of the Sixty-ninth General Assembly, 1982 Regular Session, House File 783.

The rules would bring the board into compliance with these statute changes by providing for regular approval, temporary approval, and fees for the supervision of physicians' assistants by a licensed physician in Iowa.

These rules were filed under Notice of Intended Action and were published in IAB, Number 24, May 26, 1982 as ARC 2915.

The Iowa Board of Medical Examiners finds, pursuant to Iowa Code Section 17A.5(2)"b"(1), that the normal effective date of these rules, 35 days after publication, should be waived in order to comply with the Acts of the Sixty-ninth General Assembly, 1982 Regular Session, House File 783.

Minor grammatical changes were made in sections 136.3(2)"c"(1), 136.3(3), 136.3(4) and 136.3(9).

These rules were effective July 1, 1982.

ITEM 1. 470—Chapter 136 is amended by striking all references to Iowa Code chapter 148B, and inserting in lieu thereof 148C.

ITEM 2. Rule 470—136.3(148C) is amended to read as follows:

470—136.3(148C) Applications for approval; *and fees.*

ITEM 3. Subrules 136.3(2), 136.3(3), 136.3(4), and 136.3(5) are amended by striking the existing language and inserting in lieu thereof the following:

136.3(2) A physician, licensed in this state, may seek temporary approval to supervise a physician's assistant who is a recent graduate of a board approved program by filing a proper application for temporary approval with the board.

a. Temporary approval may be granted only for assistants who meet the following criteria:

(1) A graduate of an accredited educational program for the assistant to the primary care physician which is approved by the American Medical Association (AMA) and;

(2) The assistant has not taken the national certifying examination or;

(3) The assistant has not received notification regarding the results of his/her national certifying examination.

b. The application for temporary approval shall include all of the following:

(1) A nonrefundable application fee of ten dollars.

(2) The professional background and specialty of the physician.

(3) The related work experience and background of the assistant.

(4) A notarized diploma from an approved program.

(5) A description of the physician's practice.

(6) A detailed description of how the physician's assistant will be utilized.

c. Temporary approval may be issued for one year and may, at the discretion of the board, be renewed for one additional year provided that the following items are received from the physician and approved by the board:

(1) A detailed account containing clear and convincing evidence that, through no fault of the physician or physician's assistant, the assistant was unable to take the national certifying examination recognized by the board or evidence that the assistant failed the examination.

(2) A renewal fee of thirty dollars.

d. A fee of thirty dollars shall be charged for initial approval of a temporary application.

e. A physician's assistant working under temporary approval shall function in the same facility as the supervising physician.

136.3(3) When an assistant is working under temporary approval, the supervising physician and the assistant shall, within fifteen days of receipt, notify the board of the results of the examination administered by the National Commission on Certification of Physician's Assistants and shall within thirty days of receipt, submit the necessary forms for regular approval.

136.3(4) A physician, licensed in this state, may seek regular approval to supervise a physician's assistant by filing an application with the board.

a. Regular approval may be granted for assistants who have successfully completed the national examination administered by the National Commission on Certification of Physician's Assistants and have been certified by that group.

b. The application for regular approval shall include all of the following:

(1) A nonrefundable fee of ten dollars.

(2) The professional background and specialty of the physician.

(3) The qualifications of the physician's assistant including all of the following:

1. The academic qualifications of the physician's assistant or notarized evidence of graduation from an approved program.

2. Notarized copies of the examination grades and national certificate.

3. The related work experience and background of the assistant.

(4) A description of the physician's practice and a detailed description of the utilization of the assistant.

HEALTH DEPARTMENT[470] *(cont'd)*

136.3(5) A fee of seventy-five dollars shall be charged for initial approval of a regular application and shall be for a period of two years.

136.3(6) Renewal of a regular application to supervise a physician's assistant shall be for a period of two years and may be granted by the board upon receipt of the following:

a. A renewal fee of seventy-five dollars.

b. Proof of compliance with the continuing education requirements as set forth in sections 136.101 and 136.102, Iowa Administrative Code.

136.3(7) The board shall not approve an application to supervise more than two physician's assistants at any one time.

136.3(8) Application forms submitted to the board must be complete in every detail. Every supporting document required by the application form must be submitted with each application.

The board may modify the proposed use of a physician's assistant as detailed in an application and then approve the application as modified. A physician's assistant shall perform only those services for which the physician's assistant is qualified by training, and shall not perform a service that is not permitted by the board. Approval of an application to supervise a physician's assistant may be revoked or suspended upon the grounds and pursuant to the procedure the board established by rule.

136.3(9) If for any reason an assistant discontinues working at the direction and under the supervision of the physician who submitted the application under which the assistant was approved, the assistant shall so inform the board and approval shall terminate until a new application is submitted and approved by the board.

ITEM 4. Amend rule 470—136.4(148C) by striking subrule **136.4(1)** paragraph "d" and inserting in lieu thereof:

d. For regular approval, pass an examination conducted by, and be certified by the National Commission on Certification of Physician's Assistants or any other standardized examination or national certification which may be approved by the board.

ITEM 5. Further amend rule **470—136.4(148C)** by striking subrules 136.4(2), 136.4(3), 136.4(4) and 136.4(5).

ITEM 6. Rule 470—136.11(148C) is amended by adding a new subrule as follows:

136.11(3) A fee of fifty dollars shall be submitted with the application for program approval.

These rules are intended to implement Iowa Code chapter 148C, as amended by the Acts of the Sixty-ninth General Assembly, House File 783.

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ARC 3073

REAL ESTATE COMMISSION[700]

Pursuant to the authority of Iowa Code Section 117.9, the Real Estate Commission emergency adopts amendment to current rule 700—1.30(117) "Broker Responsibility" regarding the effective date in which each branch office must have a designated broker or designated broker associate assigned.

In compliance with Iowa Code section 17A.4(2), the Real Estate Commission finds that public notice is impractical as the amended rule grants an extension of time for compliance with the current rule.

The commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2) that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on July 2, 1982, as it will eliminate potential violation and will grant an extension of time to bring licensees under compliance.

The Real Estate Commission adopted this rule at their regular meeting on June 24, 1982.

This rule implements Iowa Code section 117.31.

Rule 700—1.30(117) is amended as follows:

700—1.30(117) Broker's responsibility. A licensed broker is responsible for providing supervision of any salesperson or broker associate licensed with the broker as a selling, renting, managing or listing agent or representative of the broker. Effective July 1, 1982, every *main* office ~~of the broker including~~ *and every new* branch ~~offices~~ *office* shall be directly supervised by the broker or a designated broker associate~~, who conducts their activities from that location as their~~ *assigned to that location as that broker's or broker associate's* principal place of business. *Each branch office properly licensed as of June 30, 1982, shall no later than its next renewal be directly supervised by a designated broker or designated broker associate assigned to that location as that broker's or broker associate's principal place of business.*

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ARC 3058

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of Iowa Code Section 239.18, rules of the Department of Social Services appearing in the IAC relating to aid to dependent children (Chapters 40 and 41) are hereby amended. These rules increase by fifteen percent the schedule of basic needs used in determining eligibility for the program. The level of payment remains unchanged.

The department of social services finds that notice and public participation are impracticable. S.F. 2304 requires the new schedule to be effective July 1, 1982 so there is not time to go through regular rulemaking procedures. Therefore, these rules are filed pursuant to Iowa Code section 17A.4(2).

SOCIAL SERVICES DEPARTMENT[770] *(cont'd)*

The department of social services finds that S.F. 2304 requires this schedule to be effective July 1, 1982. It further finds that these rules confer a benefit on the public by enabling more families to qualify for aid to dependent children. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)"b"(1) and (2).

The Council on Social Services adopted these rules June 30, 1982.

These rules are intended to implement Iowa Code section 239.5, and Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2304, Section 92.

These rules shall become effective July 1, 1982. Please note that changes in these rules do not affect the effective date of the monthly reporting/retrospective budgeting rules. The new standard of need will be applied to budgeting procedures currently in effect.

ITEM 1. Rule **770—40.1(239)** is amended by adding the following subrules:

40.1(16) Standard of need. "Standard of need" means the total needs of a group as determined by adding need according to the schedule of living costs, described in 41.8(2), to any allowable special needs, described in 41.8(3).

40.1(17) Payment standard. "Payment standard" means the total needs of a group as determined by adding need according to the schedule of basic needs, described in 41.8(2), to any allowable special needs, described in 41.8(3).

ITEM 2. Rule 770—41.7(239) is amended to read as follows:

770—41.7(239) Income. All unearned and earned income, unless specifically exempted, disregarded, ~~or~~ deducted for work expenses, *or diverted* as defined in these rules, shall be considered in determining initial and continuing eligibility and the amount of the aid-to-dependent-children grant. *The determination of initial eligibility is a three-step process.* Initial ~~and continuing aid to dependent children assistance~~ *eligibility* shall be granted *only when (1)* the countable gross nonexempt unearned and earned income, exclusive of the aid-to-dependent-children grant, received by the eligible group and available to meet the current month's needs is no more than one hundred fifty percent of the ~~basic needs schedule~~ *standard of need for the eligible group* ~~defined in subrule 41.8(2), plus any special need allowable under subrule 41.8(3),; and~~ *(2)* the countable net unearned and earned income is less than the ~~total~~ *standard* of *need for the eligible group* ~~the amount designated as basic needs according to the schedule of basic needs in subrule 41.8(2) and any special need allowable under subrule 41.8(3);~~ *and (3) the countable net unearned and earned income, after applying allowable disregards, is less than the payment standard for the eligible group. 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 one hundred fifty percent of the standard of need for the eligible group; and (2) countable net unearned and earned income is less than the payment standard for the eligible group. The amount of the aid-to-dependent-children grant shall be determined by subtracting countable net income from the payment standard for the eligible group.* Child support assigned to the department in accordance with subrule 41.2(7) shall be considered unearned income for the purpose of determining continuing eligibility. Expenses for care of children or disabled adults, deductions, and diversions shall be allowed when verification is provided. The local office shall return all verification to the recipient.

ITEM 3. Subrule **41.7(2)**, paragraph "e", is amended to read as follows:

e. The earnings of an eligible child are disregarded as income when the child is a full-time student or a part-time student who is not a full-time employee, as defined in 41.7(2)"a". A student is one who is attending a school, college or university, or a course of vocational or technical training designed to fit the person for gainful employment and includes a participant in the job corps program. Initial eligibility is determined without application of this disregard. The earned income of the eligible child shall be considered income in the ~~determination of eligibility at~~ one hundred fifty percent *eligibility test* ~~of the basic needs schedule as~~ prescribed in 770—41.7(239).

ITEM 4. Subrule **41.7(4)**, paragraph "a", is amended to read as follows:

a. Nonexempt earned and unearned income of the parent shall be diverted to meet the unmet needs, including special needs, of the dependent, but ineligible child*(ren)* of the parent living in the family group. Income of the parent shall be diverted to meet the unmet needs of the ineligible child*(ren)* of the parent and a companion in the home only when the income and resources of the companion and the child*(ren)* are within aid-to-dependent-children standards. The maximum income that shall be diverted to meet the ~~basic~~ needs of the dependent, but ineligible child*(ren)* shall be the differences between the needs of the eligible group if the ineligible child*(ren)* were included and the needs of the eligible group with the child*(ren)* excluded, except as specified in 41.7(8)"d".

ITEM 5. Subrule **41.7(8)**, paragraph "b", subparagraph (4), is amended to read as follows:

(4) The nonexempt monthly earned and unearned income of the stepparent remaining after application of the deductions in 41.7(8)"b"(1), (2) and (3) above shall be used to meet the needs of the stepparent and the stepparent's dependents living in the home, when the dependents' needs are not included in the eligible group and the stepparent claims or could claim the dependents for federal income tax purposes. These needs shall be determined in accordance with the aid-to-dependent-children standard of need~~, including special needs,~~ for a family group of the same composition. Any remaining income in excess of these needs shall be applied as unearned income to the needs of the eligible group.

ITEM 6. Subrule **41.7(9)**, paragraph "a", subparagraphs (1) and (2) are amended to read as follows and subparagraph (3) is rescinded and the following inserted in lieu thereof:

(1) At time of application all earned and unearned income received and anticipated to be received by the eligible group during the month the decision is made shall be considered to determine eligibility for aid to dependent children, except income which is exempt. When income is prorated in accordance with 41.7(9)"c"(1), 41.7(9)"g" and 41.7(9)"i", the prorated amount is counted as income received in the month of decision. Allowable work expenses during the month of decision shall be deducted from earned income, except when determining eligibility under the one hundred fifty percent ~~rule~~ *test* defined in 770—41.7(239). *The determination of eligibility in the month of decision is a three-step process as described in 770—41.7(239).*

SOCIAL SERVICES DEPARTMENT[770] *(cont'd)*

(2) When countable gross *nonexempt* earned and unearned income in the month of decision, or in any month after assistance is approved, exceeds one hundred fifty percent of the ~~basic needs~~ *standard of need* for the eligible group ~~as defined in 41.8(2) plus any special need defined in 41.8(3)~~, the application shall be rejected or the assistance grant canceled. *Countable gross income means gross income, as defined in 770—41.7(239), without application of any disregards, deductions for work expenses, or diversions.* When the countable gross *nonexempt* earned and unearned income in the month of decision equals or is less than one hundred fifty percent of the ~~basic needs~~ *standard of need* for the eligible group ~~as defined in 41.8(2) plus any special need as defined in 41.8(3)~~, initial eligibility shall then be determined. *Initial eligibility is determined without application of the earned income disregards as specified in 41.7(2)"c" and "e". Appropriate deductions for work expenses and diversions are applied.* When countable net earned and unearned income in the month of decision equals or exceeds the ~~needs of~~ *standard of need for* the eligible group, the application shall be rejected.

(3) When the countable net income in the month of decision is less than the standard of need for the eligible group, the earned income disregards shall be applied when there is eligibility for these disregards. When countable net earned and unearned income in the month of decision, after application of the earned income disregards, work expenses and diversions, equals or exceeds the payment standard for the eligible group, the application shall be rejected.

When the countable net income in the month of decision is less than the payment standard for the eligible group, the application shall be approved. The amount of the aid-to-dependent-children grant shall be determined by subtracting countable net income in the month of decision from the payment standard for the eligible group, except as specified in 41.7(9)"a"(4).

ITEM 7. Subrule **41.7(9)**, paragraph "b", subparagraph (2), is amended to read as follows:

(2) When a change in eligibility factors occurs, the local office shall prospectively compute eligibility based on the change, effective no later than the month following the month the change occurred. If eligibility continues, no action is taken. If ineligibility exists, assistance shall be canceled or suspended. Continuing eligibility under the one hundred fifty percent ~~rule~~ *eligibility test*, defined in 770—41.7(239), shall be computed prospectively.

ITEM 8. Subrule **41.7(9)**, paragraph "c", subparagraph (2), is amended to read as follows:

(2) Nonrecurring lump sum income. Nonrecurring lump sum income, except as specified in 41.7(7)"c", shall be considered as income in the budget month, and counted in computing eligibility and the amount of the grant for the payment month. Nonrecurring lump sum income is defined as a payment which is a one-time distribution of funds from a single source such as a property settlement, inheritance, insurance settlement, or a retroactive payment of benefits, such as social security, job insurance or workers' compensation. A lump sum payment of earned income credit shall be treated as nonrecurring lump sum payment of earned income. When countable income, exclusive of the aid-to-dependent-children grant, but including the lump sum income, exceeds the needs of the eligible group, the case shall be canceled or the application rejected. The eligible group shall be ineligible for the number of full months derived by dividing the income by the ~~needs of~~ *standard of need for* the eligible group. Any excess shall be applied to the first month in which eligibility may be re-established and disregarded as income thereafter. When countable income, including the lump sum income, is less than the needs of the eligible group, the lump sum shall be counted as income for the budget month. For purposes of applying the lump sum provision, the eligible group shall include all eligible persons and any other individual whose lump sum income is counted in determining the period of ineligibility. During the period of ineligibility, individuals who were not in the eligible group when the lump sum income was received may be eligible for aid to dependent children. These individuals shall be considered as a separate eligible group. Income of this eligible group plus income, excluding the lump sum income already considered, of the parent or other legally responsible person in the home shall be considered as available in determining eligibility and the amount of the grant.

ITEM 9. Subrule **41.7(10)**, paragraph "e", subparagraph (2) is amended to read as follows:

(2) The needs of the sponsor and anyone else living in the same household who the sponsor claims or could claim as a dependent for federal tax purposes shall be deducted. Need shall be determined in accordance with the ~~schedule~~ *standard* of ~~basic needs and includes any special needs~~ *need* for a family of the same composition.

ITEM 10. Subrule 41.8(2) and the schedule of basic needs are rescinded (but not the chart for determining income in kind and the paragraphs) and the following inserted in lieu thereof:

41.8(2) Schedule of needs. The schedule of living costs represents one hundred percent of basic needs. The schedule of living costs is used to determine the needs of individuals when these needs must be determined in accordance with the standard of need defined in 40.1(5). The one hundred fifty percent schedule is included for the determination of eligibility in accordance with 770—41.7(239). The schedule of basic needs is used to determine the basic needs of those persons whose needs are included in and are eligible for an aid-to-dependent-children grant. The eligible group is considered a separate and distinct group without regard to the presence in the home of other persons, regardless of relationship to or whether they have a liability to support members of the eligible group. The schedule of basic needs is also used to determine the needs of persons not included in the assistance grant, when these needs must be determined in accordance with the payment standard defined in 40.1(6). The schedule of basic needs represents eighty-seven percent of basic needs for two or more persons. It represents one hundred percent of basic needs for one person.

SOCIAL SERVICES DEPARTMENT[770] *(cont'd)*

SCHEDULE OF NEEDS

Number of Persons	1	2	3	4	5	6	7	8	9	10	Each Additional Person
Schedule of Living Costs	154	336	414	482	534	593	652	711	769	841	84
150% of Living Costs	231	504	621	723	801	890	978	1067	1154	1262	126
Schedule of Basic Needs	154	292	360	419	464	516	567	618	669	731	73

ITEM 11. Subrule **41.8(3)** is amended by adding new paragraphs:

b. Guardian/conservator fee. An amount not to exceed ten dollars per case per month may be allowed for guardian's/conservator's fees when authorized by appropriate court order. No additional payment is permitted for court costs or attorney's fees.

c. Individual education and training. The expense of an individual education and training plan as defined in 770—chapter 55.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/21/82.

ARC 3059

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of Iowa Code Section 239.18, the following rules relating to the aid to dependent children program (Chapter 42) are hereby adopted. These rules are the eligibility criteria for the aid to dependent children unemployed parent program. They are necessary to implement Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 2304.

The department of social services finds that notice and public participation are impracticable. S.F. 2304 requires the program to start July 1, 1982 and there is not time to go through the regular rulemaking process before that date. Therefore, these rules are filed pursuant to Iowa Code section 17A.4(2).

The department of social services finds that S.F. 2304 requires these rules to become effective immediately. It further finds that these rules confer a benefit on the public by enabling a family with an unemployed parent to qualify for assistance. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)"b"(1) and (2).

Even though the department is filing these rules using emergency provisions, it is soliciting comments on them under ARC 3062.

The Council on Social Services adopted these rules June 30, 1982.

These rules are intended to implement Iowa Code section 239.2.

These rules shall become effective July 1, 1982.

CHAPTER 42
UNEMPLOYED PARENT

770—42.1(239) Definitions.

42.1(1) Unemployed. "Unemployed means:

a. Working less than one hundred hours in a month, or

b. Working one hundred hours or more in a month, but working less than one hundred hours the two previous months and expected to work less than one hundred hours during the next month.

c. When selfemployed, the hours of employment shall be determined on the basis of the total monthly income from selfemployment divided by the federal minimum wage.

42.1(2) Principal earner. "Principal earner" means the parent who earned the greater amount of income in the twenty-four months immediately preceding the month in which the application is made for assistance.

42.1(3) Qualifying parent. "Qualifying parent" means the parent designated as principal earner.

42.1(4) Bona fide. "Bona fide" means an actual or genuine offer which includes a specific wage or a training opportunity at a specific place when used to determine whether the parent has refused an offer of training or employment.

42.1(5) Calendar quarter. "Calendar quarter" means a period of three consecutive months ending March 31, June 30, September 30 or December 31.

42.1(6) Parent. "Parent" means the natural or adoptive parent.

42.1(7) Student. "Student" means any person enrolled at least half-time in a vocational or academic course of study.

42.1(8) Approved training. "Approved training" means work incentive program, individual education and training plan program, and comprehensive education and training act program, or participation in a vocational rehabilitation training plan.

770—42.2(239) Deprivation. A child shall be eligible for assistance on the basis of being deprived of parental care or support by reason of the qualifying parent's unemployment.

42.2(1) Priority of other deprivation factors. When deprivation exists because of parental absence or incapacity, that deprivation factor supersedes and the case shall not be processed on the basis of a parent's unemployment.

42.2(2) Reserved.

770—42.3(239) Principal earner. The qualifying parent shall be the principal earner for the twenty-four month period preceding the month of application, regardless of when the parental relationship began. When there is a question as to which parent is the principal earner, the income maintenance worker shall make the determination using the best evidence available. The parent originally designated principal earner shall retain that designation until the family is no longer eligible for aid to dependent children.

770—42.4(239) Qualifying parent. The dependent child's parent who qualifies the child(ren) for assistance shall be the principal earner and meet the following requirements:

42.4(1) The parent shall be unemployed for thirty days prior to receipt of assistance and anytime thereafter other than during the adjustment period. Assistance shall not be paid to cover any of the thirty-day period.

a. The parent who is out of work due to refusal without good cause of a bona fide offer of employment or training for employment shall not be considered unemployed.

b. The parent who is out of work due to a labor dispute or is attending school at least half-time, shall not be considered unemployed. Students not eligible during the school year shall remain ineligible during vacation periods.

42.4(2) The parent shall have a recent connection with the labor force established by a work history which includes at least one of the following:

a. Six or more quarters within a thirteen-quarter period ending within one year prior to the date of application in which at least $50 per quarter was earned or the parent participated in a work incentive program training plan.

b. Receipt of job insurance benefits currently or within twelve months prior to the date of application.

c. Eligibility for job insurance benefits within twelve months prior to the date of application, except an application was not filed or some or all of the work performed was not in covered employment.

42.4(3) Job service registration, job insurance benefits. The qualifying parent shall register with regular job service or with job service under the work incentive program and apply for and receive job insurance benefits when eligible. When a parent refuses to register for employment or apply for or draw unemployment benefits, there is no eligibility on the basis of unemployment.

42.4(4) Active search for employment or training. While the application is pending and after assistance has been approved, the parent shall actively search for employment or training for employment and not limit or reduce the hours, end or refuse a bona fide offer of employment or training for employment without good cause.

a. The parent who is out of work due to failure to make an active and earnest search for work as described in IAC 370—4.22(1)"c", which results or would result in disqualification for job insurance benefits, shall not be considered unemployed.

b. The qualifying parent shall provide verification of the search upon the department's request. Failure to do so shall result in cancellation.

c. Failure to follow up on a referral which could result in a bona fide offer of employment or training shall be considered the same as a refusal.

d. The requirement that the qualifying parent actively search for employment or training for employment may be suspended for participants in approved training programs.

42.4(5) Establishing good cause.

a. When a bona fide offer of employment or training is made independently of work incentive program, the determination of whether or not there was good cause for refusal is an income maintenance responsibility.

b. Good cause for limiting or reducing hours, ending or refusing a bona fide offer of employment of training for employment exists when:

(1) A bona fide offer of employment is made at a wage below the minimum amount customary for such work in the community, or the offer of training is not for a specific program, or

(2) the parent cannot engage in the job or training for physical reasons, or

(3) the parent has no way to get to and from the job or training site, or

(4) the working conditions at the site would be a risk to the parent's health or safety, or

(5) there is no worker's compensation protection.

c. When an offer of employment or training is through job service under the work incentive program, the determination as to whether the offer is bona fide, or whether there was good cause to refuse it, will be made by job service. Any appeal from a mandatory registrant shall be directed to job service under the work incentive program.

d. When good cause is not found, deprivation due to the parent's unemployment does not exist.

42.4(6) Relationship with work incentive program. In mandatory work incentive program counties, the qualifying parent may be required to register with job service through the work incentive program.

a. Failure of a nonexempt mandatory registrant to register will result in ineligibility. In voluntary counties, the parent may volunteer for the work incentive program, but is not required to do so. The mandatory work incentive program registrant who is exempt, shall be registered with regular job service.

b. Upon official written notice from job service—work incentive staff that the parent who is a mandatory registrant has been deregistered for failure to participate or because registration has been rendered meaningless by a refusal to co-operate with job service staff, eligibility shall be canceled for the applicable work incentive program sanction period.

770—42.5(239) Failure to co-operate. After assistance is approved, failure to co-operate with the work and training requirements of the unemployed parent program shall result in ineligibility for the entire family for a minimum of one month.

770—42.6(239) Exclusion of the nonqualifying parent. The nonqualifying parent shall be excluded from the eligible group.

42.6(1) The income of the nonqualifying parent shall be considered as if the parent were voluntarily excluded from the eligible group.

42.6(2) The resources of the nonqualifying parent shall be considered as if the parent were in the eligible group.

770—42.7(239) Review and redetermination requirements. The income maintenance worker is responsible for a minimum of one contact per month subsequent to approval to determine whether the requirement of an active search for employment or training is being met by

SOCIAL SERVICES DEPARTMENT[770] *(cont'd)*

the qualifying parent. Eligibility shall be completely reviewed at least once every three months.

770—42.8(239) Assistance continued. When the qualifying parent becomes employed, assistance shall continue if there is need for a period not to exceed the issuance of three warrants.

42.8(1) An adjustment period following the incapacitated parent's recovery or the absent parent's return home shall continue for only as long as is necessary to determine whether there is eligibility on the basis of parental unemployment. When deprivation on the basis of unemployment cannot be established, assistance shall be continued for a maximum of three warrants.

42.8(2) Reserved.

[Filed emergency 7/1/82, effective 7/1/82]

[Published 7/21/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/21/82.

ARC 3060

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of Iowa Code Section 217.6 and Chapter 249, rules of the Department of Social Services appearing in the IAC relating to state supplementary assistance (Chapter 52) are hereby amended. These rules pass along the supplemental security income increase to state supplementary assistance recipients.

The department of social services finds that notice and public participation are impracticable. Supplemental security income benefits will increase July 1, 1982 and in order for state supplementary assistance recipients to have the advantage of this increase, there is not time to go through the regular rulemaking process. Therefore, these rules are filed pursuant to Iowa Code section 17A.4(2).

The department of social services finds that these rules confer a benefit on the public by passing along the supplemental security income increase to state supplementary assistance recipients. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The council on social services adopted these rules June 30, 1982.

These rules are intended to implement Iowa Code section 249.3.

These rules are effective July 1, 1982.

ITEM 1. Subrule **52.1(1)**, second unnumbered paragraph, is amended to read as follows:

Family life home certified under rules in chapter 111.

~~$292.90~~	*$322.50*	care allowance
35.00		personal allowance
~~$327.90~~	*$357.50*	Total

ITEM 2. Subrule **52.1(2)**, paragraphs "a" through "e" are amended to read as follows:

a. Aged or disabled client and a dependent relative	~~$397.30~~	*$426.80*
b. Aged or disabled client, eligible spouse, and a dependent relative	~~$529.60~~	*$568.90*
c. Blind client and a dependent relative	~~$419.30~~	*$448.80*
d. Blind client, aged or disabled spouse and a dependent relative	~~$551.60~~	*$590.90*
e. Blind client, blind spouse and a dependent relative	~~$573.60~~	*$612.90*

[Filed emergency 7/1/82, effective 7/1/82]

[Published 7/21/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/21/82.

ARC 3061

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of Iowa Code Section 234.6, rules of the Department of Social Services appearing in the IAC relating to the food stamp program (Chapter 65) are hereby amended.

There were several changes made April 23, 1982. The definition of drug and alcohol treatment programs now includes alcohol treatment programs located on Indian reservations. Local offices are no longer required to have copies of federal regulations available for public examination. The phrase "majority of meals" as it relates to residents of institutions has been defined as over fifty percent of three meals daily. An authorized representative who has knowingly provided false information pertaining to a household or has made improper use of coupons can be disqualified to serve as an authorized representative for up to one year's time. Form I-181-B is now acceptable verification of alien status. The income and resources of an ineligible alien household member are now considered in the same manner as disqualified members. The local offices are now required to report illegal aliens to INS. Resources of ineligible aliens shall be treated as if the ineligible alien were a household member. If a resource would be excluded because it was owned by a household member, the exclusion also applies to an ineligible alien whose resources are being counted as part of the household's resources. Payments under Title I (Vista, etc.) are to be considered earned income unless specifically excluded. Depreciation is no longer an allowable cost of doing business for self-employed persons. Earned income received jointly by household members and nonhousehold members and combined into one wage shall be handled as follows: If the household's share can be identified, that portion will be counted as income to the household. If it cannot be identified, the income must be prorated among all it was intended to cover, and count the household's prorated portion as income. Applicant households must report all changes relating to benefits and eligibility at the certification interview. Changes that the household is required to report which occur after the interview, but before the date of the notice of eligibility, must be reported within ten days of the date of the notice of eligibility.

SOCIAL SERVICES DEPARTMENT[770] *(cont'd)*

The change on April 27, 1982 increased the gross and net monthly income eligibility standards for food stamps.

The change on May 14, 1982 allows migrant households in the migrant stream an additional month to provide required verification when the verification must be obtained from outside the state.

The department of social services finds that notice and public participation are unnecessary. The changes meet the criteria in 770—1.5(17A). The changes are mandated by changes in federal law and regulation and the state must adopt these changes in order to stay in compliance and not lose federal funds. Therefore, these rules are filed pursuant to Iowa Code section 17A.4(2).

The department of social services finds that this rule confers a benefit on the public. The rule puts Iowa into compliance with federal regulations and is necessary to protect Iowa's participation in the food stamp program. In addition, the April 27, 1982 change enables clients who receive cost-of-living increases in their incomes to remain eligible for food stamps and the May 14, 1982 change allows migrant households an additional month for out-of-state verifications. Therefore, this rule is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The council on social services adopted this rule June 30, 1982. It is intended to implement Iowa Code section 234.12.

This rule is effective July 1, 1982.

Rule 770—65.3(234), first paragraph, is amended to read as follows:

770—65.3(234) Administration of program. The food stamp program shall be administered in accordance with the Food Stamp Act of 1977 and in accordance with federal regulation, Title 7, Parts 270 through 282 as amended to December 8, 1981 *and amendments of April 23, 1982, April 27, 1982, and May 14, 1982.*

[Filed emergency 7/1/82, effective 7/1/82]
[Published 7/21/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/21/82.

ARC 3044

TRANSPORTATION, DEPARTMENT OF[820]

01 DEPARTMENT GENERAL DIVISION

Pursuant to the authority of Iowa Code Section 307.10, the Transportation Commission on May 25, 1982, emergency adopted an amendment to 820—[01,B] Chapter 3, entitled "Contested Cases."

This amendment allows legal assistants or paralegals to represent the department at hearings held under the implied consent law, Iowa Code chapter 321B, as amended by the Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2369. These hearings would include the formal administrative contested cases involving both the revocations for refusal to provide a body specimen for alcohol content testing, and those for completed test results that indicate ten hundredths or more of one percent by weight of alcohol in the blood. The latter revocation has been provided by the new OMVUI law, Sixty-ninth General Assembly, House File 2369. These authorized legal assistants would be under the supervision of the department's general counsel division.

It is expected that implementation of House File 2369 will create a substantial increase in the number of administrative hearings conducted by the department. It is further expected this increase will occur almost immediately after the law's effective date of July 1, 1982. Without additional personnel, the general counsel division staff, which presently represents the department at these hearings, will be unable to continue effective representation. Thus, implementation of the law will be hindered. The appointment of legal assistants or paralegals for use in these matters will satisfy the need for an expanded staff while effecting a savings in tax dollars.

In reliance upon the provisions of Iowa Code subsection 17A.4(2), the department finds that notice and public participation would be impractical and contrary to the public interest since the delay required by the normal rulemaking procedures would delay the hiring or use of the legal assistants or paralegals well past the July 1, 1982 statute implementation date. This in turn would impede the effective implementation of this law, which the legislature has determined to be of great importance to highway safety. It is the department's opinion that a rule authorizing the use of nonlawyer personnel is required by the Iowa Code of Professional Responsibility before these assistants can be utilized.

In reliance upon the provisions of subsection 17A.5(2)"b", the department also finds that the effective date of this rule should not be delayed for the normal thirty-five-day period since the rule confers a benefit on the public through its provision for effective implementation of a statute important to the public welfare and safety.

Accordingly, this amendment shall become effective on July 1, 1982.

This rule is intended to implement Iowa Code chapter 17A.

Notwithstanding the preceding, the department is simultaneously submitting a notice of intended action for the purposes of soliciting written comments concerning the amendment. (ARC 3045)

Pursuant to the authority of Iowa Code Section 307.10, rules 820—[01,B] Chapter 3, entitled "Contested Cases" are hereby amended.

[01,B] chapter 3 is amended by adding the following rule:

820—[01,B] 3.14(17A) Use of legal assistants or paralegals. The department may be represented by legal assistants or paralegals at contested case hearings conducted pursuant to Iowa Code chapter 321B, as amended by the Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2369.

These authorized legal assistants or paralegals shall be under the supervision of attorneys from the department's general counsel division.

[Filed emergency 6/22/82, effective 7/1/82]
[Published 7/21/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/21/82.

ARC 3067

CONSERVATION COMMISSION[290]

Pursuant to the authority of Iowa Code Sections 107.24, 109.38, and 109.39, the State Conservation Commission at their regular meeting on June 2, 1982, adopted the following amendments to Chapter 109, "Common Snipe, Virginia Rail, Sora, Woodcock, and Ruffed Grouse Seasons", Iowa Administrative Code.

Notice of Intended Action was published in IAB 18, March 3, 1982, as ARC 2733.

These rules give the regulations for hunting common snipe, Virginia rail, sora, woodcock, and ruffed grouse, and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting.

These rules are identical to the published Notice of Intended Action.

These rules implement Iowa Code sections 109.38, 109.39, and 109.48.

These rules will become effective September 1, 1982.

ITEM 1. Rule 290—109.1(109) is amended to read as follows:

290—109.1(109) Common snipe season. Open season for hunting common snipe shall be from September ~~5~~ *4* to December ~~20~~ *19*, ~~1981~~ *1982*. Shooting hours shall be from sunrise to sunset each day. Daily bag limit eight birds; possession limit sixteen birds. Entire state open.

ITEM 2. Rule 290—109.2(109) is amended to read as follows:

290—109.2(109) Virginia rail and sora season. Open season for hunting Virginia rail and sora shall be from September ~~5~~ *4* to November ~~13~~ *12*, ~~1981~~ *1982*. Shooting hours shall be from sunrise to sunset each day. Daily bag limit fifteen and possession limit twenty-five in aggregate of both species. Entire state open.

ITEM 3. Rule 290—109.3(109) is amended to read as follows:

290—109.3(109) Woodcock season. Open season for hunting woodcock shall be from September ~~19~~ *18* to November ~~22~~ *21*, ~~1981~~ *1982*. Shooting hours shall be from sunrise to sunset each day. Daily bag limit five; possession limit ten. Entire state open.

ITEM 4. Rule 290—109.4(109) is amended to read as follows:

290—109.4(109) Ruffed grouse season. Open season for hunting ruffed grouse shall be from October ~~10~~ *9*, ~~1981~~ *1982*, to January 31, ~~1982~~ *1983*. Shooting hours shall be from sunrise to sunset each day. Bag limit three; possession limit six.

109.4(1) Portion of the state open to hunting. The area open to hunting shall be that portion of the state lying north and east of a line described as follows: Beginning at Sabula, Iowa; thence west along State Highway 64 to U.S. Highway 151; thence west along U.S. Highway 151 to State Highway 13; thence north along State Highway 13 to U.S. Highway 20; thence west along U.S. Highway 20 to U.S. Highway 63; thence north along U.S. Highway 63 to the state line.

109.4(2) Reserved.

[Filed 7/1/82, effective 9/1/82]
[Published 7/21/82]

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ARC 3076

REVENUE DEPARTMENT[730]

Pursuant to the authority of Iowa Code Section 428A.11, the Iowa Department of Revenue hereby adopts amendments to Chapter 79, "Real Estate Transfer Tax and Declaration of Value", Iowa Administrative Code.

Notice of Intended Action was published in IAB, volume IV, number 24, on May 26, 1982, as ARC 2912.

The rule amendments are adopted to implement Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 217.

The present rules of the department are in conflict with the new statutory mandates providing for certain new exemptions from the real estate transfer tax and declaration of value filing requirements. These rules are to bring the department's rules into compliance with the new statute.

These rules are identical to those published under Notice of Intended Action. The amendments will become effective August 25, 1982, after filing with the rules coordinator and publication in the Iowa Administrative Code.

These rules are intended to implement Iowa Code sections 428A.1 and 428A.2.

The following amendments are adopted.

ITEM 1. Subrule 79.2(2) is amended to read as follows and the implementation clause at the end of the rule is amended as follows:

79.2(2) Transfer of realty to a corporation *or partnership* ~~in exchange for capital stock~~. Capital stock , *partnership shares and debt securities* received in exchange for real property constitutes consideration which is subject to the real estate transfer tax. Where the value of the capital stock is definite or may be definitely determined in a dollar amount, the specific dollar amount is subject to the tax. Where the value of the capital stock is not definitely measurable in a dollar amount, the tax imposed is to be calculated on the fair market value of the realty transferred. For purposes of this rule, fair market value shall be defined in Iowa Code section 441.21. (1976 O.A.G. 776)

Real estate transfer tax is not due when real property is conveyed to a family corporation, *partnership, or limited partnership* as defined in section 428A.2 in an incorporation *or organization* action where the only consideration is the issuance of *capital stock, partnership* shares ~~of stock~~, or debt securities of the corporation, *partnership, or limited partnership.* Actual consideration other than *these* shares ~~of stock~~ or debt securities is subject to the real estate transfer tax.

ITEM 2. Subrule 79.2(6) is amended to read as follows:

79.2(6) Mortgage default. In the factual situation where a defaulting mortgagor issues a deed or ~~othere~~

other conveyance instrument to the mortgagee as satisfaction of the mortgage debt, the transaction is subject to the real estate transfer tax. The consideration upon which the tax is calculated is the outstanding unsatisfied mortgage debt. (Federal Rule)

However, as an exception to this rule, a conveyance of real property to lienholders in lieu of forfeiture or foreclosure action is exempt from real estate transfer tax.

ITEM 3. Subrule **79.2(9)** is rescinded and the remaining subrules are renumbered accordingly.

ITEM 4. Subrule 79.2(10) is amended to read as follows:

79.2(10) Corporate ~~liquidation~~ *and partnership dissolution.* A conveyance of realty by a corporation *or partnership* in liquidation or in dissolution to its shareholders *or partners* subject to the debts of the corporation *or partnership*, is a conveyance subject to the real estate transfer tax. However, if there are no ~~corporate~~ debts and the conveyance is made solely for the cancellation and retirement of the capital stock *or dissolution*, the tax does not apply. (Federal Rule)

Real estate transfer tax is not due when real property is conveyed from a family corporation, *partnership, or limited partnership* as defined in section 428A.2 to its shareholders *or partners* in a ~~corporate~~ dissolution action where the only consideration is *capital stock, partnership shares, or debt securities of the corporation, partnership, or limited partnership, including the* assumption of ~~corporate~~ debts by the shareholders *or partners.* Actual consideration other than ~~assumption of corporate debts~~ *these shares or debt securities* is subject to the real estate transfer tax.

ITEM 5. Rule 730—79.2(428A) is amended by adding two new subrules as follows:

79.2(11) Marriage dissolution exemption from the real estate transfer tax provided in section 428A.2(16) applies only to real property conveyances between former spouses specifically mandated by a dissolution decree.

79.2(12) Family debt cancellation exemption from the real estate transfer tax provided in section 428A.2(11) applies only to real estate conveyances between husband and wife, or parent and child and indebtedness between these parties.

The amount of indebtedness subject to exemption shall not exceed the fair market value of the property being transferred.

Example 1. A son is indebted to his father for $10,000. The son transfers real property with a fair market value of $12,000 to his father as satisfaction of the indebtedness. No real estate transfer tax is due in this situation.

Example 2. A son is indebted to his father for $10,000. The son transfers real property with a fair market value of $4,000 to his father as satisfaction of the indebtedness. Real estate transfer tax is due on $6,000 in this situation.

This rule is intended to implement Iowa Code sections 428A.1 and 428A.2~~:~~ *as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 217.*

ITEM 6. Subrule 79.5(1) is amended to read as follows and the implementation clause at the end of the rule is amended as follows:

79.5(1) Real estate transfer—declaration of value form. A real estate transfer-declaration of value form shall be completed for any deed, contract, instrument or writing that grants, assigns, transfers or otherwise conveys real property except those specifically exempted by law if the document presented for recording clearly states on the face of such document that it is a document exempt from the reporting requirements as enumerated in Iowa Code section 428A.2, subsections 2 to 13 *and 16 to 18,* or is a deed given in fulfillment of a previously recorded real estate contract. A real estate transfer-declaration of value form shall not be completed by the buyer, seller; or the agent of either or the county recorder for any transaction that does not grant, assign, transfer or convey real property.

This rule is intended to implement Iowa Code sections 428A.1, 428A.2 and 428A.4~~:~~ *as amended by Acts of the Sixty-ninth General Assembly, 1982 Session, Senate File 217.*

ITEM 7. Subrule **79.5(4)** is rescinded and the remaining subrules are renumbered accordingly.

[Filed 7/2/82, effective 8/25/82]
[Published 7/21/82]

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ARC 3064

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of Iowa Code Section 217.6 and Chapter 17A, rules of the Department of Social Services appearing in the IAC relating to fair hearings and appeals (Chapter 7) are hereby amended. The Council on Social Services adopted these rules June 30, 1982.

Notice of Intended Action regarding these rules was published in the IAB May 12, 1982 as ARC 2870. These rules are needed to comply with the monthly reporting and retrospective budgeting system required by the Omnibus Budget Reconciliation Act. The rules change the time limit for requesting a hearing and provide for appeal and continuation of assistance after adequate notice and for recovery when the agency action is sustained. They also clarify informal settlements.

7.7(2)"k" was eliminated and new "k" was clarified. Provision for only adequate notice for changes based on an untimely filed report was removed from 7.7(2)"m". Paragraphs "a" and "c" were removed from 7.9(1). 7.9(2) was clarified.

These rules are intended to implement Iowa Code sections 17A.10 and 17A.22.

These rules shall become effective September 1, 1982.

ITEM 1. Subrule 7.1(15) is amended to read as follows:

7.1(15) Aggrieved person. An "aggrieved person" is one whose claim for financial assistance, medical assistance, or services had been denied; or whose application has not been acted upon with reasonable promptness; or who has been notified that there will be a suspension, reduction, or discontinuation of assistance, *medical assistance,* or services; or who has been aggrieved by a failure to take account of recipient choice in assignment to a program, or a determination that the individual must participate in a service program. Vendors, juveniles returned from placement to the state children's institutions, parents of children in foster, group, or residential

care, licensees, adoptive applicants, certified adoptive home investigators or applicants for certification, persons who have received notice that the department is attaching their Iowa income tax refund, and persons who have been denied expungement for correction of child abuse registry information may be aggrieved persons in certain situations.

ITEM 2. Subrule 7.5(3) is amended to read as follows and a new subrule added:

7.5(3) Time limit for request. Subject to the provisions of subrule 7.5(1), when a request for a fair hearing is made within thirty days after official notification of an action, a hearing shall be held. When the request for a hearing is made more than thirty days, but less than ninety days after notification, the commissioner shall determine whether a hearing shall be held. The time in which to appeal an agency action shall not exceed ninety days. The day ~~upon which~~ *after* the official notice is mailed is the first day of the time period within which an appeal must be filed. *When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next work day.*

7.5(4) Informal settlements. The time limit for submitting a request for a hearing is not extended while attempts at informal settlement are in progress. Prehearing conferences are provided for at 7.7(4) and 7.8(4).

ITEM 3. Subrule 7.7(1) and paragraph "a" are amended to read as follows:

7.7(1) Whenever the local office proposes to terminate, reduce, or suspend food stamps, financial or medical assistance, or services, it shall give timely and adequate notice of the pending action, except when a service is deleted from the state's comprehensive annual service plan in the ~~Title XX~~ *social services block grant* program at the onset of a new program year.

a. Timely means that the notice is mailed at least ten calendar days before the date the action would become effective. The timely notice period shall begin on the day ~~on which~~ *after* the notice is mailed.

ITEM 4. Subrule **7.7(2)** is amended by adding new paragraphs.

k. The agency terminates, reduces, or suspends benefits or makes changes based on the timely receipt of a completed monthly report form.

l. The agency terminates benefits for failure to return a completed monthly report form.

ITEM 5. Rule 770—7.9(217) is amended to read as follows:

770—7.9(217) Request and continuation of assistance. When the recipient requests a hearing within the timely notice period, assistance shall not be suspended, reduced, discontinued, or terminated~~, but~~ *until a decision is rendered after a hearing. Continued assistance* is subject to recovery by the agency if its action is sustained~~, until a decision is rendered after a hearing, unless~~:.

7.9(1) Assistance will also be continued when the recipient requests a hearing within ten days from the date adequate notice is sent for termination, reduction, or suspension of benefits, aid to dependent children and medical, based on the completed monthly report.

7.9(2) When the agency action is sustained, excess assistance paid pending a hearing decision will be recovered to the date of the decision. When the recipient's benefits are changed prior to a decision due to one of the following reasons, recovery of excess assistance paid will be made to the date of the change which affects the improper payment.

~~7.9(1)~~ *a.* Issue. A determination is made at the hearing that the sole issue is one of state or federal law or policy or change in state or federal law and not one of incorrect grant computation, *and the grant is adjusted,* or

~~7.9(2)~~ *b.* Change. A change affecting the recipient's grant occurs while the hearing decision is pending and the recipient fails to request a hearing after notice of the change.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 7/21/82.

ARC 3063

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of Iowa Code Section 217.6, rules of the Department of Social Services appearing in the IAC relating to fair hearings and appeals (Chapter 7) are hereby amended. The Council on Social Services adopted this rule on June 30, 1982.

Notice of Intended Action regarding this rule was published in the IAB October 28, 1981, as ARC 2452 and as amended Notice of Intended Action on December 23, 1981, ARC 2586. The rule will allow for fair hearings to be held by a telephone conference call.

In response to public comment, the noticed rule was changed. A procedure is provided in the adopted rule allowing an appellant to request a teleconference hearing be rescheduled for an in-person hearing, and that all such requests will be granted. The noticed rule was changed by eliminating the requirement that documentation be submitted to the hearing officer within five days of notice of teleconference hearing. The five-day limit was unduly restrictive of the appellant's right to submit evidence.

This rule is intended to implement Iowa Code section 17A.22.

This rule shall become effective August 25, 1982.

Add the following new rule.

770—7.22(217) Teleconference hearing. A teleconference hearing is an appeal hearing conducted by a hearing officer over the telephone.

7.22(1) Determination. The appeals and fair hearings office will determine whether the appeal hearing is conducted in person or by teleconference hearing.

7.22(2) Notice of teleconference hearing. All parties shall be notified in writing at least ten calendar days in advance of the time and date scheduled for a teleconference hearing, in addition to the notification required by 7.10(4).

7.22(3) Reschedule. The appellant may request the teleconference hearing be rescheduled as an in-person hearing. All requests made to the local office for a teleconference hearing to be rescheduled as an in-person hearing will be granted.

7.22(4) Rights. All parties shall be granted the same rights during a teleconference hearing as specified in 770—7.13(217).

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ARC 3065

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of Iowa Code Section 239.18, rules of the Department of Social Services appearing in the IAC relating to aid to dependent children (Chapter 40) are hereby amended. The Council on Social Services adopted these rules June 30, 1982.

Notice of Intended Action regarding these rules was published in the IAB April 28, 1982 as ARC 2849. These rules provide for a Spanish version of the aid to dependent children application. This form is needed for those individuals who read Spanish, but not English.

These rules are identical to those published under notice.

These rules are intended to implement Iowa Code section 239.3.

These rules shall become effective September 1, 1982.

ITEM 1. Rule 770—40.2(239) is amended to read as follows:

770—40.2(239) Application. The application for aid to dependent children shall be submitted on Public Assistance Application, Form PA-2207-0 *or Form PA-2230-0 (Spanish)*. The application shall be signed by the applicant, the applicant's authorized representative, or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant's behalf. When both parents, or a parent and stepparent, are in the home, both shall sign the application.

ITEM 2. Rule 770—40.3(239) is amended to read as follows:

770—40.3(239) Date of application. The date of application is the date an identifiable Public Assistance Application, Form PA-2207-0 *or Form PA-2230-0 (Spanish)*, is received in the county. An identifiable application is an application containing a legible name and address, that has been signed.

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ARC 3066

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of Iowa Code Section 249A.4, rules of the Department of Social Services appearing in the IAC relating to intermediate care facilities (Chapter 81) and intermediate care facilities for the mentally retarded (Chapter 82) are hereby amended. The Council on Social Services adopted these rules June 30, 1982.

Notice of Intended Action regarding these rules was published in the IAB April 28, 1982 as ARC 2851. These rules extend the limits on compensation of owners to include their relatives.

These rules are identical to those published under notice.

These rules are intended to implement Iowa Code sections 249A.2(6), 249A.3(2)"a", and 249A.12.

These rules shall become effective September 1, 1982.

ITEM 1. Subrule **81.6(11)**,paragraph "h", is amended to read as follows:

h. A reasonable allowance of compensation for services of owners *or immediate relatives* is an allowable cost, provided the services are actually performed in a necessary function. *For this purpose, the following persons are considered immediate relatves: Husband and wife; natural parent, child and sibling; adopted child and adoptive parent; stepparent, stepchild, stepbrother, and stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, and sister-in-law; grandparent and grandchild.* Adequate time records shall be maintained. Adjustments may be necessary to provide compensation as an expense for nonsalaried working proprietors and partners. Members of religious orders serving under an agreement with their administrative office are allowed salaries paid persons performing comparable services. When maintenance is provided ~~such~~ *these* persons by the facility, consideration shall be given to the value of these benefits and this amount shall be deducted from the amount otherwise allowed for a person not receiving maintenance.

(1) Compensation means the total benefit received by the owner *or immediate relative* for ~~the~~ services rendered ~~to the facility~~. It includes salary amounts paid for managerial, administrative, professional, and other services; amounts paid by the facility for the personal benefit of the proprietor *or immediate relative;* the cost of assets and services which the proprietor *or immediate relative* receives from the facility; and deferred compensation.

(2) Reasonableness requires that the compensation allowance be such an amount as would ordinarily be paid for comparable services by comparable institutions, and depends upon the facts and circumstances of each case.

(3) Necessary requires that the function be such that had the owner *or immediate relative* not rendered the services, the facility would have had to employ another person to perform the service, and be pertinent to the operation and sound conduct of the institution.

(4) The maximum allowed compensation for an administrator involved in ownership *or immediate relative* is $1,500.00 per month plus $16.00 per month per licensed

bed capacity for each bed over sixty, not to exceed $2,220.00 per month. An administrator is considered to be involved in ownership of a facility when the administrator has ownership interest of five percent or more.

(5) The maximum allowed compensation for an assistant administrator involved in ownership *or immediate relative* in facilities having a licensed capacity of one hundred fifty-one or more beds is $950.00 per month. An assistant administrator is considered to be involved in ownership of a facility when the assistant administrator has ownership interest of five percent or more.

(6) The maximum allowed compensation for a nursing director involved in ownership *or immediate relative* is sixty percent of the amount allowed for the administrator, or $950.00 per month, whichever is greater. The nursing director shall be a licensed registered or practical nurse. A nursing director is considered to be involved in ownership of a facility when the nursing director has ownership interest of five percent or more.

ITEM 2. Subrule **82.5(11)**, paragraph "e", is amended to read as follows:

e. A reasonable allowance of compensation for services of owners *or immediate relatives* is an allowable cost, provided the services are actually performed in a necessary function. *For this purpose, the following persons are considered immediate relatives: Husband and wife; natural parent, child and sibling; adopted child and adoptive parent; stepparent, stepchild, stepbrother, and stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, and sister-in-law; grandparent and grandchild.* Adequate time records shall be maintained. Adjustments may be necessary to provide compensation as an expense for nonsalaried working proprietors and partners. Members of religious orders serving under an agreement with their administrative office are allowed salaries paid persons performing comparable services. When maintenance is provided ~~such~~ *these* persons by the facility, consideration shall be given to the value of these benefits and this amount shall be deducted from the amount otherwise allowed for a person not receiving maintenance.

(1) Compensation means the total benefit received by the owner *or immediate relative* for ~~the~~ services rendered ~~to the facility~~. It includes salary amounts paid for managerial, administrative, professional, and other services; amounts paid by the facility for the personal benefit of the proprietor *or immediate relative*; the cost of assets and services which the proprietor *or immediate relative* receives from the facility; and deferred compensation.

(2) Reasonableness requires that the compensation allowance be such an amount as would ordinarily be paid for comparable services by comparable institutions, and depends upon the facts and circumstances of each case.

(3) Necessary requires that the function be such that had the owner *or immediate relative* not rendered the services, the facility would have had to employ another person to perform the service, and be pertinent to the operation and sound conduct of the institution.

(4) The maximum allowed compensation for an administrator involved in ownership *or immediate relative* is $1,500.00 per month plus $16.00 per month per licensed bed capacity for each bed over sixty, and not to exceed $2,220.00 per month. An administrator is considered to be involved in ownership of a facility when the administrator has ownership interest of five percent or more.

(5) The maximum allowed compensation for an assistant administrator involved in ownership *or immediate relative* in facilities having a licensed capacity of one hundred fifty-one or more beds is $950.00 per month. An assistant administrator is considered to be involved in ownership of a facility when the assistant administrator has ownership interest of five percent or more.

(6) The maximum allowed compensation for a nursing director involved in ownership *or immediate relative* is sixty percent of the amount allowed for the administrator, or $950.00 per month, whichever is greater. The nursing director shall be a licensed registered or practical nurse. A nursing director is considered to be involved in ownership of a facility when the nursing director has ownership interest of five percent or more.

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