



# IOWA ADMINISTRATIVE BULLETIN

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 Pages 413 to 468

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**CITATION of Administrative Rules**

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

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

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

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

## Schedule for Rule Making 1997

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 13 '96	Jan. 1	Jan. 21	Feb. 5	Feb. 7	Feb. 26	Apr. 2	June 30
Dec. 27 '96	Jan. 15	Feb. 4	Feb. 19	Feb. 21	Mar. 12	Apr. 16	July 14
Jan. 10	Jan. 29	Feb. 18	Mar. 5	Mar. 7	Mar. 26	Apr. 30	July 28
Jan. 24	Feb. 12	Mar. 4	Mar. 19	Mar. 21	Apr. 9	May 14	Aug. 11
Feb. 7	Feb. 26	Mar. 18	Apr. 2	Apr. 4	Apr. 23	May 28	Aug. 25
Feb. 21	Mar. 12	Apr. 1	Apr. 16	Apr. 18	May 7	June 11	Sept. 8
Mar. 7	Mar. 26	Apr. 15	Apr. 30	May 2	May 21	June 25	Sept. 22
Mar. 21	Apr. 9	Apr. 29	May 14	May 16	June 4	July 9	Oct. 6
Apr. 4	Apr. 23	May 13	May 28	May 30	June 18	July 23	Oct. 20
Apr. 18	May 7	May 27	June 11	June 13	July 2	Aug. 6	Nov. 3
May 2	May 21	June 10	June 25	June 27	July 16	Aug. 20	Nov. 17
May 16	June 4	June 24	July 9	July 11	July 30	Sept. 3	Dec. 1
May 30	June 18	July 8	July 23	July 25	Aug. 13	Sept. 17	Dec. 15
June 13	July 2	July 22	Aug. 6	Aug. 8	Aug. 27	Oct. 1	Dec. 29
June 27	July 16	Aug. 5	Aug. 20	Aug. 22	Sept. 10	Oct. 15	Jan. 12 '98
July 11	July 30	Aug. 19	Sept. 3	Sept. 5	Sept. 24	Oct. 29	Jan. 26 '98
July 25	Aug. 13	Sept. 2	Sept. 17	Sept. 19	Oct. 8	Nov. 12	Feb. 9 '98
Aug. 8	Aug. 27	Sept. 16	Oct. 1	Oct. 3	Oct. 22	Nov. 26	Feb. 23 '98
Aug. 22	Sept. 10	Sept. 30	Oct. 15	Oct. 17	Nov. 5	Dec. 10	Mar. 9 '98
Sept. 5	Sept. 24	Oct. 14	Oct. 29	Oct. 31	Nov. 19	Dec. 24	Mar. 23 '98
Sept. 19	Oct. 8	Oct. 28	Nov. 12	Nov. 14	Dec. 3	Jan 7 '98	Apr. 6 '98
Oct. 3	Oct. 22	Nov. 11	Nov. 26	Nov. 28	Dec. 17	Jan. 21 '98	Apr. 20 '98
Oct. 17	Nov. 5	Nov. 25	Dec. 10	Dec. 12	Dec. 31	Feb. 4 '98	May 4 '98
Oct. 31	Nov. 19	Dec. 9	Dec. 24	Dec. 26	Jan. 14 '98	Feb. 18 '98	May 18 '98
Nov. 14	Dec. 3	Dec. 23	Jan. 7 '98	Jan. 9 '98	Jan. 28 '98	Mar. 4 '98	June 1 '98
Nov. 28	Dec. 17	Jan. 6 '98	Jan. 21 '98	Jan. 23 '98	Feb. 11 '98	Mar. 18 '98	June 15 '98
Dec. 12	Dec. 31	Jan. 20 '98	Feb. 4 '98	Feb. 6 '98	Feb. 25 '98	Apr. 1 '98	June 29 '98
Dec. 26	Jan. 14 '98	Feb. 3 '98	Feb. 18 '98	Feb. 20 '98	Mar. 11 '98	Apr. 15 '98	July 13 '98

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
7	Friday, September 5, 1997	September 24, 1997
8	Friday, September 19, 1997	October 8, 1997
9	Friday, October 3, 1997	October 22, 1997

**PLEASE NOTE:**

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

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

# PUBLICATION PROCEDURES

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

The Iowa Administrative Code Division is using a PC system to assist in the printing of the Iowa Administrative Bulletin. In order to most effectively transfer rules from the various agencies sending their rules on a diskette, please note the following:

1. We use a Windows environment with Interleaf 6 as our word processing system and can import directly from any of the following:

Ami Pro	Microsoft Word	SuperCalc
Ami Pro Macro	Microsoft Word for Windows 1.x, 2.0, 6.0	Symphony Document
dBase	MultiMate	Wang (TWP)
DCA/FFT	Navy DIF	Windows Write
DCA/RFT	Office Writer	Word for Windows 1.x, 2.0, 6.0
DIF	Paradox	WordPerfect 4.2, 5.x, 6.0
Display Write 4	Peach Text	WordStar
Enable 1.x, 2.x, 4.x	Professional Write	WordStar 2000 ver 1.0, 3.0
Excel 3.0, 4.0, 5.0	Rich Text Format	XyWrite III, Plus
Exec MemoMaker	Samna Word	XyWrite IV
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3. Submit **only 3 1/2" High Density** (NOT Double Density) MS-DOS or compatible format diskettes. Please indicate on each diskette the agency name, file name, the format used for exporting, chapter or chapters of rules being amended.

4. **Deliver this diskette to the Administrative Code Division, 4th Floor, Lucas Building, when documents are submitted to the Governor's Administrative Rules Coordinator.**

Diskettes from agencies will be returned **unchanged** by the Administrative Code Division. Please refer to the hard-copy document which is returned to your agency by the Governor's office. This document reflects any changes in the rules—update your diskettes accordingly.

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, September 9, 1997, at 10 a.m. and Wednesday, September 10, 1997, at 9 a.m. in Room 1, State Capitol. The following rules will be reviewed:

Bulletin

#### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

- Brucellosis control and eradication—designated animals, 64.47(8), Filed ARC 7453A ..... 8/13/97  
 Pseudorabies disease, 64.147, 64.153(2), 64.154(2)“a” and “c,” 64.154(4)“a” and “b,” 64.154(5),  
 64.154(6), 64.155(2), 64.155(4), 64.155(5)“d,” 64.155(8), 64.156(2)“e,” 64.156(6), 64.157(2) to  
 64.157(7), Notice ARC 7474A ..... 8/27/97

#### BLIND, DEPARTMENT FOR THE[111]

- Personnel, ch 2, Notice ARC 7462A ..... 8/27/97

#### CORRECTIONS DEPARTMENT[201]

- Incarceration fees, 20.10, Notice ARC 7452A, also Filed Emergency ARC 7455A ..... 8/13/97  
 Inmate telephone commissions, 20.20, Notice ARC 7451A ..... 8/13/97

#### DENTAL EXAMINERS BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

- Continuing education, 25.7, Notice ARC 7442A ..... 8/13/97  
 Deep sedation/general anesthesia, parenteral conscious sedation and nitrous oxide inhalation analgesia,  
 ch 29 title, 29.1, 29.2(1), 29.2(2), 29.3, 29.4, 29.5(1) to 29.5(4), 29.6(1)“c” and “d,” 29.8 to 29.12,  
Notice ARC 7440A ..... 8/13/97  
 Procedural rules—disciplinary hearing panels, reexamination following suspension, 51.4(1), 51.12(7),  
Notice ARC 7441A ..... 8/13/97

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

- Iowa industrial new jobs training program, 5.1 to 5.3, 5.4(1), 5.4(2), 5.10, 5.12, Filed ARC 7438A ..... 8/13/97  
 Local housing assistance program, ch 28, Notice ARC 7437A ..... 8/13/97  
 Governmental enterprise fund, ch 42, Notice ARC 7436A ..... 8/13/97  
 Rural innovation grants—population guidelines, 49.3, Notice ARC 7435A ..... 8/13/97  
 CEBA—wages and time frames, 53.2, 53.6(1), 53.7(2)“b,” 53.8(3)“a,” 53.8(4), 53.9(4),  
 53.13(3)“a”(2), Notice ARC 7439A ..... 8/13/97  
 Entrepreneurs with disabilities, 56.2, 56.6(1), Notice ARC 7433A ..... 8/13/97  
 Export trade assistance program, 68.7, 68.8, Notice ARC 7434A ..... 8/13/97

#### EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

- Complaint process, amendments to ch 11, Notice ARC 6850A Terminated ARC 7447A ..... 8/13/97

#### EDUCATION DEPARTMENT[281]

- ICN subsidization reimbursement procedures, ch 8, Notice ARC 7470A, also Filed Emergency ARC 7471A ..... 8/27/97  
 General accreditation standards, 12.2(3), 12.3(6), Notice ARC 7469A ..... 8/27/97  
 Accreditation of community colleges, 21.10, 21.11, Filed ARC 7468A ..... 8/27/97  
 Extracurricular interscholastic competition, 36.15(7), Filed ARC 7467A ..... 8/27/97  
 Vocational rehabilitation—qualifications of personnel, 56.42, rescind 56.43 to 56.46, Notice ARC 7466A ..... 8/27/97  
 Accreditation of area education agency programs and services, ch 72, Filed ARC 7465A ..... 8/27/97

#### ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]“umbrella”

- Administration, 1.4(2)“d,” Filed ARC 7430A ..... 8/13/97

#### ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

- Animal feeding operations—proposals by DNR and AACO, 65.1, 65.2(10)“g,” 65.6(1)“b,” 65.7,  
 65.8(1)“f,” “g,” and “i,” 65.15(1)“b” and “c,” 65.15(2)“c” and “d,” 65.15(3)“b,” 65.15(6), 65.15(7),  
 65.15(12), 65.15(14) to 65.15(16), 65.16(1), 65.17, Notice ARC 7454A ..... 8/13/97

**HUMAN SERVICES DEPARTMENT[441]**

Paternity contested, 99.27, Notice ARC 7423A ..... 8/13/97  
 Rehabilitative treatment and supportive services, 152.21, 152.22(3) to 152.22(7), 152.23(2), 152.23(4)"a,"  
 152.23(4)"b"(5), 185.101, 185.108, 185.112, Notice ARC 7424A ..... 8/13/97

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

Egg handlers, holding temperature for eggs sold at retail, ch 30 title, 31.2, 31.3, 32.6, 36.3(1), 36.3(2),  
 36.3(8) to 36.3(10), 36.6(1), 36.6(2), 36.12, 36.13, Notice ARC 7461A ..... 8/27/97  
 Hospitals—pharmaceutical service, 51.14, Filed ARC 7431A ..... 8/13/97  
 Dependent adult abuse and criminal history record checks for health care facility employees, 57.12(3), 58.11(3),  
 59.13(3), 62.9(5), 63.11(3), 64.34, 65.9(5), Notice ARC 7448A, also Filed Emergency ARC 7449A ..... 8/13/97  
 Collection methods for food stamp overpayment, 71.5, 71.5(1)"b," 71.6, Filed Emergency ARC 7432A ..... 8/13/97

**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

Securities, 50.3 to 50.6, 50.14, 50.24(3), 50.34, 50.51, Filed ARC 7427A ..... 8/13/97

**LAW ENFORCEMENT ACADEMY[501]**

Decertification, 6.2(2)"d," Filed ARC 7425A ..... 8/13/97

**PERSONNEL DEPARTMENT[581]**

Benefits, 15.6, 15.13, Notice ARC 7463A, also Filed Emergency ARC 7464A ..... 8/27/97  
 IPERS, 21.5(1)"a"(35), 21.5(7), 21.6(9)"b," "c," and "e," 21.11(6), 21.13(9)"c" "2," 21.13(10), 21.13(11),  
 21.16(2), 21.19(5), 21.24(3), Notice ARC 7457A ..... 8/27/97  
 IPERS, 21.6(9)"b," "c," and "e," 21.11(6), 21.13(10), 21.19(5), Filed Emergency ARC 7458A ..... 8/27/97

**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Physical therapists and physical therapy assistants, 200.2(7), 200.20(8)"a," 202.2(7), 202.4(3), Filed ARC 7472A ..... 8/27/97

**RACING AND GAMING COMMISSION[491]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

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**REVENUE AND FINANCE DEPARTMENT[701]**

Vehicles subject to long-term lease, 31.5(1), 31.5(2), 32.11(2), Filed ARC 7444A ..... 8/13/97  
 Individual income tax, 39.6(3)"a," 40.9, 40.48, 40.51, 41.12, 43.4(4), 43.8, 43.8(1), 43.8(1)"c," 43.8(2)"i,"  
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 Inheritance tax, 86.2(2)"d," 86.5(13), 86.13, Filed ARC 7459A ..... 8/27/97  
 Local option sales and service tax, 107.2, 107.10, Filed ARC 7460A ..... 8/27/97

**SECRETARY OF STATE[721]**

City and county elections—procedures for initiative, referenda and the election of officials, 21.30(1),  
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**SOIL CONSERVATION DIVISION[27]**

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Financial incentives for soil erosion control, 10.41, Filed Emergency After Notice ARC 7426A ..... 8/13/97

**TRANSPORTATION DEPARTMENT[761]**

Highway and bridge construction, 125.1 to 125.3, Filed Emergency After Notice ARC 7421A ..... 8/13/97  
 Persons with disabilities parking permits, ch 411, Notice ARC 6993A Terminated, also Notice ARC 7422A ..... 8/13/97  
 Certificates of title and vehicle registration—driver's privacy protection, ch 415, Filed ARC 7429A ..... 8/13/97  
 Driver's license and nonoperator's identification card—driver's privacy protection, ch 611, Filed ARC 7428A ..... 8/13/97

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Universal service—schools and libraries, 38.8, Filed ARC 7450A ..... 8/13/97

**VETERINARY MEDICINE BOARD[811]**

Veterinary technician, 8.1, Notice ARC 7473A ..... 8/27/97

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

EDITOR'S NOTE: **Terms ending April 30, 1999.**

Senator H. Kay Hedge, Chairperson  
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Fremont, Iowa 52561

Senator Merlin E. Bartz  
2081 410th Street  
Grafton, Iowa 50440

Senator John P. Kibbie  
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## ADMINISTRATIVE RULES REVIEW COMMITTEE ACTIONS

AUGUST 1996 THROUGH JULY 1997

### GENERAL REFERRAL TO SPEAKER OF THE HOUSE AND PRESIDENT OF THE SENATE (17A.8(7))

#### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Groundwater protection fund, ch 45, ARRC meeting 7/8/97

#### CORRECTIONS DEPARTMENT[201]

Inmate telephone commissions, 20.20, ARC 7298A, IAB 6/8/97, ARRC meeting 7/8/97

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

Iowa industrial new jobs training program—calculation of average county or average regional wage, 5.13(2), ARRC meeting 11/12/96

#### ENVIRONMENTAL PROTECTION COMMISSION[567]

Chapter 117, Waste tires, ARRC meeting 10/8/96

#### HUMAN SERVICES DEPARTMENT[441]

Disability services management, 25.42, ARC 6960A, IAB 1/1/97, ARRC meeting 1/6/97

FIP, Medicaid and social service block grant programs, amendments to chs 41, 75, 86, 153, ARC 6961A, IAB 1/1/97, ARRC meeting 1/6/97

Medical services provided to persons in nonmedical public institutions, 79.9(5), ARRC meeting 11/12/96

Eligibility for child care, ch 130, ARRC meeting 6/10/97

Child abuse registry, ch 175, ARRC meeting 9/10/96

#### INSURANCE DIVISION[191]

Postdelivery benefits and care, 70.8, 70.9, ch 81, ARC 6991A, IAB 1/1/97, ARRC meeting 1/7/97

#### LABOR SERVICES DIVISION[347]

Construction contractor registration, ch 150, ARC 7062A, IAB 2/16/97, ARRC meeting 3/10/97

#### PUBLIC HEALTH DEPARTMENT[641]

Decision-making assistance program and parental notification of intent to terminate a pregnancy through abortion, ch 89,

ARC 6896A, IAB 12/4/96, ARRC meeting 1/6/97

#### PUBLIC SAFETY DEPARTMENT[661]

21.3, State medical examiner—fees for autopsies and related services, ARRC meeting 10/8/96

#### REVENUE AND FINANCE DEPARTMENT[701]

Motor vehicle use tax on long-term leases, 26.68, 31.4, 31.5, 32.11, 34.5, 34.9, 34.10, ARC 6974A, IAB 1/1/97, ARRC meeting 1/7/97

#### TRANSPORTATION DEPARTMENT[761]

Signage fees, 119.6, ARRC meeting 9/10/96

Handicapped parking, 411.3, ARRC meeting 2/10/97

Car dealer standards—hours of operation, 425.3, ARRC meeting 10/9/96

### OBJECTIONS (17A.4(4)“a”)

#### CORRECTIONS DEPARTMENT[201]

Inmate telephone commissions, 20.20, ARC 7298A, IAB 6/18/97, ARRC meeting 7/8/97

#### ENVIRONMENTAL PROTECTION COMMISSION[567]

Manure management plans, 65.18(1), ARC 6644A, IAB 8/14/96, ARRC meeting 9/10/96

#### SECRETARY OF STATE[721]

County and city election ordinances, 21.30, 21.31, ARC 7295A, IAB 6/18/97, ARRC meeting 9/8/97

#### TRANSPORTATION DEPARTMENT[761]

Tourist-oriented directional signs, 119.4, lifted objection ARRC meeting 9/10/96

### DELAY UNTIL ADJOURNMENT OF 1997 GENERAL ASSEMBLY (17A.8(9))

#### RACING AND GAMING COMMISSION[491]

10.6(2)“g”(3), second paragraph, Phenylbutazone, ARC 6706A, IAB 9/11/96, ARRC meeting 10/8/96

### 70-DAY DELAY (17A.4(5))

#### ENVIRONMENTAL PROTECTION COMMISSION[567]

Regents tire-derived fuel program, ch 216, ARC 7242A, IAB 5/21/97, delayed 70 days from 6/25/97, ARRC meeting 6/10/97; delay expiration 9/3/97

#### REVENUE AND FINANCE DEPARTMENT[701]

Communication services, 18.20(5), 18.20(6), ARC 6997A, IAB 1/15/97, delayed 70 days from 2/19/97, ARRC meeting 2/10/97; delay expiration 4/30/97

#### TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

Authorized use and users, ch 7, ARC 7186A, IAB 4/9/97, 70 days from 5/14/97; ch 7 rescinded effective 7/9/97, ARC 7361A, IAB 7/16/97

**ECONOMIC IMPACT STATEMENT****AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Agricultural lime, 43.30 to 43.39, ARC 6881A, IAB 11/20/96, ARRC meeting 12/12/96; request withdrawn at ARRC meeting 4/7/97.

**MISCELLANEOUS****AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Special review—Meat inspection, ch 76, ARRC meeting 9/10/96

**CORRECTIONS DEPARTMENT[201]**

Special review—Prison industries, ARRC meeting 10/8/96

Dietary requirements in local jails, 50.16, ARRC meeting 2/10/97

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Special review—Open burning, 23.2, ARRC meeting 5/13/97

Special review—Commercial well construction, engineering requirement 43.3, ARRC meeting 5/13/97

**HUMAN SERVICES DEPARTMENT[441]**

Special review—Child abuse registry, ARRC meeting 9/10/96

Special review—Boot camps, ARRC 11/12/96

Special review—Child care center emergency plans, 109.3(6), ARRC meeting 11/12/96

Special review—Foster parent training, 200.4, ARRC meeting 3/10/97

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

Medicare certification of in-home health care providers, ARRC meeting 11/13/96

**INSURANCE DIVISION[191]**

Individual health insurance coverage, ARRC meeting 3/10/97

**TRANSPORTATION DEPARTMENT[761]**

Proof of identification for inmates of corrections institutions, ARRC meeting 3/10/97

Hours of operation for used car dealers, ch 425, ARRC meeting 5/13/97

Joe Royce's salary—one step increase, effective 6/27/97; ARRC meeting 7/8/97

**To All Agencies:**

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

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]</b>		
Infectious and contagious diseases, amendments to ch 64 IAB 8/27/97 ARC 7474A	Conference Room—2nd Floor Wallace State Office Bldg. Des Moines, Iowa	September 16, 1997 10 a.m. to 12 noon
<b>BLIND, DEPARTMENT FOR THE[111]</b>		
Personnel, ch 2 IAB 8/27/97 ARC 7462A	Director's Conference Room 524 Fourth St. Des Moines, Iowa	September 16, 1997 1 p.m.
<b>CORRECTIONS DEPARTMENT[201]</b>		
Incarceration fees, 20.10 IAB 8/13/97 ARC 7452A (See also ARC 7455A)	Conference Room 523 E. 12th St. Des Moines, Iowa	September 2, 1997 1 to 3 p.m.
Inmate telephone commissions, 20.20 IAB 8/13/97 ARC 7451A	Conference Room 523 E. 12th St. Des Moines, Iowa	September 2, 1997 9 to 11 a.m.
<b>DENTAL EXAMINERS BOARD[650]</b>		
Continuing education, 25.7 IAB 8/13/97 ARC 7442A	Conference Room—2nd Floor Executive Hills West 1209 E. Court Ave. Des Moines, Iowa	September 17, 1997 1 p.m.
General anesthesia, parenteral sedation and nitrous oxide inhalation analgesia, 29.1 to 29.6, 29.8 to 29.12 IAB 8/13/97 ARC 7440A	Conference Room—2nd Floor Executive Hills West 1209 E. Court Ave. Des Moines, Iowa	September 17, 1997 2 p.m.
Disciplinary hearing panels; reexamination after suspension, 51.4(1), 51.12(7) IAB 8/13/97 ARC 7441A	Conference Room—2nd Floor Executive Hills West 1209 E. Court Ave. Des Moines, Iowa	September 17, 1997 1:30 p.m.
<b>ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]</b>		
Local housing assistance program, ch 28 IAB 8/13/97 ARC 7437A	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 2, 1997 2 p.m.
Governmental enterprise fund, ch 42 IAB 8/13/97 ARC 7436A	Northeast Conference Room Second Floor 200 E. Grand Ave. Des Moines, Iowa	September 2, 1997 10 to 11 a.m.

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

Rural innovation grants—population guideline, 49.3 IAB 8/13/97 ARC 7435A	Northeast Conference Room Second Floor 200 E. Grand Ave. Des Moines, Iowa	September 2, 1997 11 a.m. to 12 noon
Community economic betterment program, 53.2, 53.6(1), 53.7(2), 53.8, 53.9(4), 53.13(3)“a”(2) IAB 8/13/97 ARC 7439A	Business Finance Conference Room First Floor 200 E. Grand Ave. Des Moines, Iowa	September 3, 1997 10 a.m.
Entrepreneurs with disabilities— reduction in grant awards, 56.2, 56.6(1) IAB 8/13/97 ARC 7433A	Business Finance Conference Room First Floor 200 E. Grand Ave. Des Moines, Iowa	September 5, 1997 1 p.m.
Export trade assistance program, 68.7, 68.8 IAB 8/13/97 ARC 7434A	Business Finance Conference Room First Floor 200 E. Grand Ave. Des Moines, Iowa	September 2, 1997 10:30 a.m.

**EDUCATION DEPARTMENT[281]**

ICN subsidization reimbursement procedures, ch 8 IAB 8/27/97 ARC 7470A (See also ARC 7471A herein)	State Board Room Grimes State Office Bldg. Des Moines, Iowa	September 16, 1997 2 p.m.
Minimum school day; student records, 12.2(3), 12.3(6) IAB 8/27/97 ARC 7469A	State Board Room Grimes State Office Bldg. Des Moines, Iowa	September 16, 1997 1 p.m.
Vocational rehabilitation— personnel development, 56.42 to 56.46 IAB 8/27/97 ARC 7466A	Conference Room Jesse M. Parker State Office Bldg. Des Moines, Iowa	September 19, 1997 9 a.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Animal feeding operations, amendments to ch 65 IAB 8/13/97 ARC 7454A	Oelwein Community Center 25 W. Charles St. Oelwein, Iowa	September 2, 1997 7 p.m.
	Conference Room Super 8 Motel 119 Westview Dr. (Hwy. 1 North) Washington, Iowa	September 3, 1997 7 p.m.
	Meeting Room American State Bank 1000 Jeffreys Dr. Osceola, Iowa	September 4, 1997 7 p.m.

**ENVIRONMENTAL  
PROTECTION  
COMMISSION[567]  
(Cont'd)**

Community Center Auditorium  
530 W. Bluff St.  
Cherokee, Iowa

September 8, 1997  
7 p.m.

Downstairs Meeting Room  
First National Bank  
211 First Ave. N.W.  
Hampton, Iowa

September 9, 1997  
7 p.m.

Elks Club  
501 Poplar St.  
Atlantic, Iowa

September 11, 1997  
7 p.m.

**HUMAN SERVICES DEPARTMENT[441]**

Rates for rehabilitative treatment and  
supportive services (RTSS),  
152.21 to 152.23, 185.101,  
185.108, 185.112  
IAB 8/13/97 ARC 7424A

Conference Room—1st Floor  
Hoover State Office Bldg.  
Des Moines, Iowa

September 3, 1997  
9 a.m.

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

Health care facility employees—  
dependent adult abuse and criminal  
history checks,  
57.12(3), 58.11(3), 59.13(3),  
62.9(5), 63.11(3), 64.34, 65.9(5)  
IAB 8/13/97 ARC 7448A  
(See also ARC 7449A)

Director's Conference Room  
Sixth Floor  
Lucas State Office Bldg.  
Des Moines, Iowa

September 2, 1997  
9 a.m.

**PERSONNEL DEPARTMENT[581]**

Benefits—deferred compensation,  
15.6, 15.13  
IAB 8/27/97 ARC 7463A  
(See also ARC 7464A herein)

Director's Conference Room  
First Floor  
Grimes State Office Bldg.  
Des Moines, Iowa

September 16, 1997  
1 p.m.

Iowa public employees' retirement  
system, amendments to ch 21  
IAB 8/27/97 ARC 7457A  
(See also ARC 7458A herein)

IPERS  
600 E. Court Ave.  
Des Moines, Iowa

September 16, 1997  
9 a.m.

**RACING AND GAMING COMMISSION[491]**

Gaming officials; board duties;  
discipline; penalties; riverboat  
operation, 4.3 to 4.34,  
20.14(1), 25.11(2), 25.16 to 25.18  
IAB 8/13/97 ARC 7443A

Suite B  
717 E. Court Ave.  
Des Moines, Iowa

September 2, 1997  
9 a.m.

**TRANSPORTATION DEPARTMENT[761]**

Persons with disabilities  
parking permits,  
ch 411  
IAB 8/13/97 ARC 7422A

Conference Room—Lower Level  
Park Fair Mall  
100 Euclid Ave.  
Des Moines, Iowa

September 4, 1997  
10 a.m.  
(If requested)

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

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

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

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

The following list will be updated as changes occur:

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Agricultural Development Authority[25]

Soil Conservation Division[27]

**ATTORNEY GENERAL[61]**

**AUDITOR OF STATE[81]**

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

CITIZENS' AIDE[141]

CIVIL RIGHTS COMMISSION[161]

**COMMERCE DEPARTMENT[181]**

Alcoholic Beverages Division[185]

Banking Division[187]

Credit Union Division[189]

Insurance Division[191]

Professional Licensing and Regulation Division[193]

Accountancy Examining Board[193A]

Architectural Examining Board[193B]

Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

Real Estate Appraiser Examining Board[193F]

Savings and Loan Division[197]

Utilities Division[199]

**CORRECTIONS DEPARTMENT[201]**

Parole Board[205]

**CULTURAL AFFAIRS DEPARTMENT[221]**

Arts Division[222]

Historical Division[223]

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

City Development Board[263]

Iowa Finance Authority[265]

**EDUCATION DEPARTMENT[281]**

Educational Examiners Board[282]

College Student Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

Libraries and Information Services Division[286]

Public Broadcasting Division[288]

School Budget Review Committee[289]

EGG COUNCIL[301]

**ELDER AFFAIRS DEPARTMENT[321]**

**EMPLOYMENT SERVICES DEPARTMENT[341]**

Job Service Division[345]

Labor Services Division[347]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

**EXECUTIVE COUNCIL[361]**

FAIR BOARD[371]

**GENERAL SERVICES DEPARTMENT[401]**

HUMAN INVESTMENT COUNCIL[417]

**HUMAN RIGHTS DEPARTMENT[421]**

Community Action Agencies Division[427]

Criminal and Juvenile Justice Planning Division[428]

Deaf Services Division[429]

Persons With Disabilities Division[431]

Latino Affairs Division[433]

Status of Blacks Division[434]

Status of Women Division[435]

**HUMAN SERVICES DEPARTMENT[441]**

INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Foster Care Review Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
INTERNATIONAL NETWORK ON TRADE(INTERNET)[497]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]  
NATIONAL AND COMMUNITY SERVICE, IOWA COMMISSION ON[555]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board[575]  
PERSONNEL DEPARTMENT[581]  
PETROLEUM UNDERGROUND STORAGE TANK FUND  
    BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Emergency Management Division[605]  
    Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Substance Abuse Commission[643]  
    Professional Licensure Division[645]  
    Dental Examiners Board[650]  
    Medical Examiners Board[653]  
    Nursing Board[655]  
    Pharmacy Examiners Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE AND FINANCE DEPARTMENT[701]  
    Lottery Division[705]  
SECRETARY OF STATE[721]  
SEED CAPITAL CORPORATION, IOWA[727]  
SESQUICENTENNIAL COMMISSION, IOWA STATEHOOD[731]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
    Railway Finance Authority[765]  
TREASURER OF STATE[781]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS COMMISSION[801]  
VETERINARY MEDICINE BOARD[811]  
VOTER REGISTRATION COMMISSION[821]  
WALLACE TECHNOLOGY TRANSFER FOUNDATION[851]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Industrial Services Division[873]  
    Labor Services Division[875]  
    Workforce Development Board and  
    Workforce Development Center Administration Division[877]

## Notice - Availability of Public Funds

Agency	Program	Service Delivery Area	Eligible Applicants	Services	Application Due Date	Contract Period
Iowa Department of Public Health	Division of Family and Community Health, Bureau of Nutrition and WIC	Community	Agencies or coalitions with experience in community organization and mobilization, primary prevention programming, and service delivery.	To assist local communities in organizing and initiating services to assist child care, preschool providers, and young families to make healthy food choices.	October 15, 1997.	October 22, 1997 through June 30, 1998

**Application Forms May Be Obtained by Contacting:**

Judy Solberg  
 Chief, Bureau of Nutrition and WIC  
 Iowa Department of Public Health  
 321 East 12th St.  
 Lucas State Office Building  
 Des Moines, IA 50319-0075  
 (515) 281-3713

These grants of up to \$10,000 are available to fund up to ten (10) grants in Iowa communities. Awards are subject to availability of the Wellmark Foundation - 1997 Health Improvement Awards and from the United States Department of Agriculture - Food Stamp Program.

## NOTICE — AGRICULTURAL CREDIT CORPORATION MAXIMUM LOAN RATE

In accordance with the provisions of Iowa Code section 535.12, the Superintendent of Banking has determined that the maximum rate of interest that may be charged on loans by Agricultural Credit Corporations as defined in Iowa Code section 535.12, subsection 4, shall be:

June 1, 1996 — June 30, 1996	6.75%
July 1, 1996 — July 31, 1996	6.75%
August 1, 1996 — August 31, 1996	6.85%
September 1, 1996 — September 30, 1996	6.90%
October 1, 1996 — October 31, 1996	6.80%
November 1, 1996 — November 30, 1996	6.75%
December 1, 1996 — December 31, 1996	6.75%
January 1, 1997 — January 31, 1997	6.65%
February 1, 1997 — February 28, 1997	6.70%
March 1, 1997 — March 31, 1997	6.70%
April 1, 1997 — April 30, 1997	6.70%
May 1, 1997 — May 31, 1997	7.00%
June 1, 1997 — June 30, 1997	7.00%
July 1, 1997 — July 31, 1997	6.95%
August 1, 1997 — August 31, 1997	7.15%

**ARC 7474A**

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 159.5(11), 159.6(2), and 163.1(1), the Iowa Department of Agriculture and Land Stewardship gives Notice of Intended Action to amend Chapter 64, “Infectious and Contagious Diseases,” Iowa Administrative Code.

The purpose of the amendments is to (1) add some pertinent definitions, (2) require the owner to assist in testing the swine, (3) allow certain breeding animals to be identified as a group, (4) provide for changes in the movement of animals from herds on cleanup and from herds delinquent in testing, (5) redefine “moved farm-to-farm,” (6) state the requirements for relocating swine, (7) require concentration points to report identification applied to slaughter swine, (8) implement vaccination requirements for certain imported feeder swine, (9) provide changes in maintaining monitored feeder pig status, (10) establish rules for the operation of fertility centers, and (11) change some requirements for herd cleanup plans.

Any interested person may make written comments on these proposed amendments on or before September 16, 1997. Written comments should be addressed to Walter D. Felker, DVM, State Veterinarian, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319.

A public hearing will be held on September 16, 1997, from 10 a.m. to 12 noon in the Second Floor Conference Room, Wallace State Office Building, Des Moines, Iowa.

These amendments are intended to implement Iowa Code chapters 163 and 166D.

The following amendments are proposed.

ITEM 1. Amend rule **21—64.147(163,166D)** by adding the following new definitions in alphabetical order:

“All-in-all-out” means a management system whereby feeder swine are handled in groups kept “separate and apart” from other groups in a production facility. These groups are removed from the production facility with the completely vacated area being cleaned and sanitized prior to the introduction of another group.

“Fertility center” means a premises where breeding swine are maintained for the purposes of the collection of semen, ovum, or other germplasm and for the distribution of semen, ovum, or other germplasm to other swine herds.

“Native Iowa feeder pig” means a feeder pig farrowed in Iowa, and always located in Iowa.

ITEM 2. Amend subrule 64.153(2) as follows:

**64.153(2)** All producers will permit sufficient swine in their herds to be tested at program expense to determine the health status of the herd at intervals during the course of the program as deemed necessary by the department.

*The owner shall confine the swine to be tested in a suitable place and restrain them in a suitable manner so that the proper tests can be applied. If the owner refuses to confine and restrain the swine, after reasonable time the department may employ sufficient help to properly confine and restrain them and the expense of such help shall be paid by the owner.*

The swine tested ~~may~~ shall be sufficient in number, and by method of selection, to qualify for the surveillance program required to attain and maintain the program stages according to the most recent “State-Federal-Industry Program Standards” for pseudorabies eradication.

ITEM 3. Amend subrule **64.154(2)**, paragraphs “a” and “c,” as follows:

a. Breeding swine.

(1) Ear tags or tattoos with an alphabetic or numeric system to provide unique identification for each animal.

(2) Ear notches or ear tattoos, if applied according to the standard breed registry system.

(3) Electronic devices, other devices, or marks which, when applied, will permanently and uniquely identify each animal.

(4) *Breeding swine qualified to move intrastate without individual tests may move without unique identification of each animal, if they are all identified as a group to the herd of origin by an official premises tattoo.*

c. Restricted movement slaughter swine. When the department determines that a majority of herds within a program area have been tested, all herds not tested within 12 months ~~and all infected herds not on an approved herd cleanup plan shall only move swine directly to slaughter or to an approved premises.~~ *The department may, until a herd plan is approved and showing progress, require the movement of all slaughter swine by “direct movement,” to slaughter only, by a Permit for Movement of Animals which provides a description of the animals, the owner, the consignee, the date of movement, the destination, and the identification or vehicle seal number if applicable. These “restricted movement slaughter swine” moving directly to slaughter or to an approved premises shall be individually identified by approved metal ear tags attached to each swine. applied at the*

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

~~farm of origin. If the consignment is transported directly from the farm of origin to slaughter, the individual ear~~ The identification requirement ~~may be~~ is waived if the consignment of swine is sealed within the transport vehicle at the farm of origin by an official seal available from the department. This seal shall be applied by an accredited veterinarian. This seal shall be removed by an accredited veterinarian, USDA official, or department official upon arrival of the consignment at the destination indicated on the Permit for Movement of Animals.

The ear tags shall have an ~~alphanumeric~~ alphabetic or numeric numbering system to provide unique identification with each herd, each lot, or each individual swine. They shall be applied prior to movement and listed on the ~~shipping permit~~ Permit for Movement of Animals. This ~~shipping permit~~ will Permit for Movement of Animals shall be issued and distributed by an accredited veterinarian according to ~~64.155(8)~~, as follows:

1. Original to accompany shipment.
2. Mail a copy to destination of shipment.
3. Mail a copy to state of destination (USDA VS office).
4. Mail a copy to state of origin (USDA VS office).
5. Veterinarian issuing permit will retain a copy.

ITEM 4. Amend subrule 64.154(4), paragraphs "a" and "b," as follows:

a. Native Iowa feeder pigs moved farm-to-farm within the state are exempt from identification requirements if the owner transferring possession and the person taking possession ~~state on the Certificate of Inspection~~ agree in writing that the feeder pigs will not be commingled with other swine for a period of 30 days. The owner transferring possession shall provide a copy of the agreement to the person taking possession of the feeder pigs.

b. "Moved farm-to-farm" as used in this rule means feeder pigs farrowed and raised in Iowa by a farm owner or operator and sold to another farm owner or operator who agree, ~~by signature on the Certificate of Inspection in writing~~, to not commingle these pigs for at least 30 days.

*Feeder pigs purchased for resale by a pig dealer cannot be moved farm-to-farm, as described in the above paragraph. They must be accompanied by a Certificate of Veterinary Inspection and be identified.*

ITEM 5. Amend subrule 64.154(5) as follows:

~~64.154(5) Swine moved being relocated intrastate without a change of ownership or possession are exempt from health certification, identification requirements, and transportation certification, except as required by Iowa Code chapter 172B, and provided relocation records sufficient to determine the origin, the number relocated, the date relocated, and destination of the relocated swine are available for inspection.~~

*Swine relocated within a herd held on multiple premises are exempted from this health certification, identification requirement, and transportation certification, except as required by Iowa Code chapter 172B, and the above record-keeping requirements.*

*Relocation records, if required, shall be maintained and available for inspection for a minimum of two years.*

ITEM 6. Amend subrule 64.154(6) as follows:

**64.154(6)** This rule should not be construed to implement or affect the identification requirements set down in Iowa Code sections 163.34, 163.35, 163.36, and 163.37. *Records of identification applied to slaughter swine at concentration points shall be reported weekly to the department on forms provided by the department.*

ITEM 7. Amend subrule 64.155(2) as follows:

**64.155(2)** Intrastate Certificates of Veterinary Inspection shall be used for the following movements:

a. The ~~farm-to-farm~~ intrastate movement of feeder swine, *with a change of ownership*, originating from noninfected herds requires approved identification, *and* noninfected herd identification number *showing the* and date of last test ~~included on the certificate~~ a Certificate of Veterinary Inspection. The feeder swine shall be quarantined for 30 days.

b. The ~~farm-to-farm~~ intrastate movement, *with a change of ownership*, of breeding swine from nonquarantined herds requires approved identification and noninfected herd number, or individual test results and dates tested ~~included on the certificate~~ a Certificate of Veterinary Inspection only. The breeding swine shall be quarantined for 30 days.

c. The concentration points to farm movement of feeder swine originating from noninfected herds requires approved identification and herd identification number and date tested ~~included on the certificate~~ a Certificate of Veterinary Inspection. The feeder swine shall be quarantined for 30 days.

d. The concentration point to farm intrastate movement of noninfected breeding swine from nonquarantined herds requires approved identification and noninfected herd number or individual test results and dates tested ~~included on the certificate~~ a Certificate of Veterinary Inspection. The breeding swine shall be quarantined for 30 days.

e. The farm to an approved premises or from a concentration point to an approved premises movement of ~~feeding feeder sows and bears swine~~ requires approved identification and approved premises number to be included on the ~~certificate~~ a Certificate of Veterinary Inspection. A statement, "Quarantined until slaughter," shall be included on the ~~certificate~~ Certificate of Veterinary Inspection.

f. Movement of exhibition swine *to an exhibition* when a certificate is required *must be with a Certificate of Veterinary Inspection*.

ITEM 8. Amend subrule 64.155(4) as follows:

**64.155(4)** A Farm-to-Farm Certificate of Veterinary Inspection, *a transportation certificate according to Iowa Code chapter 172B*, or an Intrastate Certificate of Veterinary Inspection, shall be used for moving identification-exempt native Iowa feeder pigs farm-to-farm *according to 64.154(4) "b."* *Feeder swine purchased for resale by a pig dealer must be identified and accompanied by a Certificate of Inspection.*

*The statement, "These pigs will not be commingled with other swine for 30 days," must be added to the Intrastate Certificate of Veterinary Inspection and completed according to 64.154(4) "b."*

ITEM 9. Amend subrule 64.155(5) by adding new paragraph "d" as follows:

d. Beginning January 1, 1998, all imported feeder swine, except those from qualified negative herds, must be vaccinated for pseudorabies with a G1 deleted vaccine within 45 days of arrival if imported into a county with a pseudorabies prevalence greater than 3 percent. This requirement must be stated on the import interstate certificate. Imported swine consigned directly to slaughter are exempt from vaccination requirements.

ITEM 10. Rescind and reserve subrule 64.155(8).

ITEM 11. Amend subrule 64.156(2), paragraph "e," as follows:

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

e. Monitored, or higher, status feeder pigs moved to a facility not within the vicinity of the herd of origin and unexposed to lesser status swine sold may regain, and maintain, monitored status by a negative test of all or a random sample of 30 head of each segregated group, whichever is less, within 30 days prior to sale resale or movement.

ITEM 12. Amend rule 21—64.156(166D) by adding the following new subrule:

**64.156(6)** Fertility centers. Breeding swine in a fertility center shall attain a "noninfected herd" status by an initial negative test of all breeding swine in the center. This status shall be maintained by a monthly negative test of a random sample of five head or 10 percent, whichever is greater, of the swine at the center. All additions of swine to the fertility center must originate from a "noninfected" herd, must be placed in isolation for 30 days or more, and must be tested negative for pseudorabies 20 days or more after being isolated.

- a. Semen and germplasm must be identified to the fertility center of origin.
- b. Imported semen or germplasm must originate from a fertility center, or "noninfected" herd, with requirements at least equivalent to the above, and be identified to the fertility center.

ITEM 13. Amend subrule 64.157(2) as follows:

**64.157(2)** The herd cleanup plan shall contain:

- a. Owner's name, location and herd number.
- b. Type of herd plan selected, e.g., offspring segregation, test and removal, depopulation.
- c. ~~Brief description~~ *Description* of the plan, which ~~may mandate the use of vaccine.~~ shall include the following requirements:

(1) *The breeding herd shall be maintained on an approved vaccination program, at least four times per year;*

(2) *The progeny shall be weaned and segregated by five weeks of age or less, and progeny group isolation shall be maintained;*

(3) *The herd must be visited on a regular basis (at least quarterly) by the herd veterinarian to monitor progress of the herd cleanup plan. This will include quarterly testing, if applicable, overseeing management procedures which may include all-in-all-out swine movement, ventilation, sanitation, disinfection, and vaccine handling;*

(4) *Vaccine shall be administered to the progeny swine at least once, or more often if required by the herd plan;*

(5) *Feeder pig movement or relocation from the premises of origin must be detailed in writing in the herd cleanup plan. If this movement, or relocation, involves more than one district veterinarian's area, all participants must concur with the cleanup plan;*

(6) *Culled breeding swine must move directly to slaughter or to an approved premises. No swine moved from infected herds may be represented as breeding swine;*

(7) *All new and updated cleanup plans shall be designed to complete herd cleanup in less than two years or before January 1, 2000. After January 1, 1999, all infected herds, with breeding swine, shall implement a test and removal herd cleanup plan with all positive swine moved direct to slaughter; all infected "finisher only" swine herds shall operate on an all-in-all-out herd management program direct to slaughter; and all swine movement from infected herds may be by "restricted movement to slaughter" unless exempted by the "feeder pig cooperator" plan.*

*When this herd is designated a noninfected herd, or has been depopulated, by procedures detailed in Iowa Code section 166D.9, the plan is completed.*

d. ~~Changes and updates must be made, in writing, to the department.~~

d. *Specific movement limitations which may include approved destination locations, "restricted movement to slaughter," or other appropriate animal movement control measures.*

e. Signatures of the herd owner, the owner's veterinarian, and the epidemiologist or the epidemiologist's representative.

ITEM 14. Rescind and reserve subrules **64.157(3)** and **64.157(4)**.

ITEM 15. Amend subrule 64.157(5) as follows:

**64.157(5)** If this herd cleanup plan is not followed, is discontinued, or is not progressing in a satisfactory manner as determined by the department, the herd is a quarantined herd and is subject to ~~restricted movement,~~ "restricted movement to slaughter," according to 64.154(2)"c" and ~~64.155(8),~~ until a new and approved cleanup plan is in place and showing progress according to a designated epidemiologist.

ITEM 16. Rescind subrule **64.157(6)** and renumber subrule **64.157(7)** as **64.157(6)**.

**ARC 7462A**

**BLIND, DEPARTMENT FOR THE[111]**

**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 216B.6, the Commission for the Blind gives Notice of Intended Action to adopt Chapter 2, "Personnel," Iowa Administrative Code.

This chapter will enable the Department to carry out its responsibilities under the Vocational Rehabilitation Act of 1973 as amended in 1992 and under Iowa Code chapter 216B. Rules are established to ensure that the Department employs and certifies qualified rehabilitation personnel including professionals and paraprofessionals. The Commission believes these rules will bring the Department into conformity with revised federal regulations.

Any interested person may make written suggestions or comments on the new chapter on or before September 16, 1997. Such written suggestions or comments should be directed to the Commission for the Blind, 524 Fourth Street, Des Moines, Iowa 50309-2364; fax (515)281-1263.

Persons are also invited to present oral or written comments at a public hearing which will be held on September 16, 1997, at 1 p.m. in the Director's Conference Room, Department for the Blind, 524 Fourth Street, Des Moines, Iowa. At the hearing, persons will be asked to confine their remarks to the subject of the chapter.

These rules are intended to implement Iowa Code chapter 216B.

The following new chapter is proposed.

## BLIND, DEPARTMENT FOR THE[111](cont'd)

CHAPTER 2  
PERSONNEL**111—2.1(216B) Qualifications of personnel.**

**2.1(1)** State-licensed professions. Persons employed in positions for which licensure is required by the state are required to hold the appropriate license at the time of hire and maintain it throughout their term of employment even when the Iowa Code exempts individuals employed by a state agency from the licensure requirement.

**2.1(2)** Service specialist for the blind 2 and senior service specialist for the blind 1 (vocational rehabilitation counselor). Certification shall be required of all vocational rehabilitation counselors employed by the department.

a. At the time of hire into the position, an individual holding at least a bachelor's degree from an accredited college or university and one year of work experience shall be granted provisional certification. Exceptions regarding education and experience can only be made by the commission for the blind upon the recommendation of the director. Provisional certification shall be recognized for a maximum period of 18 months.

b. An individual may obtain full certification as a vocational rehabilitation counselor by demonstrating competency in the following areas.

1. Knowledge, understanding, and implementation of the department's philosophy of blindness.

2. Knowledge of the department's programs.

3. Skills in career planning and development.

4. Knowledge of placement techniques and practices.

5. Knowledge of occupational information, job site evaluation, and analysis.

6. Knowledge of and ability to develop alternative techniques of blindness.

7. Knowledge of rehabilitation technology services.

8. Disability knowledge and issues.

9. Advocacy role.

10. Case management.

c. An individual holding at least a bachelor's degree from an accredited college or university, who has been employed by the department as a service specialist for the blind 2 or senior service specialist for the blind 1 (vocational rehabilitation counselor) for a minimum of six months on the date this rule is finalized, shall be considered to be a fully certified vocational rehabilitation counselor, as long as the individual maintains unbroken employment with the department in that classification.

**2.1(3)** Service specialist for the blind 2 (vocational rehabilitation teacher). Certification shall be required of all vocational rehabilitation teachers employed by the department.

a. At the time of hire into the position, an individual holding at least a bachelor's degree from an accredited college or university and one year of work experience shall be granted provisional certification. Exceptions regarding education and experience can only be made by the commission for the blind upon recommendation of the director. Provisional certification shall be recognized for a maximum period of 18 months.

b. An individual may obtain full certification as a vocational rehabilitation teacher by demonstrating competency in the following areas.

1. Knowledge, understanding, and implementation of the department's philosophy of blindness.

2. Knowledge of the department's programs.

3. Assessment of consumer needs.

4. Teaching skills and practices.

5. Ability to teach and develop alternative techniques of blindness.

6. General knowledge of rehabilitation technology services.

7. Knowledge and development of community resources.

8. Disability knowledge and issues.

9. Advocacy role.

10. Case management.

c. An individual holding at least a bachelor's degree from an accredited college or university, who has been employed by the department as a service specialist for the blind 2 (vocational rehabilitation teacher) for a minimum of six months on the date this rule is finalized, shall be considered to be a fully certified vocational rehabilitation teacher, as long as the individual maintains unbroken employment with the department in that classification.

**2.1(4)** Senior service specialist for the blind 1 (orientation center teacher). Certification shall be required of all orientation center teachers employed by the department.

a. At the time of hire into the position, an individual holding at least a bachelor's degree from an accredited college or university and one year of paid employment in a program of rehabilitation, education of the blind, elementary or secondary education or related fields shall be granted provisional certification. Exceptions regarding education and experience can only be made by the commission for the blind upon recommendation by the director. Provisional certification shall be recognized for a maximum period of 18 months.

b. An individual may obtain full certification as an orientation center teacher by demonstrating competency in the following areas.

1. Knowledge, understanding, and implementation of the department's philosophy of blindness.

2. Knowledge of the department's programs.

3. Ability to teach and develop alternative techniques of blindness.

4. Technical knowledge of subject area(s) taught.

5. Teaching skills and practices.

6. Adjustment to blindness counseling skills.

7. Understanding of career planning and development.

8. Knowledge of rehabilitation technology services.

9. Disability knowledge and issues.

10. Advocacy role.

11. Teamwork and problem-solving skills.

c. An individual holding at least a bachelor's degree from an accredited college or university, who has been employed by the department as a senior service specialist for the blind 1 (orientation center teacher) for a minimum of six months on the date this rule is finalized, shall be considered to be a fully certified orientation center teacher, as long as the individual maintains unbroken employment with the department in that classification.

These rules are intended to implement Iowa Code chapter 216B.

## ARC 7470A

## EDUCATION DEPARTMENT[281]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 256.7(5), the Iowa State Board of Education hereby gives Notice of Intended Action to adopt Chapter 8, "ICN Subsidization Reimbursement Procedures," Iowa Administrative Code.

This chapter is being proposed to implement recent legislation requiring the Department of Education to develop rules to disburse \$2.5 million to the Iowa Communications Network.

Any interested person may submit oral or written suggestions or comments on or before September 16, 1997, by addressing them to Ann Molis, Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-5296.

There will be a public hearing on September 16, 1997, at 2 p.m. in the State Board Room, Grimes State Office Building, Des Moines, Iowa, at which persons may present their views orally and in writing.

This chapter was also Adopted and Filed Emergency and is published herein as ARC 7471A. The content of that submission is incorporated by reference.

This chapter is intended to implement 1997 Iowa Acts, House File 730, section 2, subsection (2), paragraph "a."

## ARC 7469A

## EDUCATION DEPARTMENT[281]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 256.7(5), the Iowa State Board of Education hereby gives Notice of Intended Action to amend Chapter 12, "General Accreditation Standards," Iowa Administrative Code.

The purpose of these amendments is to conform the rules to recently passed legislation. These changes clarify the method of calculating the minimum hours of instruction time for schools and permit the sharing of student record information between schools and the juvenile justice system under an interagency agreement.

Any interested person may submit oral or written suggestions or comments on or before September 16, 1997, by addressing them to Ann Molis, Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-5296.

There will be a public hearing on September 16, 1997, at 1 p.m. in the State Board Room, Grimes State Office Build-

ing, Des Moines, Iowa, at which persons may present their views orally and in writing.

These amendments are intended to implement Iowa Code subsection 256.7(19), paragraph "b," and 1997 Iowa Acts, Senate File 515, section 39.

The following amendments are proposed.

ITEM 1. Amend subrule 12.2(3) as follows:

**12.2(3) Minimum school day.** A school day shall consist of a minimum of five and one-half hours of instructional time for all grades one through twelve. The minimum hours shall be exclusive of the lunch period. Passing time between classes as well as time spent on parent-teacher conferences may be counted as part of the five and one-half hour requirement. The school or school district may record a day of school with less than the minimum instructional hours if emergency health or safety factors require the late arrival or early dismissal of pupils on a specific day; or if the total hours of instructional time for all grades one through twelve in any five consecutive school days equal a minimum of 27½ hours, even though any one day of school is less than the minimum instructional hours because of a staff development opportunity provided for the instructional professional staff or because parent-teacher conferences have been scheduled beyond the regular school day.

*Furthermore, if the total hours of instructional time for the first four consecutive days equal at least 27½ hours because parent-teacher conferences have been scheduled beyond the regular school day, a school or school district may record zero hours of instructional time on the fifth consecutive school day as a minimum school day.*

ITEM 2. Amend subrule 12.3(6) as follows:

**12.3(6) Student records.** Each board shall require its administrative staff to establish and maintain a system of pupil records. This system shall include for each pupil a permanent office record and a cumulative record.

The permanent office record shall serve as a historical record of official information concerning the pupil's education. At a minimum it should reflect evidence of attendance and educational progress, provide an official transcript, have all base data for use in planning to meet educational needs, and provide all data for official school reports. This record is to be permanently maintained and stored in a fire-resistant safe or vault.

The cumulative record shall provide a continuous and current record of significant information on progress and growth. It should reflect information such as courses taken, scholastic progress, school attendance, physical and health record, experiences, interests, aptitudes, attitudes, abilities, honors, extracurricular activities, part-time employment, and future plans. It is the "working record" used by the instructional professional staff in understanding the pupil. At the request of a receiving school or school district, a copy of the cumulative record shall be sent to officials of that school when a pupil transfers.

*For the sole purpose of implementing an interagency agreement with state and local agencies in accordance with 1997 Iowa Acts, Senate File 515, section 39, a pupil's permanent record may include information contained in the cumulative record as defined above.*

The board shall adopt a policy concerning the accessibility and confidentiality of pupil records that complies with the provisions of the federal Family Educational Rights and Privacy Act of 1974, as amended, and Iowa Code chapter 22.

## ARC 7466A

### EDUCATION DEPARTMENT[281]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 259.3, the Iowa State Board of Education hereby gives Notice of Intended Action to amend Chapter 56, "Vocational Rehabilitation," Iowa Administrative Code.

This chapter is being amended due to new federal regulations (34 CFR §361.18 (1997)), which require the establishment of a comprehensive system of personnel development.

Any interested person may submit oral or written suggestions or comment on or before September 19, 1997, by addressing them to Ralph Childers, Department of Education, Division of Vocational Rehabilitation, Jesse M. Parker Office Building, 510 East 12th Street, Des Moines, Iowa 50319; telephone (515)281-4151.

There will be a public hearing on September 19, 1997, at 9 a.m. in the Conference Room, Jesse M. Parker State Office Building, Des Moines, Iowa, at which persons may present their views orally and in writing.

These amendments are intended to implement Federal Regulations, 34 CFR §361.18 (1997).

The following amendments are proposed.

ITEM 1. Rescind rule 281—56.42(259) and adopt the following new rule in lieu thereof:

#### **281—56.42(259) Qualifications of personnel.**

**56.42(1)** State-licensed professions. Persons employed in positions for which licensure is required by the state are required to hold the appropriate license at the time of hire and maintain it throughout their term of employment, even when the Iowa Code exempts individuals employed by a state agency from the licensure requirement.

**56.42(2)** Vocational rehabilitation counselors. Certification shall be required of all vocational rehabilitation counselors employed by the division.

a. At the time of hire into the position, an individual holding either a master's degree in vocational rehabilitation counseling or a closely related field, or at least a bachelor's degree from an accredited college or university and six years' related experience, shall be granted provisional certification. Provisional certification shall be recognized for a maximum period of 18 months.

b. An individual may obtain full certification by demonstrating competency in the following areas:

1. Explaining and accessing vocational rehabilitation and community resources.
2. Case management.
3. Ability to use the computer for agency-specific functions.
4. Eligibility/ineligibility determination.
5. Advocacy role.
6. Program knowledge.
7. Disability knowledge and issues.
8. Vocational information.
9. Placement knowledge/practice.
10. Individual employment plan development.

c. Individuals holding at least a bachelor's degree from an accredited college or university who have been employed by the division as vocational rehabilitation counselors for a minimum of six months on the date this rule is finalized shall be considered to be fully certified vocational rehabilitation counselors as long as they maintain unbroken employment with the division in that classification.

**56.42(3)** Vocational evaluators. Certification shall be required of all vocational evaluators employed by the division.

a. At the time of hire into the position, an individual holding at least a bachelor's degree from an accredited college or university shall be granted provisional certification. Provisional certification shall be recognized for a maximum period of 18 months.

b. An individual may obtain full certification by demonstrating competency in the following areas:

1. Individual vocational evaluation planning.
2. Standardized testing.
3. Occupational information and job analysis.
4. Work samples and systems.
5. Situational and community-based assessment.
6. Behavioral observation.
7. Functional aspects of disability.
8. Vocational interviewing.
9. Job site evaluation.
10. Vocational evaluation report development and communication.
11. Assessment and learning.
12. Functional skills assessment.
13. Modifications and accommodations.

c. Individuals who have been employed by the division as vocational evaluators for a minimum of six months on the date this rule is finalized shall be considered to be fully certified vocational evaluators as long as they maintain unbroken employment with the division in that classification.

**56.42(4)** Certification board. There is established within the division of vocational rehabilitation services a certification board to review the credentials and competencies of newly employed vocational rehabilitation counselors and vocational evaluators. The board shall consist of five members appointed by the administrator of the division. No individual shall be appointed to the board who would have a direct line authority over the individual being assessed. The resource manager for staff development shall serve as chair of the board. The board, with the approval of the administrator of the division, shall develop its operating procedures.

This rule is intended to implement Iowa Code section 259.1.

ITEM 2. Rescind and reserve rules **281—56.43(259)** to **281—56.46(259)**.

## ARC 7461A

INSPECTIONS AND APPEALS  
DEPARTMENT [481]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 10A.104(5), the Department of Inspections and Appeals gives Notice of Intended Action to amend Chapter 30, "Field Survey Administration"; Chapter 31, "Food Establishment Inspections"; Chapter 32, "Food Service Establishment Inspections"; and Chapter 36, "Egg Handlers," Iowa Administrative Code.

The proposed amendments implement 1997 Iowa Acts, Senate File 161, which modified the holding temperature required for the storage of eggs sold at retail. Additionally, the amendments change the title of a chapter, update references to publications, and clarify the requirements for persons wishing to obtain an egg handler's license.

Interested persons may make written comments or suggestions on the proposed amendments on or before September 16, 1997. Written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; fax (515)242-6863.

These amendments are intended to implement Iowa Code chapters 137A, 137B, and 196 as amended by 1997 Iowa Acts, Senate File 161.

The following amendments are proposed.

ITEM 1. Amend the title of 481—Chapter 30 by striking "Field Survey Administration" and inserting "Food and Consumer Safety".

ITEM 2. Amend rule 481—31.2(137A) as follows:

481—31.2(137A) Wholesale food standards. Standards used to inspect places where wholesale food is manufactured, processed, packaged or stored are found in the Code of Federal Regulations in 21 CFR, Part 110, April 1, 1990 1996, publication, "Current Good Manufacturing Practices in Manufacturing, Processing, Packing, or Holding Human Food."

Standards used to inspect places where bakery products, flour, cereals, food dressings, and flavorings are manufactured on a wholesale basis are found in the Code of Federal Regulations, in 21 CFR, Parts 136, 137 and 169, April 1, 1990 1996, publication.

Standards used to inspect places which process low-acid food in hermetically sealed containers are found in 21 CFR, Part 113, April 1, 1990, 1996, "Thermally Processed Low-Acid Food Packaged in Hermetically Sealed Containers."

Standards used to inspect places which process acidified foods are found in 21 CFR, Part 114, April 1, 1996, "Acidified Foods."

Copies of these regulations are available from the Inspections Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083.

ITEM 3. Amend rule 481—31.3(137A) as follows:

481—31.3(137A) Bottled drinking water standards. Standards used to inspect places which process bottled drinking water are found in the Code of Federal Regulations in 21 CFR, Parts 103.35 and 129.129, and 165, April 1, 1990 1996, publication, "Processing and Bottling of Bottled Drinking Water." Water" and "Beverages."

Copies of these regulations are available from the Inspections Division of the Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

ITEM 4. Amend 481—Chapter 32 by adding the following new rule:

481—32.6(137B) License required. A license must be granted by the department of inspections and appeals to open or to operate a food service establishment, mobile food unit, pushcart, transient food service establishment, or temporary food service establishment.

ITEM 5. Amend subrules 36.3(1), 36.3(2), and 36.3(8) as follows:

36.3(1) Buildings shall be of sound construction so as to prevent the entrance or harboring of insects, rodents, or vermin. Floors shall be of washable materials and kept clean and floor drains provided where necessary. Walls and ceilings shall be of cleanable material and be kept clean and in good repair.

36.3(2) All areas and rooms in which eggs are handled, graded, and packed shall be kept reasonably clean during working hours and shall be thoroughly cleaned at the end of each operating day. Cartons and cases shall be stored off the floor and storage areas kept clean and dry.

36.3(8) Only United States Department of Agriculture (USDA) or federally approved cleaning and sanitizing compounds and sanitizers may be used. Washed eggs shall be reasonably dry before cartoning or casing. The following substances used in the plant shall be approved and handled in accordance with the manufacturer's instructions: pesticides, insecticides, rodenticides, cleaning compounds, foam control compounds, sanitizers, and inks and oils coming into contact with the product. These products shall be properly stored and segregated.

ITEM 6. Amend rule 481—36.3(196) by inserting new subrules 36.3(9) and 36.3(10) as follows:

36.3(9) A separate refuse room or a designated area for the accumulation of trash must be provided. There shall be a sufficient number of containers to hold trash, which must be maintained in good repair, kept covered when not in use, and cleaned at a frequency to prevent insect and rodent attraction.

36.3(10) Washed eggs must be reasonably dry before being placed in cartons or cases.

ITEM 7. Amend subrules 36.6(1) and 36.6(2) as follows:

36.6(1) From the point time of candling and grading until they reach the consumer, all eggs designated for human consumption shall be held at an ambient temperature not to exceed 60°F 45°F or 7°C until they reach the consumer. Each refrigerated unit shall be provided with an accurate numerically scaled indicating thermometer which is located at a place that is representative of the air temperature in the unit. This ambient temperature requirement applies to any place or room where eggs are stored, except in a vehicle during transportation.

36.6(2) The 60°F requirement will begin after the candling and grading and will apply to any place or room in which the eggs are stored, except during transportation

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

where the temperature inside the body of the vehicle may exceed 60°F, provided the temperature taken inside each master container remains at 60°F or below. Eggs in transport vehicles may be stored at an ambient temperature above 45°F or 7°C, provided the vehicle is equipped with refrigeration units capable of delivering air at that temperature and capable of cooling the vehicle to that temperature.

ITEM 8. Amend 481—Chapter 36 by inserting a new rule 481—36.12(196) and renumbering existing rule 481—36.12(196) as 481—36.13(196) as follows:

**481—36.12(196) Health and hygiene of personnel.**

**36.12(1)** No person known to be affected by a communicable or infectious disease shall be permitted to come in contact with the product.

**36.12(2)** Personnel engaged in egg handling operations shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during working periods. Personnel engaged in egg handling and warewashing operations shall thoroughly wash their hands and the exposed portion of their arms with soap or detergent and warm water before starting to work; after smoking, eating, or using the toilet; and as often as necessary during work to keep their hands and arms clean. Personnel shall keep their fingernails trimmed and clean.

**36.12(3)** Personnel shall wear clean outer clothing and effective hair restraints where necessary to prevent the contamination of the product.

**ARC 7463A****PERSONNEL DEPARTMENT[581]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 19A.9, the Department of Personnel proposes to amend Chapter 15, "Benefits," Iowa Administrative Code.

These amendments include changes resulting from legislation in 1997 Iowa Acts, House File 540. Specifically, these are new and revised rules for deferred compensation, including the establishment of mutual funds as an investment alternative.

Consideration will be given to all written suggestions and comments on the proposed amendments on or before September 16, 1997. Such written materials should be sent to the Assistant to the Director, Department of Personnel, Grimes State Office Building, Des Moines, Iowa, 50319-0150; fax (515)242-6450.

Also, there will be a public hearing on September 16, 1997, at 1 p.m. in the Director's Conference Room, Department of Personnel, Grimes State Office Building, First Floor, Des Moines, Iowa, at which time persons may present their views.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 7464A**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code section 19A.9.

**ARC 7457A****PERSONNEL DEPARTMENT[581]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 97B.15, the Iowa Department of Personnel hereby gives Notice of Intended Action to amend Chapter 21, "Iowa Public Employees' Retirement System," Iowa Administrative Code.

These amendments include the following:

1. Subparagraph 21.5(1)"a"(35). This amendment codifies a recent IPERS' interpretation that the definition of "adjunct instructors" includes persons who are teaching non-credit courses, and provides a means for determining when coverage for these individuals begins and ends.

2. Subrule 21.5(7). This subrule should have been amended in IPERS' previous rules package to conform with the statutory change permitting a public employee to actively participate in IPERS while actively participating in another retirement system for a different position.

3. Subrule 21.6(9). Various amendments are made reducing the contribution rates effective July 1, 1997, for the sheriffs, deputy sheriffs, and airport firefighters group, and for the protection occupations group.

4. Subrule 21.11(6). A new paragraph is added requiring mandatory commencement of retirement benefits as IPERS normal form of benefit, option 2 (or the lump sum actuarial equivalent if applicable), for terminated members who have attained the required beginning date under IRC Section 401(a)(9). This change is necessary to protect the plan's tax-qualified status under IRC Section 401(a).

5. Subparagraph 21.13(9)"c"(2). This amendment clarifies that IPERS' early retirement adjustment does not apply in calculating the minimum retirement benefits of a person who retired due to disability.

6. Subrule 21.13(10). The current subrule adopted by IPERS relating to the calculation of benefits under the hybrid formula provided under Iowa Code section 97B.49(17) is too incomplete to adequately determine how benefits were actually calculated by IPERS. This subrule is rescinded and a more complete new subrule is adopted.

7. Subrule 21.13(11). A new subrule is proposed which formally adopts IPERS' current practices and procedures for calculating money purchase benefits under Iowa Code section 97B.49. The subrule is intended to implement current practices and is not intended to create a new calculation method.

8. Subrule 21.16(2). These amendments relate to the benefits rights of members who receive service credit under the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Sections 4301 to 4333). The first new paragraph is a plan document requirement. The remaining new paragraphs are required to ensure that the department is in compliance with the IRS' requirements operationally. The primary effects of the new rules are to permit members to submit make-up contributions and to ensure that the period of military service is taken into account in determining members' three-year average covered wages.

## PERSONNEL DEPARTMENT[581](cont'd)

9. Subrule 21.19(5). The reemployment subrule is amended by adding provisions for signed installment repayment agreements. Provisions are also added permitting a member to request a mid-year suspension of payments to avoid placing the member into a higher tax bracket for amounts which must be repaid and to avoid the need for substantial repayments of amounts received.

10. Subrule 21.24(3). The refund buy-back subrule is rewritten to clarify that effective July 1, 1996, active nonvested members may not buy back refunds. The paragraphs have been reordered so that the current provision appears at the beginning of the subrule rather than at the end.

The amendments are designed: (1) to protect IPERS' status as a pension plan qualified under Internal Revenue Code of 1986 Section 401(a); (2) to implement legislation that became effective July 1, 1996, and January 1, 1997; (3) to interpret and apply the current provisions of IPERS' governing statute and existing rules in a manner consistent with IPERS' policies and procedures; and (4) to implement new contribution rates effective July 1, 1997.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 16, 1997. Such written materials should be directed to IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Persons who wish to convey their views orally should contact IPERS at (515)281-0020.

There will be a public hearing on September 16, 1997, at 9 a.m. at IPERS, 600 East Court Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Four of these amendments, namely Items 3, 4, 6, and 9, were also Adopted and Filed Emergency and published herein as ARC 7458A.

These amendments are intended to implement Iowa Code chapter 97B.

The following amendments are proposed.

ITEM 1. Amend subparagraph 21.5(1)"a"(35) as follows:

(35) "Adjunct instructors" employed by a community college or university are excluded from coverage. Adjunct instructors are persons employed by a community college or university without a continuing contract and whose teaching load does not exceed one-half time for two full semesters or three full quarters for the calendar year. The determination of whether a teaching load exceeds one-half time shall be based on the number of credit hours or *noncredit contact hours* that the community college or university considers to be a full-time teaching load for a regular full semester or quarter, as the case may be. In determining whether an adjunct instructor is a covered employee, no credit shall be granted for teaching periods of shorter duration than a regular semester or regular quarter (such as summer semesters), regardless of the number of credit or contact hours assigned to that period. *If there is no formal severance, An* adjunct instructor who becomes a covered employee will remain a covered employee until that person completes four consecutive calendar quarters in which no services are performed for that covered employer after the last covered calendar quarter. Notwithstanding the foregoing sentence, no service credit will be granted to any adjunct instructor who has become a covered employee under this rule for any calendar quarter in which no covered wages are reported unless the adjunct instructor is on an approved leave of absence.

ITEM 2. Amend subrule 21.5(7) as follows:

~~21.5(7) Public employees who are active members in another retirement system supported in whole or in part by public funds are prohibited from being active members of IPERS. If an employee is actively participating in another retirement system, the employee cannot be actively contributing to IPERS, even if employed in two positions by two separate employers. Effective July 1, 1996, an employee may actively participate in IPERS and another retirement system supported by public funds if the person does not receive credit under both IPERS and such other retirement system for any position held.~~

ITEM 3. Amend subrule 21.6(9), paragraphs "b," "c," and "e," as follows:

b. Sheriffs, deputy sheriffs, and airport firefighters, effective July 1, 1996 1997.

(1) Member's rate—6.76 5.64%.

(2) Employer's rate—10.14 8.87%.

c. Members employed in a protection occupation, effective July 1, 1996 1997.

(1) Member's rate—5.95 5.91%.

(2) Employer's rate—8.92 8.45%.

e. Prior special rates are as follows:

(1) Effective July 1, 1992, through June 30, 1993:

1. Sheriffs and deputy sheriffs—member's rate—6.90%; employer's rate—10.34%.

2. Protection occupation—member's rate—5.88%; employer's rate—8.83%.

(2) Effective July 1, 1993, through June 30, 1994:

1. Sheriffs and deputy sheriffs—member's rate—6.92%; employer's rate—10.39%.

2. Protection occupation—member's rate—5.94%; employer's rate—8.91%.

(3) Effective July 1, 1994, through June 30, 1995:

1. Sheriffs, deputy sheriffs, and airport firefighters—member's rate—7.05%; employer's rate—10.58%.

2. Protection occupation—member's rate—6.11%; employer's rate—9.17%.

(4) Effective July 1, 1995, through June 30, 1996:

1. Sheriffs, deputy sheriffs, and airport firefighters—member's rate—6.85%; employer's rate—10.27%.

2. Protection occupation—member's rate—6.01%; employer's rate—9.02%.

(5) Effective July 1, 1996, through June 30, 1997:

1. Sheriffs, deputy sheriffs, and airport firefighters—member's rate—6.76%; employer's rate—10.14%.

2. Protection occupation—member's rate—5.95%; employer's rate—8.92%.

ITEM 4. Amend subrule 21.11(6) as follows:

21.11(6) A member retiring on or after the early retirement or normal retirement date shall submit a written notice to IPERS setting forth the retirement date, provided the date is after the member's last day of service and not before the first day of the sixth calendar month preceding the month in which the notice is filed.

*Notwithstanding the foregoing, IPERS shall commence payment of a member's retirement benefit under Iowa Code section 97B.49 (option 2) no later than the "required beginning date" specified under Internal Revenue Code Section 401(a)(9), even if the member has not submitted the appropriate notice. If the lump sum actuarial equivalent of option 2 under Iowa Code section 97B.48(1) could have been elected by the member, payments shall be made in said lump sum rather than as a monthly allowance. The "required beginning date" is defined as the later of: (1) April 1 of the year following the year that the member attains age*

## PERSONNEL DEPARTMENT[581](cont'd)

70½, or (2) April 1 of the year following the year that the member actually terminates all covered and noncovered employment with employers covered under Iowa Code chapter 97B.

ITEM 5. Amend 21.13(9)“c”“2” as follows:

2. The early retirement adjustment factor is determined as follows:

There is no early retirement adjustment if the member's age at first month of entitlement equals or exceeds 65, or if the member's age at first month of entitlement is at least 62 and the member had 30 or more years of service.

The early retirement adjustment for members having 30 years of service whose first month of entitlement occurred before the member attained age 62 is .25 percent per month for each month the first month of entitlement precedes the member's sixty-second birthday.

The early retirement adjustment for members having less than 30 years of service whose first month of entitlement occurred before the member attained age 65 is .25 percent per month for each month the first month of entitlement precedes the member's sixty-fifth birthday.

IPERS shall calculate the early retirement adjustment factor to be used in paragraph “d” below as follows: 100% – (minus) early retirement adjustment percentage = early retirement adjustment factor.

*The early retirement adjustment shall not be applied to situations in which the member's retirement was due to a disability that qualifies under Iowa Code section 97B.50.*

ITEM 6. Amend subrule 21.13(10) as follows:

~~21.13(10) Hybrid formula for members with regular and special service credit. Hybrid formula for members with more than one type of service credit. Effective July 1, 1996, members having both regular and special service credit (as defined in Iowa Code sections 97B.41(16) and (21)) may elect, in lieu of the benefits otherwise provided under this rule, to have their benefits calculated as described in Iowa Code section 97B.49(17). Increases in the percentage multiplier shall be determined as provided under Iowa Code section 97B.49(17), and only years of service in excess of 30 will apply toward said increase. Members shall not receive credit for special service under this subrule unless the applicable employer and employee contributions for periods of special service have been made.~~

a. Eligibility. Effective July 1, 1996, members having both regular and special service credit (as defined in Iowa Code sections 97B.41(16) and 97B.41(21)) shall receive the greater of the benefit amount calculated under this subrule, or the benefit amount calculated under the applicable non-hybrid benefit formula.

(1) Members who have a combined total of 16 quarters of service may utilize the hybrid formula.

(2) Members who have both types of special service under Iowa Code sections 97B.49(16)“a” and “b,” but do not have any regular service, may utilize the hybrid formula.

(3) The following classes of members are not eligible for the hybrid formula:

1. Members who have only regular service credit.

2. Members who have 22 years of sheriff/deputy sheriff/airport firefighter service credit (as defined under Iowa Code section 97B.49(16)“b”).

3. Members who have 25 years of protection occupation service credit (as defined in Iowa Code section 97B.49(16)“d”).

4. Members who have 30 years of regular service.

5. Members with less than 16 total quarters of service.

b. Assumptions. IPERS shall utilize the following assumptions in calculating benefits under this subrule.

(1) The member's three-year average covered wage shall be determined in the same manner as it is determined for the nonhybrid formulas.

(2) Increases in the benefit formula under this subrule shall be determined as provided under Iowa Code section 97B.49(17)“c”(2). The percentage multiplier shall only be increased for total years of service over 30.

(3) Years of service shall be utilized as follows:

1. Quarters which have two or more occupation class codes shall be credited as the class that has the highest reported wage for said quarter. A member shall not receive more than one quarter of credit for any calendar quarter, even though more than one type of service credit is recorded for that quarter.

2. Quarters shall not be treated as special service quarters unless the applicable employer and employee contributions have been made.

c. Years of service fraction not to exceed one.

(1) In no event shall a member's years of service fraction under the hybrid formula exceed, in the aggregate, one.

(2) If the years of service fraction does, in the aggregate, exceed one, the member's quarters of service credit shall be reduced until the member's years of service equal, in the aggregate, one.

(3) Service credit shall first be subtracted from the member's regular service credit and, if necessary, shall next be subtracted from the member's protection occupation service, and sheriff/deputy sheriff/airport firefighter service credit, in that order.

d. Age reduction. The portion of the member's benefit calculated under this subrule that is based on the member's regular service shall be subject to a reduction for early retirement in the same manner as is provided for regular service retirements.

e. Calculations. A member's benefit under the hybrid formula shall be the sum of the following:

(1) The applicable percentage multiplier divided by 22 times the years of sheriff/deputy sheriff/airport firefighter service credit (if any) times the member's high three-year average covered wage, plus

(2) The applicable percentage multiplier divided by 25 times the years of protection occupation class service credit (if any) times the member's high three-year average covered wage, plus

(3) The applicable percentage multiplier divided by 30 times the years of regular service credit (if any) times the member's high three-year average covered wage minus the applicable age reduction (if any).

If the sum of the percentages obtained by dividing the applicable percentage multiplier by 22, 25, and 30 exceeds the applicable percentage multiplier for that member, the percentage obtained above for each class of service shall be subject to reduction so that the total shall not exceed the member's applicable percentage multiplier in the order specified in paragraph “c,” subparagraph (3), of this subrule.

ITEM 7. Amend rule 581—21.13(97B) by adopting new subrule 21.13(11) as follows:

**21.13(11) Money purchase benefits.**

a. For each vested member retiring with less than four complete years of service, a monthly annuity shall be determined by applying the total reserve as of the effective retirement date (plus any retirement dividends standing to the member's credit on December 31, 1966) to the annuity tables in use by the system according to the member's age (or mem-

## PERSONNEL DEPARTMENT[581](cont'd)

ber's and contingent annuitant's ages, if applicable). If the member's retirement occurs before January 1, 1995, IPERS' revised 6.5 percent tables shall be used. If the member's retirement occurs after December 31, 1994, IPERS' 6.75 percent tables shall be used.

b. For each vested member for whom the present value of future benefits under option 2 is less than the member reserve as of the effective retirement date, a monthly annuity shall be determined by applying the member reserve to the annuity tables in use by the system according to the member's age (or member's and contingent annuitant's ages, if applicable). If the member's retirement occurs before January 1, 1995, IPERS' revised 6.5 percent tables shall be used. If the member's retirement occurs after December 31, 1994, IPERS' 6.75 percent tables shall be used.

c. For calculations under paragraph "a," the term "total reserve" means the total of the member's investment and the employer's investment as of the effective retirement date, plus any retirement dividends standing to the member's credit as of December 31, 1966. For calculations under paragraph "b," the term "member reserve" means the member's total investment, excluding all other amounts standing to the member's credit.

d. For calculations under paragraph "a," options 2, 3, 4, and 5 shall be calculated by dividing the member's total reserve by the applicable option 2, 3, 4, and 5 annuity factor taken from the department's tables to determine the monthly amount. For calculations under paragraph "b," options 2, 3, 4, and 5 shall be calculated by dividing the member reserve by the applicable option 2, 3, 4, and 5 annuity factor taken from the department's tables to determine the monthly amount.

e. For option 1, the cost per \$1,000 of death benefit shall be determined according to the department's tables. That cost shall be subtracted from the option 3 monthly amount to determine the option 1 monthly benefit amount. The option 1 death benefit amount shall be reduced as necessary so that the option 1 monthly benefit amount is not less than one-half of the option 2 monthly benefit amount.

f. If the member has prior service (service prior to July 4, 1953), the option 2 benefit amount calculated under both paragraphs "a" and "b" shall be calculated by determining the amount of the member's option 2 benefit based on the member's prior service and the applicable plan formula, plus the amount of the member's option 2 benefit based on the member's membership service as determined under this subrule. The option 2 benefit amount based on prior service shall be adjusted for early retirement.

ITEM 8. Amend subrule 21.16(2) as follows:

21.16(2) Reentry into public employment by an employee on military leave can be achieved if the individual accepts employment with a covered employer. Reemployment may begin anytime within 12 months of the individual's discharge from military service or, if longer, within the period provided under the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Sections 4301 to 4333). Upon reemployment the member shall receive credit for all service to which the member is entitled pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Sections 4301 to 4333).

*Notwithstanding any provision of Iowa Code chapter 97B or these rules to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Internal Revenue Code Section 414(u).*

*For reemployments initiated on or after December 12, 1994, a member shall be treated as receiving compensation for each month during the member's period of military service equal to the member's average monthly compensation during the 12-month period immediately preceding the period of military service, or if shorter, the member's average monthly compensation for the period immediately preceding the period of military service. The member's deemed compensation during the period of military service shall be taken into consideration in determining a member's make-up contributions, if any, and the member's high three-year average covered wage.*

*For reemployments initiated on or after December 12, 1994, make-up contributions shall be permitted with respect to employee contributions that would have been made during the period of military service if the member had actually been in covered employment during the period earning the deemed compensation provided for under this subrule. Make-up contributions shall be permitted during the five-year period that begins on the date of reemployment or, if less, a period equal to three times the period of military service.*

*The member shall request the foregoing make-up contributions (except contributions for periods prior to January 1, 1995, which shall be made as posttax contributions) on forms to be filed with the employer, which shall forward a copy to the system. Make-up contributions shall be made as pretax contributions under Internal Revenue Code Section 414(h)(2). Employers must comply with a member's request to begin make-up contributions during a period not exceeding that described in the preceding paragraph and shall forward said amounts to the system in the same manner as provided for pick-up contributions under Iowa Code section 97B.11A. An election to make up employee contributions under this rule shall be irrevocable.*

ITEM 9. Amend subrule 21.19(5) as follows:

21.19(5) Beginning on or after July 1, 1996, the retirement allowance of a member subject to reduction pursuant to subrule 21.19(1) shall be reduced as follows.

a. A member's monthly retirement allowance in the next following calendar year shall be reduced by the excess amounts earned in the preceding year divided by the number of months remaining in the following calendar year after the excess amount has been determined. A member may elect to make repayment of the overpayments received in lieu of having the member's monthly benefit reduced. *Elections to make installment payments must be accompanied by a repayment agreement signed by the member and IPERS.* If the monthly amount to be deducted exceeds a member's monthly retirement allowance, the member's monthly allowance shall be withheld in its entirety until the overpayment is recovered. If a member dies and the full amount of overpayments determined under this subrule has not been repaid, the remaining amounts shall be deducted from the payments to be made, if any, to the member's designated beneficiary or contingent annuitant. If the member has selected an option under which there are no remaining amounts to be paid, or the remaining amounts are insufficient, the unrecovered amounts shall be a charge on the member's estate.

b. Employers shall be required to complete IPERS wage reporting forms for reemployed individuals which shall reflect the prior year's wage payments on a month-to-month basis. These reports shall be used by IPERS to determine the amount which must be recovered to offset overpayments in the prior calendar year due to reemployment wages.

## PERSONNEL DEPARTMENT[581](cont'd)

*c. A member may elect in writing to have the member's monthly retirement allowance suspended in the month in which the member's remuneration exceeds the amount of remuneration permitted under this rule in lieu of receiving a reduced retirement allowance under paragraph "a" of this subrule. If the member's retirement allowance is not suspended timely, the overpayment will be recovered pursuant to paragraph "a" of this subrule. The member's retirement allowance shall remain suspended until the earlier of January of the following calendar year or the member's termination of covered employment. The member's election shall remain binding until revoked in writing.*

ITEM 10. Amend subrule 21.24(3) as follows:

~~21.24(3) IPERS buy-back. Effective January 1, 1991, an active, vested or retired member who was a member of the system at any time on or after July 4, 1953, and who received a refund of the member's contributions for that period of membership service, may apply in writing to IPERS to buy back the refund and the quarters of service which it represents.~~

~~The member is required to make membership contributions equal to the accumulated contributions received by the member for the period of service being purchased plus accumulated interest and interest dividends. Effective July 1, 1996, buy-backs may be made in increments of one or more calendar quarters. Prior to July 1, 1996, the member was required to repurchase the entire period of service and repay the total amount received.~~

~~Prior to January 1, 1991, in order for a member to buy back previously refunded IPERS credit, the member had to meet the following qualifications:~~

~~(1) The refund of contributions had to represent a period of service between July 1, 1953, and June 30, 1973;~~

~~(2) The member could not have been vested at the time of the refund; and~~

~~(3) The member had to have at least 15 or more years of service, a figure which could include the amount of refunded time the member wished to buy back.~~

~~(4) Effective July 1, 1996, a nonvested member cannot buy back previously refunded IPERS credit.~~

*21.24(3) IPERS buy-back. Effective July 1, 1996, only vested or retired members may buy back previously refunded IPERS credit. The member is required to make membership contributions equal to the accumulated contributions received by the member for the period of service being purchased plus accumulated interest and interest dividends.*

*Effective July 1, 1996, buy-backs may be made in increments of one or more calendar quarters. Prior to July 1, 1996, the member was required to repurchase the entire period of service and repay the total amount received plus accumulated interest and interest dividends.*

*For periods beginning January 1, 1991, and ending June 30, 1996, an active, vested, or retired member who was a member of the system at any time on or after July 4, 1953, and who received a refund of the member's contributions for that period of membership service, could apply in writing to IPERS to buy back the refund and the quarters of service which it represents.*

*Prior to January 1, 1991, in order for a member to buy back previously refunded IPERS credit, the member had to meet the following qualifications:*

*(1) The refund of contributions had to represent a period of service between July 1, 1953, and June 30, 1973;*

*(2) The member could not have been vested at the time of the refund; and*

*(3) The member had to have at least 15 or more years of service, a figure which could include the amount of refunded time the member wished to buy back.*

**ARC 7475A****SECRETARY OF STATE[721]****Amended Notice of Intended Action**

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby gives Notice that the Secretary has extended the comment period on proposed rules regarding local election ordinances [21.30, 21.31] published in the Iowa Administrative Bulletin on June 18, 1997, as **ARC 7294A**. Interested persons may send written comments to the Elections Division, Office of the Secretary of State, Second Floor, Hoover State Office Building, Des Moines, Iowa 50319-0138; fax (515)242-5953. Anyone who wishes to comment orally may telephone the Elections Division at (515)281-5865 or visit the office on the second floor of the Hoover Building. The last day to comment is Thursday, August 28, 1997.

**ARC 7473A****VETERINARY MEDICINE BOARD[811]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 169.5, the Iowa Board of Veterinary Medicine gives Notice of Intended Action to amend Chapter 8, "Auxiliary Personnel," Iowa Administrative Code.

The Board of Veterinary Medicine voted at the Board's March 27, 1997, meeting to allow candidates with academic credentials which are, in the opinion of the Board, equal to or equivalent to the two-year curriculum offered at schools of Veterinary Technology to make an application to take the examination required to become a "Veterinary Technician." This amendment will implement this action by the Board and allow candidates with studies and training in other health care fields to be examined for proficiency as a "Veterinary Technician."

Any interested person may make written suggestions or comments on this proposed amendment prior to 4:30 p.m. on September 16, 1997. Such comments or written material should be directed to Dr. Walter D. Felker, State Veterinarian, Iowa Board of Veterinary Medicine, Wallace State Office Building, Des Moines, Iowa 50319.

This amendment is intended to implement Iowa Code chapter 169.

The following amendment is proposed.

Amend rule **811—8.1(169,17A)**, definition of "Veterinary technician," as follows:

## VETERINARY MEDICINE BOARD[811](cont'd)

“Veterinary technician” means any citizen of the United States who shall have graduated in veterinary technology from a two-year AVMA-accredited school of veterinary technology *or have other academic credentials which are, in the opinion of the board, equal to or equivalent to the two-year curriculum offered by AVMA-accredited schools of veterinary technology*; or, in lieu thereof, has assisted a licensed

veterinarian for five years prior to 1980, or worked under the direction of a licensed veterinarian for at least three years, including at least one year of formal training approved by the board in veterinary technology prior to 1981; and who shall have successfully passed an examination prescribed by the board.

## ARC 7471A

## EDUCATION DEPARTMENT[281]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 256.7(5), the Iowa State Board of Education hereby adopts Chapter 8, "ICN Subsidization Reimbursement Procedures," Iowa Administrative Code.

This chapter implements recent legislation requiring the Department of Education to develop rules to disburse \$2.5 million to the Iowa Communications Network.

In accordance with Iowa Code section 17A.4(2), the Board finds that public notice and participation are impractical and contrary to the public interest in that the interactive video classrooms will be in constant use with the start of the new school year. Immediate reimbursement to the Iowa Telecommunications and Technology Commission is necessary to ensure that the network will be operational for the 1997-98 school year.

In accordance with Iowa Code section 17A.5(2)"b"(2), the Board also finds that the usual effective date of these rules, 35 days after publication, should be waived and the rules be made effective on August 11, 1997. This effective date confers a benefit on the public by allowing the board to reimburse the Telecommunications and Technology Commission so that the network is operational and available for schools to use during the 1997-98 school year.

These rules are also published herein under Notice of Intended Action as ARC 7470A to solicit public opinion.

This chapter was approved by the Board on August 8, 1997.

This chapter is intended to implement 1997 Iowa Acts, House File 730, section 2, subsection (2), paragraph "a."

This chapter became effective on August 11, 1997.

The following new chapter is adopted.

## CHAPTER 8

## ICN SUBSIDIZATION

## REIMBURSEMENT PROCEDURES

**281—8.1(77GA,HF730) Definitions.** For the purposes of interpreting these rules, the definitions of 751 IAC 7.1(8D) shall apply, except as follows:

"Department" means the Iowa department of education.

"School," for purpose of this rule only, means a public or nonpublic school, area education agency or community college which is considered an authorized user under 751 IAC 7.1(8D).

"Subsidization fund" means the funds appropriated to the department in 1997 Iowa Acts, House File 730, section 2, or any supplemental appropriations given during the fiscal year ending June 30, 1998, for the purpose of reimbursing the commission for the costs of providing interactive video service to schools.

**281—8.2(77GA,HF730) Subsidization reimbursement.** The department shall reimburse the commission from the subsidization fund that portion of the cost of providing interactive video service to schools which is not included in the rates charged to such users for such service. The department shall reimburse the commission in accordance with rates approved by the commission.

**281—8.3(77GA,HF730) Billing/payment process.** The commission shall submit to the department a consolidated monthly invoice for the cost of providing interactive video

service to schools which is not included in the rates charged to such users for such service. Monthly authorization for payment will be determined by the department based upon a review of the billing statements received from the commission. In addition to the consolidated monthly invoice, the billing statements shall, at minimum, include:

**8.3(1) Video usage billing.**

- a. The name of the requesting authorized user;
- b. The title of each individual session;
- c. The number of sites in each individual session;
- d. The number of hours of video usage per session;
- e. The total charge for each session;
- f. The portion charged to the requesting authorized user;
- g. The portion charged to the subsidization fund;
- h. The total charge to the subsidization fund.

**8.3(2) Video circuit billing.**

- a. The name of the school;
- b. The start billing date for the circuit charges;
- c. The number of annual hours produced to date at the school;
- d. The monthly charge based upon annual production to date at the school;
- e. The first month's charge for new site addition (if applicable);
- f. The monthly charge for the existing site;
- g. The total charge to the subsidization fund.

**281—8.4(77GA,HF730) Subsidization fund.** The department shall not be liable for reimbursing the commission any amounts which are in excess of the appropriation made in 1997 Iowa Acts, House File 730, section 2, or any supplemental appropriation for this purpose during the fiscal year ending June 30, 1998.

**281—8.5(77GA,HF730) Remaining fund balance.** Any remaining funds from the appropriation made in 1997 Iowa Acts, House File 730, section 2, or any supplemental appropriations given for this purpose during the fiscal year ending June 30, 1998, shall not revert to the general fund of the state but shall be available for expenditure during the subsequent fiscal year for the same purpose, and shall not be transferred to any other program or purpose.

**281—8.6(77GA,HF730) Advance for authorized users.** The department may advance to the commission moneys from the subsidization fund to support authorized users as determined appropriate by the commission.

[Filed Emergency 8/8/97, effective 8/11/97]

[Published 8/27/97]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/97.

## ARC 7464A

## PERSONNEL DEPARTMENT[581]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 19A.9, the Department of Personnel proposes to amend Chapter 15, "Benefits," Iowa Administrative Code.

These amendments include changes resulting from legislation in 1997 Iowa Acts, House File 540. Specifically, these are new and revised rules for deferred compensation, includ-

## PERSONNEL DEPARTMENT[581](cont'd)

ing the establishment of mutual funds as an investment alternative.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need for rule changes to implement the new provisions of this law.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on August 8, 1997, as they confer a benefit upon state employees.

The Department of Personnel adopted this amendment on August 8, 1997.

These amendments are also published herein under Notice of Intended Action as **ARC 7463A** to allow public comment. This emergency filing permits the Department to implement the new provisions of the law.

These amendments are intended to implement Iowa Code section 19A.9.

These amendments became effective August 8, 1997.

The following amendments are adopted.

ITEM 1. Amend rule 581—15.6(19A) as follows:

**581—15.6(19A) Deferred compensation (pre-August 31, 1997).**

**15.6(1) Administration.** The director is authorized by the executive council of Iowa to administer the a deferred compensation program for employees of the state of Iowa and to enter into contracts and agreements with deferred compensation product vendors for the benefit of state employees and on behalf of the state of Iowa. *These rules shall govern all annuity or life insurance contracts and participant activity for those contracts established prior to August 31, 1997.*

**15.6(2) Definitions.** The following definitions shall apply when used in this rule:

*"Administrative services provider (ASP)" means the bidder, firm, or organization contracted by the director to provide plan services to the state of Iowa and its employees.*

*"Agreement" means the deferred compensation agreement signed by the employer and the participating employee.*

*"Beneficiary" means the state of Iowa.*

*"Company" means a company authorized under this rule to issue a policy under the deferred compensation plan authorized by Iowa Code section 509A.12.*

*"Designated beneficiary" means the person or persons named as such in the deferred compensation agreement form.*

*"Employee" means a nontemporary permanent full-time or permanent part-time employee of the state of Iowa, including full-time elected officials and members of the general assembly, except employees of the board of regents or persons providing services to the state on a personnel services contract. For the purposes of enrollment, elected officials-elect and members-elect of the general assembly are shall be considered employees.*

*"Employer" means the state of Iowa.*

*"Governing body" means the executive council of the state of Iowa.*

*"Group" means one or more employees.*

*"Normal retirement age" means 70½ years of age.*

*"Participating employee" means an any employee participating in the plan or former employee of the employer who is currently deferring or who has previously deferred compensation under the plan and who retains the right to benefits under the plan.*

*"Plan" means the state of Iowa deferred compensation 457 plan and trust as set forth in rule 15.13(19A) and as it may be amended from time to time, and which has been authorized by Iowa Code section 509A.12.*

*"Plan administrator" means the designee of the director who is authorized to administer the deferred compensation plan.*

*"Plan year" means a calendar year.*

*"Policy" means any retirement fixed annuity contract, variable annuity contract, documents evidencing mutual funds investments, or combination thereof provided for in the deferred compensation plan.*

**15.6(3) Eligibility.**

a. No change.

b. Eligibility after terminating deferral of compensation. Any employee who terminates the deferral of compensation may choose to reenroll in the plan *under rule 15.13(19A)* in accordance with paragraphs ~~15.6(4)"a" and "b" and 15.6(6)"b."~~ *15.13(4) "a" through "d."*

**15.6(4) Enrollment and termination.**

a. Enrollment. Employees may enroll in the deferred compensation plan at any time. ~~The original company application form and the department's required enrollment forms shall be submitted to the plan administrator for approval in accordance with subrule 15.6(10).~~ *Effective September 1, 1997, enrollment will be governed by rule 581—15.13(19A).* All satisfactorily completed enrollment forms must be received no later than the first day of a calendar month in order for deductions to begin with the first paycheck of the following month. The premiums shall be deducted from the employee's paycheck beginning no sooner than the first paycheck of the following month. The company policy shall become effective on the first day of the month following the beginning of payroll deductions. Agencies are responsible for timely submission of payroll documents to initiate salary deductions. Enrollment is permitted for elected officials-elect and elected members-elect of the general assembly according to these rules.

b. No change.

c. Termination of participation in the plan. A participating employee may terminate participation in the plan provided notification is received by the employee's department at least ten days prior to the employee's first deduction of the month. Termination of plan participation does not provide for the disbursement of funds unless done in accordance with subrule 15.6(8) *or, after September 1, 1997, subrule 15.13(8).* *Participation under these rules shall be permitted only to the extent that a participant wishes to maintain an already existing contract. Should the participant terminate participation under this rule and begin participation under rule 15.13(19A), the participant will not be allowed thereafter to resume contributions to a policy governed by this rule.*

d. No change.

**15.6(5) Tax status.**

a. No change.

b. Federal and state income taxes. The amount of earned compensation deferred under the agreement is exempt from federal and state income taxes until such time as the funds are paid or made available as provided in the Internal Revenue Code of 1986 (I.R.C.) 457 as amended. ~~The six states adjoining Iowa have agreed to allow their residents who are employees of the state of Iowa to defer compensation for state income tax purposes.~~

**15.6(6) Deductions from earnings.**

a. No change.

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b. Deferral amount changes. Participating employees may increase or decrease their monthly deferral amount twice during a calendar year by giving not less than 30 days' prior written notice to the plan administrator. All satisfactorily completed change forms must be received no later than the first day of a calendar month in order for deduction changes to begin with the first paycheck of the following month. Deductions will begin no sooner than the first paycheck of the following month. The deferred compensation change request form, as provided for in paragraph 15.6(10)"b," and the employee deduction information form must be submitted to the plan administrator by the employee's agency within the first five calendar days after the first day of the pay period in which the first deduction change is to take effect. Contributions will not be changed to permit additional deferral from employees who are collecting vacation payout, sick leave payout, holiday pay, ~~back pay, arbitration awards,~~ or any other type of lump sum pay for accrued benefits while employed by the state of Iowa.

c. Maximum deferral limits. Participating employees' deferrals may not exceed 25 percent of the amount of their annual income subject to federal income tax withholding determined without taking into account contributions made to this plan, with a maximum limitation of \$7500 per calendar year or such larger amount permitted under IRC 457 as determined by IRC 415(d) and the U.S. Treasury regulations thereunder. The amount of an employee's annual income subject to federal income tax withholding will be further reduced by any amount that represents vacation payout, sick leave payout, holiday pay, ~~back pay, arbitration awards,~~ donated leave, or any other type of lump sum pay for accrued benefits before making the 25 percent calculation described above.

d. No change.

e. Contribution catch-up. A participating employee may elect to catch up contributions during the employee's last three tax years before reaching the age of 70½. This catch-up provision, which may be in addition to the maximum amount that is allowed in paragraph 15.6(6)"c," shall not be greater than the lesser of one of the following:

(1) Seven thousand five hundred dollars, or

(2) The employee's previous calendar year's maximum deferral limit minus the amount actually deferred during that employee's previous tax year.

During this catch-up period, the participating employee shall:

1. Have participated for all 12 months of the previous tax year.

2. Not exceed the deferral ceiling of \$15,000 per calendar year according to the United States Treasury Regulation § 1.457-2(f).

If the participating employee does not utilize this provision during the first of the three catch-up years, the "lost" catch-up amount shall not be added to either the second or third year of the catch-up period. If the participating employee does not utilize this provision during the first two years of the catch-up period, the "lost" catch-up amount shall not be added to the third year of the catch-up period.

The amount to be deferred shall remain constant from the previous calendar year unless a change request is submitted in accordance with paragraph 15.6(6)"b." The deferred amount will not be changed to permit additional deferral because of collecting vacation payout, sick leave payout, holiday pay, ~~back pay, arbitration awards,~~ or any other type of lump sum pay for accrued benefits while employed by the

state of Iowa, in accordance with the United States Treasury Regulations § 1.457-1 and § 1.457-2.

## 15.6(7) Companies.

a. No change.

~~b. Minimum participation. Each company that issues individual or group annuity contracts under the plan must initially have a minimum of 30 applications in order to participate in the plan. After satisfying this criterion, companies that drop below 30 participants may continue to participate in the plan if approved to do so by the plan administrator.~~

b. Participation. Effective September 1, 1997, only insurance companies that have been selected through a competitive bid process will be allowed to market their fixed or variable annuity product.

c. Mutual funds. Mutual fund investments shall be limited to those families of mutual funds that have been selected by the plan administrator administered in compliance with rule 15.13(19A) and limited to those investment options that have been selected by the plan administrator.

d. to h. No change.

i. Quality standards. To participate, a company that issues individual or group annuity contracts must have:

- (1) A minimum credit rating of at least "good" from the A.M. Best Corporation financial strength rating system; and
- (2) A minimum number of years in existence greater than 12.

In lieu of (1) and (2) above, ~~companies an ASP that represent a family of administrators~~ mutual funds on behalf of the state of Iowa deferred compensation plan will may be selected by the plan administrator using a competitive bidding process that includes quality standards requirements in accordance with rule 15.13(19A).

j. Minimum contract requirements. In addition to meeting bidding requirements, ~~a an ASP company representing a family of that administrators~~ mutual funds must meet and maintain the minimum requirements set forth in its contract with the state.

k. Removal from participation. Failure to comply with the provisions of these rules ~~will result in permanent removal as a participating company and~~ may require that monthly ongoing deferrals to existing contracts be discontinued or the surrender of all affected policies, as determined by the director.

## 15.6(8) No change.

## 15.6(9) General.

a. No change.

b. Location of policies. ~~The company shall send the original policy to the plan administrator. Failure to do so may result in cancellation of further participation.~~ All original policies shall be kept by the plan administrator. Participating employees may review their own policy during normal work hours, but may under no circumstances remove the policy from the premises. The company shall furnish each participating employee with a copy of the policy for informational purposes only and shall clearly mark that it is not an original policy. The employer shall hold the original policy until the proceeds are disbursed under the terms of the agreement.

c. Number of companies. Employees shall be limited to deferring contributions to only one company at a time. Only companies authorized to do business in the state of Iowa may sell policies under the plan, and then only if they agree to perform the specified administrative functions under the plan. Effective September 1, 1997, the selling of policies must be in accordance with paragraph 15.13(7)"b" of these rules.

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d. Company changes/transfers. If a participating employee wishes to change deferrals to another company, the employee shall submit forms to the plan administrator in accordance with paragraph 15.6(4)"a." The new company policy shall be effective on the first day of the month following the initial month of payroll deduction. With the approval of the plan administrator, the funds accumulated under the old policy may be transferred in total to ~~the new policy or to~~ another existing policy *previously established under these rules. Effective September 1, 1997, funds accumulated under these rules may be transferred to the new plan structure in accordance with rule 15.13(19A).* The appropriate forms, as prescribed in subrule 15.6(10), shall be provided to the plan administrator prior to requesting the surrender of a contract with a company. An employee or former employee may request only once during a calendar year to transfer accumulated funds from one company to another. An employee may change companies anytime during the calendar year, but the amount being deferred must remain the same as of the effective date of the second change. Former employees who have made irrevocable elections as required in 15.6(8)"c" will be required to maintain this election with the new company.

e. to g. No change.

h. *Assets held in trust. Effective January 1, 1999, assets under these rules will be held in trust according to rule 15.13(19A), under a custodial account, or annuity contract by the state of Iowa for the exclusive benefit of the participant and the participant's beneficiary. All contracts under the plan will be required to accept an amendment stating such. However, nothing in this amendment shall be construed to allow the participant or beneficiary access to the funds, other than elsewhere provided in these rules.*

15.6(10) Forms. The administration of the deferred compensation program shall be accomplished through the forms described in this subrule. Except as otherwise provided, all forms shall be developed by the plan administrator and distributed by the agency of employment.

a. to h. No change.

~~i. Investment allocation. This form is for employees to elect how their contributions will be invested in mutual funds.~~

15.6(11) No change.

15.6(12) Cash-out.

a. Employees or their designated beneficiaries (upon the death of the employee) may request, on the appropriate form under 15.6(10)"c," the disbursement of the account value, if the following criteria are met:

(1) No contributions were made to the account within the prior 24 months, and

(2) The accumulated account value is ~~\$3500~~ 5000 or less, and

(3) No other prior distributions, other than a hardship distribution, have been made from the contract.

b. and c. No change.

ITEM 2. Amend 581—Chapter 15 by adding the following new rule:

581—15.13(19A) Deferred compensation (post-August 31, 1997).

15.13(1) Definitions. The following definitions shall apply when used in this rule:

"Administrative services provider (ASP)" means the bidder, firm, or organization contracted by the director to provide plan services to the state of Iowa and its employees.

"Agreement" means the deferred compensation agreement signed by the employer, the participating employee and the ASP.

"Beneficiary" means the person or estate entitled to receive benefits under the plan following the death of the participant.

"Director" means the director of the Iowa department of personnel.

"Employee" means a nontemporary (permanent full-time or permanent part-time) employee of the employer, including full-time elected officials and members of the general assembly, except employees of the board of regents. For the purposes of enrollment, elected officials-elect and members-elect of the general assembly shall be considered employees.

"Employer" means the state of Iowa and any other governmental employer that participates in the plan.

"Governing body" means the executive council of the state of Iowa.

"Group" means one or more employees.

"Investment provider" means a company authorized under this rule to issue a policy under the deferred compensation plan authorized by Iowa Code section 509A.12.

"Normal retirement age" means 70½ years of age.

"Participating employee" means any employee or former employee of the employer who is currently deferring or who has previously deferred compensation under the plan and who retains the right to benefits under the plan.

"Plan" means the state of Iowa deferred compensation 457 plan and trust as set forth in this document and as it may be amended from time to time, and which has been authorized by Iowa Code section 509A.12.

"Plan administrator" means the designee of the director who is authorized to administer plan.

"Plan year" means a calendar year.

"Policy" means any fixed annuity contract, variable annuity contract, documents evidencing mutual funds investments, or combination thereof provided for in the plan.

"Trustee" means the director of the Iowa department of personnel.

15.13(2) Plan administration.

a. The director is authorized by the governing body to administer a deferred compensation program for employees of the state of Iowa and to enter into contracts and agreements with deferred compensation product vendors for the benefit of state of Iowa employees and on behalf of the state of Iowa. This rule shall govern all investment options and participant activity for the funds placed in the program after August 31, 1997.

b. The trustee may at any time amend, modify, or terminate this plan without the consent of the participant (or any beneficiary thereof). All amendments that are adopted in emergency rule making shall be effective immediately upon filing with the administrative rules coordinator. Amendments that are adopted pursuant to nonemergency rule making shall be effective no sooner than 35 days after publication in the Iowa Administrative Bulletin. The ASP shall mail a copy of each amendment that became effective during the quarter with participants' quarterly statements. No amendment shall deprive participants of any of the benefits to which they are entitled under this plan with respect to deferred amounts credited to their accounts before the effective date of the amendment.

If the plan is curtailed or terminated, or the acceptance of additional deferred amounts is suspended permanently, the ASP shall nonetheless be responsible for the supervision of

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the payment of benefits resulting from amounts deferred before the amendment, modification, or termination in accordance with subrule 15.13(8).

c. All assets invested with companies that provide policies under the plan are held on behalf of the participant or the participant's beneficiary.

d. Participation in this plan by an employee shall not be construed to give a contract of employment to the participant or to alter or amend an existing employment contract of the participant, nor shall participation in this plan be construed as affording to the participant any representation of guarantee regarding the participant's continued employment.

e. The employer, trustee, and the ASP do not represent or guarantee that any particular federal or state of Iowa income, payroll, personal property or other tax consequences will occur because of the participant's participation in the plan. The participant is obligated to consult with the participant's own tax representative regarding all questions of federal or state income, payroll, personal property or other tax consequences arising from participation in the plan.

f. The ASP shall, subject to the trustee's consent, have the power to appoint agents to act for the ASP in the administration of this plan according to the terms, conditions, and provisions of its contract with the employer.

g. This plan, and any properly adopted amendments, shall be binding on the parties hereto and their respective heirs, administrators, trustees, successors and assignees, and on all beneficiaries of the participant.

**15.13(3) Eligibility.**

a. Initial eligibility. Any nontemporary executive, judicial or legislative branch employee who is regularly scheduled for 20 or more hours of work per week or who has a fixed annual salary is eligible to defer compensation under this rule. An elected official-elect and elected members-elect of the general assembly are also eligible provided deductions meet the requirements of paragraph 15.13(6)"c." Final determination on eligibility shall rest with the plan administrator.

b. Eligibility after terminating deferral of compensation. Any employee who terminates the deferral of compensation may choose to reenroll in the plan in accordance with paragraphs 15.13(4)"a" and "b" and paragraph 15.13(6)"b."

**15.13(4) Enrollment and termination.**

a. Enrollment. Employees may enroll in the plan at any time. The original annuity/mutual fund application form and the state of Iowa's required enrollment forms shall be submitted to the ASP for approval in accordance with subrule 15.13(10). All satisfactorily completed enrollment forms must be received no later than the first day of a calendar month in order for deductions to begin with the first paycheck of the following month. The premiums shall be deducted from the employee's paycheck beginning no sooner than the first paycheck of the following month. The company policy or mutual fund account shall become effective upon receipt of the first deduction. Employers are responsible for timely submission of payroll documents to initiate salary deductions. Enrollment is permitted for elected officials-elect and elected members-elect of the general assembly according to these rules.

b. Processing forms. All completed and approved enrollment forms shall be processed by the ASP. Notification of the approved application will be provided to the employee's employer ten days prior to the first payroll deduction. Within five calendar days following the first day of the pay period in which the first deduction is to be made, the employer shall provide the ASP with all applicable enrollment

forms. Any deduction form received after that date will not be processed until the next payroll period, and the effective date of the deduction will be changed to reflect the first payroll deduction of the following month.

c. Termination of participation. A participating employee may terminate participation in the plan provided notification is received by the ASP at least 15 days prior to the employee's next monthly deduction. Termination of plan participation does not provide for the disbursement of funds unless done in accordance with subrule 15.13(8).

d. Availability of forms. It is the responsibility of each employee interested in participating in the program to obtain the necessary forms from the employer or from the ASP. It is the responsibility of each agency to inform its employees as to where and how they may obtain the necessary forms. The forms shall be prescribed by the plan administrator and agencies shall be advised as to their availability.

**15.13(5) Tax status.**

a. FICA and IPERS. The deferred amount elected in the authorization to deduct form shall be included in the participating employee's gross wages for purposes of deferring FICA withholding and IPERS contributions until the maximum taxable wages established by law have been reached.

b. Federal and state income taxes. The amount of earned compensation deferred under the agreement is exempt from federal and state income taxes until such time as the funds are paid or made available as provided in Section 457 of the Internal Revenue Code of 1986 (IRC) as amended.

**15.13(6) Deductions from earnings.**

a. When deducted. Each participating employee shall have the option as to whether the entire monthly amount of deferred compensation will be deducted from the first paycheck of the month or the second paycheck of the month, or will be equally divided between the first and second paychecks of the month. If the monthly deferral cannot be divided into two equal payments, the third option is not available. Deductions will not be taken from the third paycheck of a month.

b. Deferral amount changes. Participating employees may increase or decrease their monthly deferral amount as frequently as they wish by giving not less than 30 days' prior written notice to the ASP. A satisfactorily completed change request form must be received no later than the first day of a calendar month in order for deduction changes to begin with the first paycheck of the following month. Deductions will begin no sooner than the first paycheck of the following month. The deferred compensation change request form, as provided for in paragraph 15.13(10)"b," and the employee deduction information form must be submitted to the ASP by the employee's employer within the first five calendar days after the first day of the pay period in which the first deduction change is to take effect. Contributions will not be changed to permit additional deferral from employees who are collecting vacation payout, sick leave payout, holiday pay or any other type of lump sum pay while employed by the employer.

c. Maximum deferral limits. Participating employees' deferrals may not exceed 25 percent of the amount of their annual income subject to federal income tax withholding determined without taking into account contributions made to this plan, with a maximum limitation of \$7500 per calendar year or such larger amount permitted under IRC Section 457 as determined by IRC 415(d) and the U.S. Treasury regulations thereunder. The amount of an employee's annual income subject to federal income tax withholding will be further reduced by any amount that represents vacation payout,

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sick leave payout, holiday pay, donated leave or any other type of pay before making the 25 percent calculation described above.

d. Minimum amount deferred. The minimum amount of deferred compensation to be deducted from the earnings of a participating employee during any month shall be \$25.

e. Contribution catch-up. A participating employee may elect to catch up contributions during the employee's last three tax years before reaching the age of 70½. This catch-up provision, which may be in addition to the maximum amount that is allowed in paragraph 15.6(6)"c," shall not be greater than the lesser of one of the following:

(1) Seven thousand five hundred dollars, or such larger amount permitted under IRC Section 457, as determined by IRC 415(d) and the U.S. Treasury regulations thereunder, or

(2) The employee's previous calendar year's maximum deferral limit minus the amount actually deferred during that employee's previous tax year.

During this catch-up period, the participating employee shall have participated for all 12 months of the previous tax year, and not have exceeded the deferral ceiling of \$15,000 per calendar year, and as determined under the U.S. Treasury Regulation § 1.457-2(f), or such larger amount permitted under the IRC Section 457 and the applicable U.S. Treasury regulations.

If the participating employee does not utilize this provision during the first of the three catch-up years, the "lost" catch-up amount shall not be added to either the second or third year of the catch-up period. If the participating employee does not utilize this provision during the first two years of the catch-up period, the "lost" catch-up amount shall not be added to the third year of the catch-up period.

The amount to be deferred shall remain constant from the previous calendar year unless a change request is submitted in accordance with paragraph 15.13(6)"b." The deferred amount will not be changed to permit additional deferral because of collecting vacation payout, sick leave payout, holiday pay, donated leave or any other type of lump sum pay while employed by the employer, in accordance with the U.S. Treasury Regulations § 1.457-1 and § 1.457-2.

**15.13(7) Companies.**

a. Identification number. The ASP shall be assigned an identification number by the plan administrator.

b. Participation. The ASP and the annuity products offered under the plan are authorized to participate only if awarded a contract through a request for proposals process.

c. Mutual funds. Mutual fund investments shall be limited to the mutual funds that have been selected by the plan administrator.

d. Time of payment. Participant deferred amounts shall be transmitted by the plan administrator to the ASP within five working days after the end of each payroll cycle.

e. Reports and consolidated quarterly statements. The ASP will provide various reports to the plan administrator as well as quarterly consolidated statements, quarterly newsletters, and quarterly performance reports to participants based on the request for proposal and the awarded contract.

f. Method of payment. Deferred amounts shall be forwarded to the ASP by issuance of one warrant or electronic remittance following each pay period, regardless of the number of individual accounts. However, no deferrals or remittances are made when a third payday occurs in a month. The ASP must minimize crediting errors and provide timely and accurate credit resolution.

g. Solicitation. There shall be no solicitation of employees by the ASP at the employee's workplace during the

employee's working hours, except as authorized by the plan administrator.

h. Dividends and interest. The only dividend or interest options available on policies or funds are those where the dividend or interest remains within the account to increase the value of the account.

i. Quality standards. A company that issues individual or group annuity contracts must have:

(1) A minimum credit rating of at least "good" from the A.M. Best Corporation financial strength rating system, and

(2) A minimum number of years in existence greater than 12.

In lieu of (1) and (2) above, companies that represent mutual funds shall be selected by the plan administrator using a selection process that includes quality standards requirements as set forth in the request for proposals and ASP's contract.

j. Minimum contract requirements. In addition to meeting selection requirements, a company representing a mutual fund or a family of mutual funds must meet and maintain the minimum requirements set forth in its contract with the state of Iowa.

k. Removal from participation. Failure to comply with the provisions of these rules, the ASP contract or the investment provider contract may result in termination of the ASP contract or the investment provider contract, and all rights therein shall be exercised by the employer.

**15.13(8) Disposition of funds.**

a. Death of a participant.

(1) When a participant dies, the following information shall be provided by the participant's beneficiary to the ASP: participating employee's name, social security number and a certified copy of the death certificate. Upon receipt of the above information, the ASP shall initiate procedures so that the proceeds being held in the plan may be distributed as provided in the agreement, unless an irrevocable election is made by the beneficiary to defer benefits to no later than the deceased participant's normal retirement date or in accordance with the participant's irrevocable election on file with the ASP or plan administrator.

(2) After the death of a participating employee, the participating employee's beneficiary shall have the right to amend the participating employee's or the beneficiary's own investment specification by signing and filing with the ASP a written amendment on a form and in the procedural manner approved by the plan administrator. Any change in an investment specification by a beneficiary shall be effective on a date consistent with these rules and the specifications of the investment provider. The right of a beneficiary to amend an investment specification shall terminate on the last day available for an election concerning the form of payment pursuant to subrule 15.13(8)"c."

b. Termination of employment. A participating employee who has terminated employment with the employer (including retirement) may request to defer distribution of funds or withdraw funds under any option available in the deferred compensation agreement, mutual fund options, or according to the annuity policy, if applicable, and according to the following:

(1) The participating employee shall, within 30 calendar days after termination, make an irrevocable decision on a form approved by the plan administrator. When the original disbursement year is in effect, the participating employee may elect, during that year, to make one new irrevocable election to postpone receipt of the participating employee's

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funds for an additional period. The new election will not be delayed any later than as provided in 15.13(8)"b"(2).

(2) The distribution date shall be no later than the mandatory commencement date, which is April 1 of the calendar year following the later of:

1. The calendar year in which the participating employee attains age 70½, or

2. The calendar year in which the participating employee terminates employment with the employer.

(3) The participating employee shall indicate on the appropriate form when funds are to be paid if the participating employee is delaying receipt of the funds. If the participating employee wishes to begin receiving disbursements within six months, then the date plus the option must be specified.

(4) If the decision is not made within the time required, the funds shall be withdrawn by the ASP and paid to the participating employee in a lump sum.

(5) The decision of the participating employee is irrevocable upon filing with the employer.

(6) If a participating employee elects to start receiving benefits after termination and at normal retirement age, the amount withdrawn each year shall be equal to a settlement option or other form of payment which meets or exceeds the IRS minimum distribution requirements. If a participating employee elects to start receiving benefits earlier than normal retirement age, the amount withdrawn must meet the following criteria:

1. Be nonfluctuating; and
2. Be substantially nonincreasing; and
3. Meet minimum distribution requirements.

(7) If a participating employee works beyond the age of 70½, the participating employee shall notify the plan administrator or the ASP of the selected retirement option within 30 days after termination of employment on the appropriate forms.

(8) If a participating employee is rehired by an employer and is eligible to participate in the deferred compensation plan according to paragraph 15.13(3)"a" of this rule, the employee may, within 30 days following the employee's new hire date, notify the ASP in writing of the intent to void the previous election to delay receipt of the funds. This option is not available if the participating employee entered into a settlement option prior to the rehire date. Upon separation of employment, the participant must comply with 15.13(8)"b"(1).

c. Payments to a beneficiary.

(1) If a participating employee dies after distribution of the account has begun, distribution shall continue to be paid to the beneficiary at the same or greater rate as under the method of distribution in effect at the time of the participating employee's death.

(2) If a participating employee dies before payments have begun, payments to a beneficiary must comply with one of the following requirements:

1. The entire account value must be distributed within five years following the participating employee's death; or

2. Distribution of the account must begin on or before December 31 of the calendar year following the participating employee's death and the entire account must be paid over a period not extending beyond 15 years (or if the beneficiary is the participating employee's spouse, the life expectancy of the beneficiary); or

3. If the beneficiary is the participating employee's surviving spouse, distribution of the account may be delayed until December 31 of the calendar year in which the participating employee would have attained age 70½.

(3) The beneficiary shall choose a distribution commencement date by filing an election with the ASP within 120 days following the participating employee's death. This election shall not be changed once it has been made, except according to subparagraph 15.13(8)"c"(1) of this rule. If no election is made within 120 days following the participating employee's death, the distribution commencement date will be December 31 of the calendar year following the participating employee's death and shall be completed according to the applicable time period specified in subparagraph (2) above.

(4) The beneficiary shall elect the form of payment based upon the options then available. Distributions to a beneficiary shall be completed within the applicable time period specified in subparagraph (2) above. Such election is irrevocable after the thirtieth day preceding the date on which benefits will commence.

(5) Failure to file an election as to the form of payment will result in the ASP making a lump sum payment to the beneficiary according to subparagraph (3) above.

d. Financial hardship. A participating employee may request that the plan administrator allow the withdrawal of some or all of the funds held in the participating employee's account or policy based on a financial hardship. A financial hardship packet of forms must be completed and returned to the ASP for review in order to consider a withdrawal request. The ASP will provide a written recommendation regarding the release of the funds to the plan administrator. The ASP shall make a recommendation as to whether the participating employee's request meets the definition of a financial hardship as provided for in U.S. Treasury Regulation 1.457-2(h). Upon the plan administrator's approval of a financial hardship, the participating employee will be required to stop current deferrals for a period of no less than six months.

A participating employee who disagrees with the initial denial of a request to withdraw funds on the basis of a financial hardship may request that the director reconsider the request by submitting additional written evidence of qualification or reasons why the request for withdrawal of funds from the plan should be approved.

e. Cash-out.

(1) Participating employees or their designated beneficiaries (upon the death of the participating employee) may request, on the appropriate form under paragraph 15.13(10)"c," the disbursement of the account value if the following criteria are met:

1. No contributions were made to the account within the prior 24 months; and

2. The accumulated account value is \$5000 or less; and

3. No other prior distributions, other than a financial hardship distribution, have been made from the contract or mutual fund investment.

(2) The plan administrator may also elect to distribute the accumulated account value of a participant's or beneficiary's accounts without consent, if the above criteria are met.

(3) This provision is available only once in the lifetime of the participating employee or the participating employee's designated beneficiary. If funds are distributed under this provision, the participating employee or the participating employee's designated beneficiary is not eligible under the plan to utilize this provision at any other time in the future.

f. Plan-to-plan transfers.

(1) Participating employees who have accepted employment with a new employer that offers an eligible plan as defined in U.S. Treasury Regulation § 1.457-2(c)(1) may transfer their account value to their new employer's plan if that

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plan provides for the acceptance of the amounts or policy and the funds are placed in a like plan in accordance with IRC § 457.

(2) Transfers from other eligible deferred compensation plans as defined in U.S. Treasury Regulation § 1.457-2(c)(1) to this plan will be accepted at the participating employee's request if such transfers are in cash or covered under an annuity product currently offered under the plan. Any such transferred amount shall not be subject to the limitations of paragraph 15.13(6)"c" provided, however, that the actual amount deferred during the calendar year under both plans shall be taken into account in calculating the deferral limitation for that year. For purposes of determining the limitation set forth in paragraph 15.13(6)"e," years of eligibility to participate in the prior plan and deferrals under that plan shall be considered.

g. Method of payment.

(1) Payments will not be initiated by the ASP or the plan administrator until at least 31 calendar days after termination of employment. For convenience in making payments under this agreement, the ASP, as agent for the state of Iowa, shall make payments directly to the participating employee or to the participating employee's beneficiary, in satisfaction of the employer's continuing obligation under the plan. This shall not, however, give the participating employee or beneficiary any right to demand payment from the ASP, employer or the investment provider(s).

(2) Benefits paid to the participating employee shall be paid in accordance with the payment options elected by the participating employee. Payment, form of payment, and settlement options are available as provided by each of the available investment specifications. At least 30 days before the elected or mandatory distribution commencement date, the participating employee shall elect the form of payment based upon the options then available. Such election shall be irrevocable after the thirtieth day preceding the date on which benefit payments will commence. If a participating employee fails to elect a form of payment before 30 days preceding the distribution commencement date, the account shall be paid in a lump sum, subject to applicable charges, if any. Amounts payable with respect to the participating employee will be paid at times specified by applicable U.S. Treasury regulations which are not later than the time determined under IRC § 401(a)(9) relating to incidental benefits.

h. Federal and state withholding taxes. It shall be the responsibility of the ASP, when making payment directly to the participating employee or the participating employee's beneficiary, to withhold the required federal and state income taxes, to remit them to the proper government agency on a timely basis, and to file all necessary reports as required by federal and state regulations, including W-2s.

15.13(9) General.

a. Orientation and information meetings. Employers may hold orientation and information meetings for the benefit of their employees using materials developed and approved by the plan administrator. The ASP may make presentations upon approval of the plan administrator.

b. Location of policies. The ASP shall send the original annuity policies to the plan administrator. Failure to do so may result in termination of the ASP's contract. All original annuity policies shall be kept by the plan administrator. Participating employees may review their own annuity policy during normal work hours at the department, but may under no circumstances remove the policy from the premises. The ASP shall coordinate with the annuity providers and ensure each participating employee who chooses an annuity is pro-

vided a copy of the policy. The copy being furnished to the participating employee shall be clearly marked that it is not the original policy. The original policy and mutual fund provider documents shall be held by the plan administrator until the proceeds are disbursed under the terms of the agreement.

c. Number of companies. Participating employees who enroll with the ASP shall be limited to deferring contributions only to the investments offered under the ASP arrangement. Only investment providers who are selected through the request for proposals (RFP) process, who are subsequently awarded a contract, and who are authorized to do business in the state of Iowa may sell policies or mutual funds under the plan, and then only if they agree to the terms, conditions, and provisions of the contract.

d. Company changes/transfers. If a participating employee wishes to change deferrals to another investment option within the plan, the participating employee shall submit forms to the ASP in accordance with paragraph 15.13(4)"a." The new investment option shall be effective on the first day of the month following the initial month of payroll deduction. With the approval of the ASP, the funds accumulated under the prior investment option may be transferred in total, or in annual proportionate amounts, according to the participating employee's specific contract, to the new investment option offered under the ASP arrangement. The appropriate forms, as prescribed in subrule 15.13(10), shall be provided to the ASP prior to requesting the surrender or partial withdrawal of an existing policy. A participating employee may request at any time during the calendar year to transfer accumulated funds from one investment option to another investment option offered under the plan. A participating employee may change companies anytime during the calendar year. Participating employees who have made irrevocable elections as required in paragraph 15.13(8)"b" will be required to maintain this election under the new investment option (mutual funds or annuity contract).

e. Change in beneficiary. A participating employee may change the designated beneficiary shown in the deferred compensation agreement by providing the ASP with written notice of the change on the form prescribed by the plan administrator.

f. Deferred compensation or tax-sheltered annuity participation—maximum contribution. Employees who, under the laws of the state of Iowa, are eligible for both deferred compensation and tax-sheltered annuities shall be allowed to participate in one or the other of the programs, but not both. If, in the same calendar year, an eligible participating employee changes from the deferred compensation plan to a tax-sheltered annuity plan or vice versa, the maximum deferral for that calendar year for both plans combined may not exceed the maximum permitted under IRC § 402(g), 403(b), 415, or 457, whichever is applicable.

g. Rights of participating employees.

(1) The assets and income of the plan shall be held by the trustee for the exclusive benefit of the participating employee or the participating employee's beneficiary.

(2) The rights of a participating employee under this plan shall not be subject to the rights of creditors of the participating employee or any beneficiary, and shall be exempt from execution, attachment, prior assignment, or any other judicial relief, or order for the benefit of creditors or other third persons.

(3) It is agreed that neither a participating employee, nor the participating employee's beneficiary, nor any other designee shall have the right to commute, sell, assign, transfer, borrow, alienate, use as collateral or otherwise convey the

## PERSONNEL DEPARTMENT[581](cont'd)

right to receive any payments hereunder which payments and right thereto are expressly declared to be nonassignable and nontransferable.

(4) This plan does not provide for the allocation of plan assets pursuant to domestic relations orders, referred to as qualified domestic relations orders (QDRO). The plan shall hold the funds under the participating employee's name. It is the responsibility of the participating employee to meet the requirements of the QDRO when the funds are received or made available. When one of the criteria is met under subrule 15.13(8), the payment will be made to the participating employee and taxes will be withheld from that distribution and reported against the participating employee's social security number. Notwithstanding the foregoing, the plan shall be amended to provide for QDRO procedures in the event that federal law requires IRC Section 457 plan to accept QDROs.

**15.13(10) Forms.** The administration of the deferred compensation program shall be accomplished, in part, through the forms described in this subrule. Except as otherwise provided, all forms shall be developed by the ASP, subject to approval by the plan administrator, and distributed to the agency of employment by the ASP.

a. Authorization to deduct. This form shall authorize the plan administrator to make a stated dollar amount deduction from the participating employee's compensation as part of an IRC Section 457 plan.

b. Deferred amount change. This form shall authorize the plan administrator to change the stated dollar amount of deductions from the participating employee's compensation.

c. Disbursement of funds. This form shall be used when a participating employee wishes to have the employer surrender the accumulated funds held under the plan for a cash refund, wishes to delay receipt of funds, or wishes to start drawing retirement benefits.

d. Designated beneficiary change. This form shall be used when a participating employee wishes to change the designated beneficiary named in the agreement, or wishes to change the previously elected designated beneficiary.

e. Deferred compensation agreement. This form is the agreement between the employer and the participating employee to deduct a stated dollar amount from the participating employee's compensation and forward same to the ASP, who will disburse into the investment choice of the participant.

f. Application for policy or mutual fund. An investment application shall be supplied by the ASP for the employee to establish a deferred compensation account. The completed form must first be approved by the plan administrator. The completed company application form shall show that the funds are held in a trust arrangement for the "exclusive benefit of the participating employee and beneficiary." The completed forms shall be forwarded to the ASP for processing.

g. Replacement/internal rollover request. This form shall be used when a participating employee wishes the employer to freeze contributions to a specific contract or to roll funds from an annuity or life insurance policy under the state of Iowa 457 plan (pre-September 1997) to an eligible investment option under the state of Iowa 457 plan ASP arrangement (post-August 31, 1997).

h. Acknowledgement. This form is for participating employees to acknowledge that they are aware of and familiar with the plan's provisions.

i. Investment allocation. This form is for participating employees to elect how their contributions will be allocated amongst the funds offered under the plan.

**15.13(11) Demutualization of companies.**

a. Any annuity product held under the plan shall provide the plan administrator with a ballot(s) for official vote registration. The ballot(s) shall be completed and returned to the company according to the specified deadline in the instructions. The ballot(s) shall include the owner's name, policy numbers of affected contracts, name of annuitant, number of shares anticipated, and the control number for the group of shares.

b. The company shall provide the plan administrator with a policyholder booklet, as well as instructions and guide information, prior to or in conjunction with the delivery of the ballot(s). Notices of progress, time frames and meetings will also be provided to the plan administrator as such information becomes available.

c. Compensation will be provided in cash according to the terms of the demutualization plan. In the event that stocks are issued in lieu of cash, the company shall issue all certificates to the employer on behalf of the affected participants and shall provide a listing which includes participants' names, social security numbers, policy numbers, and number of shares pro rata. The certification(s) will be delivered to the treasurer of the state of Iowa by the plan administrator for safekeeping within five workdays following receipt. The certificate(s) will be retrieved from the treasurer of the state of Iowa when an arrangement has been made with a stockbroker for the sale of the stock.

d. An arrangement will be entered into between the plan administrator and a stockbroker as soon as administratively possible in order to liquidate the stock for cash. The broker shall retain commission fees according to the arrangement entered into from the value obtained at the time of sale. The employer will not realize a tax liability nor will the participating employees.

e. The proceeds of the sale of the stock, less the broker commission, shall be made payable to the company. Cash will be immediately credited to the participating employees' contracts by the company. The company shall credit each participating employee's accounts pro rata based on the allotted shares per contract, and the plan administrator will be provided with a listing of the dollar amount credited to each participating employee's accounts. The company will credit the accounts based on the printout provided to the plan administrator. A statement of this transaction will also be provided to the annuitants at their home address by the company upon completion of crediting of the accounts. The funds will be remitted to the company on a separate warrant and day from the normal monthly contributions. The company will report the investment return credit to the plan administrator according to paragraph 15.13(7)"e" and show the credit under the earnings column.

f. In the event that dividends are issued prior to the sale of the stock, the dividends will be returned to the company and the company will credit each eligible contract with the correct dividend based on the pro-rata shares. The company will also provide a statement to the annuitants at their home address which shows the credit of the dividend. The plan administrator shall be provided with a printout which includes the annuitant's name, social security number, policy number, and dollars credited.

**15.13(12) Trust provisions.**

a. Trustee. The trustee shall be the director of the Iowa department of personnel.

## PERSONNEL DEPARTMENT[581](cont'd)

b. Investment options. The trustee shall adopt various investment options for the investment of deferred amounts by participating employees or their beneficiaries, and shall monitor and evaluate the appropriateness of the investment options offered by the plan. The trustee may remove options if it is deemed to be in the best interest of participants. Following such adoption or removal of investment options by the trustee, participating employees or their beneficiaries shall be entitled to select from among the available options for investment of their deferred amounts. In the event options are removed, the trustee may require employees or their beneficiaries to move balances to an alternative option offered by the plan. If participating employees or their beneficiaries fail to act in response to the written notice, the trustee shall transfer moneys out of the removed option to an alternative option chosen by the trustee (normally placed into a fixed guaranteed account or, if selected as an investment option offered in the plan, a money market fund). By exercising such right to select investment options or by failing to respond to notice to transfer from a removed option where the trustee moves the money on behalf of participating employees or their beneficiaries, participating employees and their beneficiaries agree that none of the plan fiduciaries will be liable for any investment losses or lost investment opportunities that are experienced by participating employees or their beneficiaries in the investment option(s) they select or that are selected for them if they fail to take appropriate action with regard to a removed fund or that may be implemented by the plan administrator in accordance with subrule 15.13(14) of this rule.

c. Designation of fiduciaries. The trustee, the plan administrator, the ASP, and the persons they designate to carry out or help carry out their duties or responsibilities are fiduciaries under the plan. Each fiduciary has only those duties or responsibilities specifically assigned to the fiduciaries under the plan, contractual relationship, trust or as delegated to the fiduciaries by another fiduciary. Each fiduciary may assume that any direction, information or action of another fiduciary is proper and need not inquire into the propriety of any such action, direction or information. No fiduciary will be responsible for the malfeasance, misfeasance or nonfeasance of any other fiduciary, except where the fiduciary participated in such conduct, or knew or should have known of such conduct in the discharge of the fiduciary's duties under subparagraph 15.13(12)"d"(2) below and did not take reasonable steps to compel the cofiduciary to redress the wrong.

d. Fiduciary standards.

(1) All fiduciaries shall discharge their duties with respect to the plan and trust solely in the interest of the participating employees and their beneficiaries. Such duties shall be discharged for the exclusive purpose of providing benefits to the participating employees and beneficiaries and, if determined applicable, defraying expenses of the plan.

(2) The ASP shall discharge its duties with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and as defined by applicable Iowa law.

e. Trustee powers and duties. The trustee may exercise all rights or privileges granted by the provisions of the plan and trust, and may agree to any alteration, modification or amendment of the plan. The trustee may take any action respecting the plan or the benefits provided under the plan which the trustee deems necessary or advisable. Persons dealing with the trustee shall not be required to inquire into

the authority of the trustee with regard to any dealing in connection with the plan. The trustee may employ persons, including attorneys, auditors, investment advisors or agents, even if they are associated with the trustee, to advise or assist, and may act without independent investigation upon their recommendations. Instead of acting personally, the trustee may employ one or more agents to perform any act of administration, whether or not discretionary.

f. Trust exemption. This trust is intended to be exempt from taxation under § 501(a) of the IRC and is intended to comply with § 457(g) of the IRC. The trustee shall be empowered to submit or designate appropriate agents to submit this plan and trust to the IRS for a determination of the eligibility of the plan under IRC § 457, and the exempt status of the trust under IRC § 501(a), if the trustee concludes that such a determination is desirable.

15.13(13) Investment of deferred amounts.

a. The deferred amounts shall be delivered by the employer to the ASP or their designated agent for investment as designated by the participating employee or beneficiary.

b. The ASP, as agent for the trustee, shall use the participating employee's or beneficiary's investment specifications to determine the value of the deferred account maintained with respect to the participating employee, and shall invest the deferred amounts according to such specifications.

c. All interest, dividends, charges for premiums and administrative expenses, as well as changes in value due to market fluctuations applicable to each participating employee's deferred account, shall be credited or debited to the account as they occur.

d. All assets of the plan, including all deferred amounts, property, and rights purchased with deferred amounts, as well as all income attributable to such deferred amounts, property or rights, shall be held in trust in accordance with the provisions of subrule 15.13(12), and shall be held by the trustee (until made available to the participating employee or beneficiary) for the exclusive benefit of the participating employees and their beneficiaries. Contracts and other evidence of the investments of all assets under the plan shall be registered in the name of the employer, who is the owner thereof.

15.13(14) Fund removal/replacement. Based on the plan administrator's review of the recommendation of the ASP, the plan administrator may determine that an investment product offered under the plan is no longer acceptable for inclusion in the program. If the plan administrator decides to remove an investment product from the plan as the result of the product's failure to meet the evaluation criteria established in the request for proposals and thereafter amended according to recommendations from a consultant or the ASP, the product shall be phased out of the plan in a two-phase process over a 12-month period that shall commence January 1 of the year following the plan administrator's decision as follows:

a. Phase 1 of the investment product termination process shall last for six months during which time current participating employees and employees newly enrolling in the plan shall be informed in writing that the terminating investment product does not meet the evaluation criteria and that this investment product is not open to new enrollments.

(1) Any participating employees already deferring to the terminating investment product shall be informed in writing that they need to redirect future deferrals from this product to an alternative investment product offered under the plan by notifying the ASP of their new investment choice.

## PERSONNEL DEPARTMENT[581](cont'd)

(2) At the end of the six-month period, the plan administrator shall instruct the ASP to automatically redirect any participating employee's deferrals that have not been redirected to an alternative investment product from the terminated product into another investment product offered by the plan.

(3) Existing participating employee account balances shall be allowed to remain in the terminating investment product during this period.

b. Phase 2 of the investment product termination process immediately follows the first six-month period and provides an additional six-month period during which time participating employees shall transfer existing balances from the terminating product to another investment product offered under the plan.

(1) If, at the end of the second six-month period, any participating employee has failed to move a remaining account balance from the terminated fund, the plan administrator shall instruct the ASP to automatically move that participating employee's account balance into another designated alternative investment product offered under the plan.

(2) During the phase-out process and at any time prior to the end of Phase 2, the plan administrator may reexamine the performance and recommendations of the terminating investment product to determine if continued plan participation is justified.

**15.13(15)** Absolute safeguards of the employer, trustee, their employees, and agents.

a. The trustee, the plan administrator and the ASP are authorized to resolve any questions of fact necessary to decide the participating employee's rights under this plan. An appeal of a decision of the plan administrator shall be made to the trustee, who shall render a final decision on behalf of the plan.

b. The trustee, the plan administrator and the ASP are authorized to construe the plan and to resolve any ambiguity in the plan and to apply reasonable and fair procedures for the administration of the plan. An appeal of a decision of the plan administrator shall be made to the trustee, who shall render a final decision on behalf of the plan.

c. The participating employee specifically agrees that the employer, the trustee, the plan administrator, or any other employee or agent of the employer, shall not be liable for any loss sustained by the participating employee or the participating employee's beneficiary for the nonperformance of duties, negligence, or any other misconduct of the above-named persons except that this paragraph shall not excuse malicious or wanton misconduct.

d. The trustee, plan administrator, their employees and agents, including the ASP, if in doubt concerning the correctness of their actions in making a payment of a benefit, may suspend the payment until satisfied as to the correctness of the payment or the identity of the person to receive the payment, or until the filing of an administrative appeal under Iowa Code chapter 17A, and thereafter in any state court of competent jurisdiction, a suit in such form as they consider appropriate for a legal determination of the benefits to be paid and the persons to receive them.

e. The employer, the trustee, the plan administrator, their employees and agents are hereby held harmless from all court costs and all claims for the attorneys' fees arising from any action brought by the participating employee, or any beneficiary thereof, under this plan or to enforce their rights under the plan, including any amendments hereof.

f. The ASP shall not be required to participate in any litigation concerning the plan except upon written demand

from the plan administrator or trustee. The ASP may compromise, adjust or effect settlement of litigation when specifically instructed to do so by the plan administrator or trustee.

[Filed Emergency 8/8/97, effective 8/8/97]  
[Published 8/27/97]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/97.

**ARC 7458A****PERSONNEL DEPARTMENT[581]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 97B.15, the Personnel Department hereby amends Chapter 21, "Iowa Public Employees' Retirement System," Iowa Administrative Code.

These amendments include the following:

1. Subrule 21.6(9). Various amendments are made reducing the contribution rates effective July 1, 1997, for the sheriffs, deputy sheriffs, and airport firefighters group, and for the protection occupations group.

2. Subrule 21.11(6). A new paragraph is added requiring mandatory commencement of retirement benefits as IPERS normal form of benefit, option 2 (or the lump sum actuarial equivalent if applicable), for terminated members who have attained the required beginning date under IRC Section 401(a)(9). This change is necessary to protect the plan's tax-qualified status under IRC Section 401(a).

3. Subrule 21.13(10). The current subrule adopted by IPERS relating to the calculation of benefits under the hybrid formula provided under Iowa Code section 97B.49(17) is too incomplete to adequately determine how benefits were actually calculated by IPERS. This subrule is rescinded and a more complete new subrule is adopted.

4. Subrule 21.19(5). The reemployment subrule is amended by adding provisions for signed installment repayment agreements. Provisions are also added permitting a member to request a mid-year suspension of payments to avoid placing the member into a higher tax bracket for amounts which must be repaid and to avoid the need for substantial repayments of amounts received.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable, contrary to public interest, and that these rules should be implemented immediately because the amendments are designed: (1) to protect IPERS' status as a pension plan qualified under Internal Revenue Code of 1986 Section 401(a); (2) to implement legislation that became effective July 1, 1996, and January 1, 1997; (3) to interpret and apply the current provisions of IPERS' governing statute and existing rules in a manner consistent with IPERS' policies and procedures; and (4) to implement new contribution rates effective July 1, 1997.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of the amendments should be waived and the amendments be made effective upon filing with the Administrative Rules Coordinator on August 4, 1997, because the amendments are necessary to implement new law, to implement policies and procedures protective of the system and its members, and to implement new contribution rates, and will give employers and employees adequate notice of changes.

## PERSONNEL DEPARTMENT[581](cont'd)

Iowa Department of Personnel adopted these amendments on July 28, 1997.

These amendments were also published herein under Notice of Intended Action as ARC 7457A to allow for public comment.

These amendments are intended to implement Iowa Code chapter 97B.

These amendments became effective on August 4, 1997.

The following amendments are adopted.

ITEM 1. Amend subrule 21.6(9), paragraphs "b," "c," and "e," as follows:

b. Sheriffs, deputy sheriffs, and airport firefighters, effective July 1, 1996 1997.

(1) Member's rate—6.76 5.64%.

(2) Employer's rate—10.14 8.87%.

c. Members employed in a protection occupation, effective July 1, 1996 1997.

(1) Member's rate—5.95 5.91%.

(2) Employer's rate—8.92 8.45%.

e. Prior special rates are as follows:

(1) Effective July 1, 1992, through June 30, 1993:

1. Sheriffs and deputy sheriffs—member's rate—6.90%; employer's rate—10.34%.

2. Protection occupation—member's rate—5.88%; employer's rate—8.83%.

(2) Effective July 1, 1993, through June 30, 1994:

1. Sheriffs and deputy sheriffs—member's rate—6.92%; employer's rate—10.39%.

2. Protection occupation—member's rate—5.94%; employer's rate—8.91%.

(3) Effective July 1, 1994, through June 30, 1995:

1. Sheriffs, deputy sheriffs, and airport firefighters—member's rate—7.05%; employer's rate—10.58%.

2. Protection occupation—member's rate—6.11%; employer's rate—9.17%.

(4) Effective July 1, 1995, through June 30, 1996:

1. Sheriffs, deputy sheriffs, and airport firefighters—member's rate—6.85%; employer's rate—10.27%.

2. Protection occupation—member's rate—6.01%; employer's rate—9.02%.

(5) Effective July 1, 1996, through June 30, 1997:

1. Sheriffs, deputy sheriffs, and airport firefighters—member's rate—6.76%; employer's rate—10.14%.

2. Protection occupation—member's rate—5.95%; employer's rate—8.92%.

ITEM 2. Amend subrule 21.11(6) as follows:

21.11(6) A member retiring on or after the early retirement or normal retirement date shall submit a written notice to IPERS setting forth the retirement date, provided the date is after the member's last day of service and not before the first day of the sixth calendar month preceding the month in which the notice is filed.

Notwithstanding the foregoing, IPERS shall commence payment of a member's retirement benefit under Iowa Code section 97B.49 (option 2) no later than the "required beginning date" specified under Internal Revenue Code Section 401(a)(9), even if the member has not submitted the appropriate notice. If the lump sum actuarial equivalent of option 2 under Iowa Code section 97B.48(1) could have been elected by the member, payments shall be made in said lump sum rather than as a monthly allowance. The "required beginning date" is defined as the later of: (1) April 1 of the year following the year that the member attains age 70½, or (2) April 1 of the year following the year that the member ac-

*tually terminates all covered and noncovered employment with employers covered under Iowa Code chapter 97B.*

ITEM 3. Amend subrule 21.13(10) as follows:

21.13(10) ~~Hybrid formula for members with regular and special service credit. Hybrid formula for members with more than one type of service credit. Effective July 1, 1996, members having both regular and special service credit (as defined in Iowa Code sections 97B.41(16) and (21)) may elect, in lieu of the benefits otherwise provided under this rule, to have their benefits calculated as described in Iowa Code section 97B.49(17). Increases in the percentage multiplier shall be determined as provided under Iowa Code section 97B.49(17), and only years of service in excess of 30 will apply toward said increase. Members shall not receive credit for special service under this subrule unless the applicable employer and employee contributions for periods of special service have been made.~~ *a. Eligibility. Effective July 1, 1996, members having both regular and special service credit (as defined in Iowa Code sections 97B.41(16) and 97B.41(21)) shall receive the greater of the benefit amount calculated under this subrule, or the benefit amount calculated under the applicable nonhybrid benefit formula.*

*(1) Members who have a combined total of 16 quarters of service may utilize the hybrid formula.*

*(2) Members who have both types of special service under Iowa Code sections 97B.49(16) "a" and "b," but do not have any regular service, may utilize the hybrid formula.*

*(3) The following classes of members are not eligible for the hybrid formula:*

*1. Members who have only regular service credit.*

*2. Members who have 22 years of sheriff/deputy sheriff/airport firefighter service credit (as defined under Iowa Code section 97B.49(16) "b").*

*3. Members who have 25 years of protection occupation service credit (as defined in Iowa Code section 97B.49(16) "d").*

*4. Members who have 30 years of regular service.*

*5. Members with less than 16 total quarters of service.*

*b. Assumptions. IPERS shall utilize the following assumptions in calculating benefits under this subrule.*

*(1) The member's three-year average covered wage shall be determined in the same manner as it is determined for the nonhybrid formulas.*

*(2) Increases in the benefit formula under this subrule shall be determined as provided under Iowa Code section 97B.49(17) "c"(2). The percentage multiplier shall only be increased for total years of service over 30.*

*(3) Years of service shall be utilized as follows:*

*1. Quarters which have two or more occupation class codes shall be credited as the class that has the highest recorded wage for said quarter. A member shall not receive more than one quarter of credit for any calendar quarter, even though more than one type of service credit is recorded for that quarter.*

*2. Quarters shall not be treated as special service quarters unless the applicable employer and employee contributions have been made.*

*c. Years of service fraction not to exceed one.*

*(1) In no event shall a member's years of service fraction under the hybrid formula exceed, in the aggregate, one.*

*(2) If the years of service fraction does, in the aggregate, exceed one, the member's quarters of service credit shall be reduced until the member's years of service equal, in the aggregate, one.*

*(3) Service credit shall first be subtracted from the member's regular service credit and, if necessary, shall next be*

## PERSONNEL DEPARTMENT[581](cont'd)

subtracted from the member's protection occupation service, and sheriff/deputy sheriff/airport firefighter service credit, in that order.

d. *Age reduction.* The portion of the member's benefit calculated under this subrule that is based on the member's regular service shall be subject to a reduction for early retirement in the same manner as is provided for regular service retirements.

e. *Calculations.* A member's benefit under the hybrid formula shall be the sum of the following:

(1) The applicable percentage multiplier divided by 22 times the years of sheriff/deputy sheriff/airport firefighter service credit (if any) times the member's high three-year average covered wage, plus

(2) The applicable percentage multiplier divided by 25 times the years of protection occupation class service credit (if any) times the member's high three-year average covered wage, plus

(3) The applicable percentage multiplier divided by 30 times the years of regular service credit (if any) times the member's high three-year average covered wage minus the applicable age reduction (if any).

If the sum of the percentages obtained by dividing the applicable percentage multiplier by 22, 25, and 30 exceeds the applicable percentage multiplier for that member, the percentage obtained above for each class of service shall be subject to reduction so that the total shall not exceed the member's applicable percentage multiplier in the order specified in paragraph "c," subparagraph (3), of this subrule.

ITEM 4. Amend subrule 21.19(5) as follows:

21.19(5) Beginning on or after July 1, 1996, the retirement allowance of a member subject to reduction pursuant to subrule 21.19(1) shall be reduced as follows.

a. A member's monthly retirement allowance in the next following calendar year shall be reduced by the excess amounts earned in the preceding year divided by the number of months remaining in the following calendar year after the excess amount has been determined. A member may elect to make repayment of the overpayments received in lieu of having the member's monthly benefit reduced. *Elections to make installment payments must be accompanied by a repayment agreement signed by the member and IPERS.* If the monthly amount to be deducted exceeds a member's monthly retirement allowance, the member's monthly allowance shall be withheld in its entirety until the overpayment is recovered. If a member dies and the full amount of overpayments determined under this subrule has not been repaid, the remaining amounts shall be deducted from the payments to be made, if any, to the member's designated beneficiary or contingent annuitant. If the member has selected an option under which there are no remaining amounts to be paid, or the remaining amounts are insufficient, the unrecovered amounts shall be a charge on the member's estate.

b. Employers shall be required to complete IPERS wage reporting forms for reemployed individuals which shall reflect the prior year's wage payments on a month-to-month basis. These reports shall be used by IPERS to determine the amount which must be recovered to offset overpayments in the prior calendar year due to reemployment wages.

c. *A member may elect in writing to have the member's monthly retirement allowance suspended in the month in which the member's remuneration exceeds the amount of remuneration permitted under this rule in lieu of receiving a reduced retirement allowance under paragraph "a" of this subrule. If the member's retirement allowance is not suspended timely, the overpayment will be recovered pursuant*

*to paragraph "a" of this subrule. The member's retirement allowance shall remain suspended until the earlier of January of the following calendar year or the member's termination of covered employment. The member's election shall remain binding until revoked in writing.*

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[Published 8/27/97]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/97.

ARC 7456A

## SECRETARY OF STATE[721]

## Adopted and Filed Emergency

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

In response to comments from the public, the Secretary of State hereby amends rules regarding local election ordinances by rescinding the subrules which provide definitions and procedures for initiative, referenda and the election of officials. These subrules of rules 721—21.30(39) and 721—21.31(39) have been the cause of some controversy. Because the rules were Adopted and Filed Emergency as ARC 7295A in the June 18, 1997, Iowa Administrative Bulletin, they are currently in effect. The rules were also published simultaneously under Notice of Intended Action as ARC 7294A to allow for public comment. In order to allow for additional comment, the Secretary of State is rescinding the controversial subrules of the emergency adopted rules and is extending the comment period on ARC 7294A until August 28, 1997.

In compliance with Iowa Code section 17A.4(2), the Secretary of State finds that additional notice and public participation are impracticable because of the controversy surrounding these rules.

In compliance with Iowa Code section 17A.5(2)"b"(2), the Secretary of State finds that emergency adoption of these amendments confers a benefit on the public by extending the discussion of these controversial procedures without having the rules in effect.

These amendments are intended to implement 1997 Iowa Acts, House File 636, section 1.

These amendments became effective July 30, 1997.

The following amendments are adopted.

ITEM 1. Amend subrule 21.30(1) by rescinding the definitions of "Initiative" and "Referendum."

ITEM 2. Amend rule 721—21.30(39) by rescinding subrules 21.30(4) to 21.30(7).

ITEM 3. Amend subrule 21.31(1) by rescinding the definitions of "Initiative" and "Referendum."

ITEM 4. Amend rule 721—21.31(39) by rescinding subrules 21.31(4) to 21.31(7).

[Filed Emergency 7/30/97, effective 7/30/97]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/97.

## ARC 7468A

## EDUCATION DEPARTMENT[281]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 260C.47 and 260C.48, the Iowa State Board of Education hereby amends Chapter 21, "Community Colleges," Iowa Administrative Code.

The rules establish an accreditation process and provide rules for the accreditation of community colleges.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 4, 1997, as ARC 7256A. A public hearing was held June 26, 1997, at 33 sites across the state via the ICN. The adopted rules are identical to those published under Notice.

These rules were approved during the August 8, 1997, meeting of the State Board of Education.

These rules will become effective October 1, 1997.

These rules are intended to implement Iowa Code sections 260C.47 and 260C.48.

The following rules are adopted.

Amend 281—Chapter 21 by adding the following new rules:

**281—21.10(260C) Accreditation.**

**21.10(1) Purpose.** The purpose of accreditation of Iowa's community colleges is to confirm that each college is offering quality programs and services consistent with state standards.

**21.10(2) Scope.** Each community college is subject to accreditation by the state board of education, as provided in Iowa Code section 260C.47. The state board of education shall grant accreditation if a community college meets the standards established in this chapter.

**21.10(3) Accreditation components.** In order to be accredited by the state board of education and maintain accreditation status, a community college must be accredited by the North Central Association of Colleges and Schools, and meet the additional requirements stated for each component, as follows:

a. Mission and governance.

(1) Have a mission statement which reflects community needs.

(2) Have an organizational structure which reflects the mission of the institution.

(3) Provide broad involvement and participation in the governance of the institution.

1. Provide a current board policy manual, as set forth in subrule 21.2(1).

2. Document that policies are in place, communicated and implemented, as set forth in subrule 21.2(1).

(4) Have policies and procedures which are accessible, revised periodically, are communicated on a regular basis, reflect the needs of the constituencies, and serve as a basis for college operations.

(5) Ensure efforts to make education and services available to all learners, as outlined in Iowa Code subsection 260C.48(3).

(6) Demonstrate awareness and understanding of diverse cultures.

b. Instruction and curriculum.

(1) Utilize criteria for awarding certificates, diplomas, and degrees which include a general education component in

degree and diploma programs, as set forth in subrule 21.2(10).

(2) Meet, to the greatest extent possible, educational opportunities and services, when applicable, but not be limited to:

1. The first two years of college work including preprofessional education.

2. Vocational and technical training.

3. Programs for in-service training and retraining of workers.

4. Programs for high school completion for students of post-high school age.

5. Programs for all students of high school age, who may best serve themselves by enrolling for vocational and technical training, while also enrolled in a local high school, public or private.

6. Programs for students of high school age to provide advanced college placement courses not taught at a student's high school while the student is also enrolled in the high school.

7. Student personnel services.

8. Community services.

9. Vocational education for persons who have academic, socioeconomic, or other disabilities which prevent succeeding in regular vocational education programs.

10. Training, retraining, and all necessary preparation for productive employment of all citizens.

11. Vocational and technical training for persons who are not enrolled in a high school and who have not completed high school.

12. Developmental education for persons who are academically or personally underprepared to succeed in their program of study, as set forth in Iowa Code section 260C.1.

(3) Provide learning resource services which support the instructional and informational needs of the students, staff, college, and community, as set forth in rule 21.5(260C).

(4) Provide educational services which are responsive to the needs of individuals, business, industry, labor, and community.

(5) Have an articulation process with secondary and post-secondary educational institutions.

c. Student support systems and services.

(1) Provide a catalog which shall be the official publication of the community college, as set forth in subrule 21.2(7).

(2) Follow a defined process for developing and maintaining educational programs, including assessing student academic achievement.

(3) Maintain accurate, confidential, and accessible student records, as set forth in subrule 21.2(11).

(4) Provide services which address recruitment, admissions, assessment/placement, advisement, orientation, financial assistance, counseling, records retention, and student activities which are responsive to the needs and expectations of students.

(5) Provide a student-centered environment.

(6) Provide curricular support services through counseling, academic advisement, and placement transition assistance based on identified student needs.

d. Administration and human resources.

(1) Demonstrate ethical practices in both internal and external relationships.

(2) Utilize a comprehensive, ongoing strategic planning process in which staff analyze and evaluate data and information for continued institutional effectiveness.

(3) Demonstrate effective internal and external communications.

## EDUCATION DEPARTMENT[281](cont'd)

(4) Employ qualified and appropriately licensed personnel, as set forth in rule 21.3(260C).

(5) Identify needs and provide opportunities for staff development.

e. Finances and facilities.

(1) Organize financial resources to support its offerings and services.

(2) Provide physical resources and appropriate technologies to support its offerings and services, as set forth in rule 21.6(260C).

**281—21.11(260C) Community college accreditation process.**

**21.11(1) Components.** The community college accreditation process shall include two components as follows:

a. Each community college shall submit required data to be monitored on an annual basis by the department of education for compliance with program evaluation requirements adopted by the state board of education.

b. The department of education shall conduct an on-site comprehensive evaluation of each community college during the same year as the evaluation by the North Central Association of Colleges and Schools. The department of education shall conduct an interim evaluation midway between comprehensive evaluations. The comprehensive evaluation will be conducted no less than once each ten-year period, and the interim evaluation will be conducted five years following each comprehensive evaluation.

**21.11(2) Accreditation team.** The size and composition of the accreditation team shall be determined by the director, but the team shall include members of the department of education staff and staff members from community colleges other than the community college being evaluated for accreditation.

**21.11(3) Accreditation team action.** After a visit to a community college, the accreditation team shall determine whether the accreditation standards have been met and shall make a report to the director and the state board of education, together with a recommendation as to whether the community college should remain accredited. The accreditation team shall report strengths and weaknesses, if any, for each standard and shall advise the community college of available resources and technical assistance to further enhance strengths and improve areas of weakness. A community college may respond to the accreditation team's report.

**21.11(4) State board of education consideration of accreditation.** All community colleges shall be deemed accredited on October 1, 1997. The state board of education shall determine whether a community college shall remain accredited. Approval of a community college by the state board of education shall be based on the recommendation of the director of the department of education after study of the factual and evaluative evidence on record pursuant to the standards described in this chapter, and based upon the timely submission of information required by the department of education in a format provided by the department of education.

a. Accreditation granted. Continuation of accreditation, if granted, shall be for a term of ten years; however, approval for a lesser term may be granted by the state board of education if it determines conditions so warrant.

b. Accreditation denied or conditional accreditation. If the state board of education denies accreditation or grants conditional accreditation, the director of the department of education, in cooperation with the board of directors of the community college, shall establish a plan prescribing the procedures that must be taken to correct deficiencies in

meeting the standards and shall establish a deadline for correction of the deficiencies. The deadline for correction of deficiencies under a plan shall be no later than June 30 of the year following the on-site visit of the accreditation team. The plan is subject to approval of the state board of education. Plans shall include components which address correcting deficiencies, sharing or merger options, discontinuance of specific programs or courses of study, and any other options proposed by the state board of education or the accreditation team to allow the college to meet the standards.

c. Implementation of plan. During the time specified in the plan for its implementation, the community college remains accredited. The accreditation team shall revisit the community college and shall determine whether the deficiencies in the standards have been corrected and shall make a report and recommendation to the director and the state board of education. The state board of education shall review the report and recommendation, may request additional information, and shall determine whether the deficiencies have been corrected.

d. Removal of accreditation. The director shall give a community college which fails to meet accreditation standards at least one year's notice prior to removal of accreditation. The notice shall be given by certified mail or restricted certified mail addressed to the chief executive officer of the community college and shall specify the reasons for removal of accreditation. The notice shall also be sent to each member of the board of directors of the community college. If, during the year, the community college remedies the reasons for removal of accreditation and satisfies the director that the community college will comply with the accreditation standards in the future, the director shall continue the accreditation and shall transmit notice of the action to the community college by certified mail or restricted certified mail.

e. Failure to correct deficiencies. If the deficiencies have not been corrected in a program of a community college, the community college board shall take one of the following actions within 60 days from removal of accreditation:

(1) Merge the deficient program or programs with a program or programs from another accredited community college.

(2) Contract with another educational institution for purposes of program delivery at the community college.

(3) Discontinue the program or programs which have been identified as deficient.

f. Appeal process provided. The action of the director to remove a community college's accreditation may be appealed to the state board of education as provided in Iowa Code subsection 260C.47(7).

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ARC 7467A

ARC 7465A

EDUCATION DEPARTMENT[281]

EDUCATION DEPARTMENT[281]

Adopted and Filed

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 36, "Extracurricular Interscholastic Competition," Iowa Administrative Code.

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts Chapter 72, "Accreditation of Area Education Agency Programs and Services," Iowa Administrative Code.

This amendment revises a rule that prohibited students from participating on a nonschool team during a sport season if the student was participating on the school team. Under the amendment, such a decision would be made by the local school board.

The chapter provides rules for the accreditation of area education agency programs and services by the State Board of Education.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 4, 1997, as ARC 7255A. There are no substantive changes from the Notice of Intended Action.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 1997, as ARC 7216A. Three public hearings were held. No opposition to the area education accreditation rules was received; however, concern was expressed that social studies was not included as one of the required curriculum areas. The adopted amendments are identical to those published under Notice.

A public hearing was held on June 30, 1997. Two comments by representatives of the Iowa High School Athletic Association and the Iowa Girls' Athletic Union in favor of the rule were received. Four public comments in opposition to the rule were received. Three written comments were received, all in opposition to the rule.

This new chapter was adopted by the State Board of Education on August 7, 1997.

This chapter will become effective October 1, 1997.

This amendment is intended to implement Iowa Code section 256.46.

This chapter is intended to implement Iowa Code sections 273.10 and 273.11.

This amendment will become effective October 1, 1997. The following amendment is adopted.

The following new chapter is adopted.

CHAPTER 72

ACCREDITATION OF AREA EDUCATION AGENCY PROGRAMS AND SERVICES

Amend subrule 36.15(7) as follows:

~~36.15(7) Nonschool team participation. A student who is participating in a sport sponsored by a governing organization may not participate in that sport as a member of a team or as an individual or as a member of a team in an outside school event or on a nonschool team during the same season during the school year, except as provided below. At the conclusion of the school sport season, that is, when a school is eliminated from tournament play, a student may then participate on a nonschool team without jeopardizing eligibility during the same season unless allowed by school board policy.~~

**281—72.1(273) Scope.** The purpose of Iowa's early childhood through twelfth grade educational system is to support learning for all students. Area education agencies, as part of that system, exist to provide school improvement leadership and services to schools and school districts in order to enable every learner to perform at higher education levels. The programs and services of an area education agency are subject to accreditation by the state board of education as specified in Iowa Code section 273.10. These rules apply to the accreditation of area education agency programs and services.

~~a.—Exceptions. Notwithstanding subrule 36.15(7), a student may participate in one tennis tournament sponsored by the United States Tennis Association during the Easter holiday period, on a nonschool softball, baseball, or swimming team sponsored by other than a registered governing organization while also participating in the same sport for the school but only with the permission of the school administration.~~

**281—72.2(273) Definitions.**

"AEA" is an acronym for area education agency.

"Board" means the Iowa state board of education.

"Department" means the state department of education.

"Director" means the state director of the department of education.

~~Nothing in subrule 36.15(7) is to be construed to prohibit a student from participating in events including but not limited to the Iowa Games or from trying out for the United States Olympic team. A student athlete who desires to participate in these or similar events may compete with the knowledge and consent of the applicable governing organization.~~

"Schools" means accredited public and nonpublic schools located within the boundaries of an area education agency in accord with Iowa Code chapter 273.

~~b.—Penalty. A student who participates in a sport in violation of this subrule shall be ineligible to participate on a school-sponsored team in that sport for 12 calendar months.~~

**281—72.3(273) Accreditation components.** To be accredited by the board and maintain accreditation status, an AEA shall have an approved three-year comprehensive plan, an approved annual budget and plan update, and approved programs and services following a comprehensive on-site review.

**281—72.4(273) Standards.** These standards list the requirements for the educational, special education, and media services provided by an AEA. The following standards shall be used to accredit AEA programs and services.

**72.4(1) General.** The AEA's programs and services provide leadership in the area of school improvement, support proven or emerging educational practices, and are designed to enhance the learning opportunities of students.

a. The programs and services are:

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## EDUCATION DEPARTMENT[281](cont'd)

(1) Accessible to all accredited public and nonpublic schools located within the AEA's boundaries in accord with Iowa Code chapter 273.

(2) Coordinated with other agencies, such as postsecondary institutions, community services, other AEAs, and schools.

b. The AEA may use consultation, information retrieval and dissemination, and continuing education and other processes to deliver programs and services.

c. The programs and services may be delivered directly, through contractual agreements, and through collaborative arrangements with other educational or community agencies.

**72.4(2) School-community planning.** The AEA provides programs and services that support and facilitate school-community planning. These programs and services include, but are not limited to:

a. Methods and processes which assist schools in conducting needs assessment, determining the major educational needs of students, developing long-range goals, establishing and implementing plans to meet the goals, and evaluating and reporting progress to the public.

b. Creating collaborative relationships with other community agencies to provide services to students and families.

**72.4(3) Professional development.** The AEA provides programs and services which facilitate professional growth of instructional, administrative and support personnel. These programs and services develop skills, techniques, knowledge, and understanding of educational research and best practice, and model best practices in professional and organizational development. The programs and services support school improvement processes and practices, provide for the development of leadership in education, and address professional development activities as required by Iowa Code or administrative rule.

**72.4(4) Curriculum.** The AEA's programs and services support and facilitate curriculum development, instruction, and assessment in the areas of reading, language arts, mathematics and science. These programs and services advance research-based methodologies and include, but are not limited to, providing assistance and training in the following:

a. Collection and analysis of student achievement data.

b. Establishment of rigorous and meaningful standards in reading, language arts, mathematics and science.

c. Development of a knowledge base of best practices in the areas of reading, language arts, mathematics and science.

d. Application of appropriate and effective instructional practices and content expertise for reading, language arts, mathematics and science, including the integration and application of knowledge and skills in applied learning, and which address the diverse learning needs of students.

e. Use of qualitative and quantitative assessment techniques and activities for reading, language arts, mathematics and science.

f. Application of curriculum development processes.

g. Integration of technology.

h. Application of curriculum development processes, standard setting, and assessment practices to other curricular areas.

**72.4(5) Special education.** The AEA provides services that support and assist schools in the provision of a free, appropriate education and full educational opportunity to children, between birth and the age of 21 and to the maximum allowable age in accord with Iowa Code section 256B.8, who require special education. These services include the following:

a. Implementation of a process to identify students who require special education that meets all the requirements of 281—Chapter 41, Division VII.

b. Provision of support services and itinerant services and, as required by Iowa Code, administrative rule, or contract, other services described in 281—Chapter 41, Division IX, and in accordance with the least restrictive environment provisions of 281—Chapter 41, Division VI.

c. Implementation of procedures for developing, reviewing and revising individualized education programs that meet all the requirements of 281—Chapter 41, Division VIII.

d. Implementation of a process for evaluating the effectiveness of special education services.

e. Implementation of policies and procedures in accordance with the provisions of rules 281—41.18(256B,273,34CFR300) and 281—41.22(256B,273,34CFR300).

f. Provision of professional development opportunities consistent with the requirements of rule 281—41.20(256B,34CFR300).

g. Integration of special education and related services with other AEA programs and services, including a process that facilitates school district efforts in evaluating the effectiveness of special education services.

h. Process for monitoring of school district compliance with the provisions of all federal and state statutes, regulations and rules applicable to the provision of special education at least once every three years as described in 281—subrule 41.18(4).

**72.4(6) Instructional media services.** The AEA's programs and services supplement and support the media centers and services of schools. These programs and services include, but are not limited to:

a. Consultation that provides awareness of, information about, and guidance for materials use, technology integration and use, facilities planning, collection development, media management, hardware and curriculum support.

b. Delivery of information and resources both physically and electronically.

c. Information services which include educational or education-related research, information retrieval, and electronic distribution.

d. Instructional resources which provide print, nonprint and electronic resources that support professional development, and teaching and learning through provision of a lending library, cooperative buying, preview capabilities, and duplication and distribution.

e. Producing, duplicating, and preparing materials to include publishing, production of instructional materials, production of educational support materials, and teacher production and work area.

**72.4(7) School technology.** The AEA has a technology plan that is based on the needs of the schools served and includes collaborative partnerships with schools and other AEAs in the provision of technology support, products and services. The AEA's technology services supplement and support school improvement efforts and include, but are not limited to:

a. Consultation and technical services that focus on technology plan development, technology and learning, advancements in technology, technology infrastructure requirements and design, and technology resource requirements.

b. Professional development that emphasizes training in the general uses of technology, the integration of technology

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with curriculum, instruction and assessment practices, and the use of technology as a professional productivity tool.

**281—72.5(273) Discretionary programs and services.** The following programs and services are not required of an AEA, but may be provided as requested by schools. These may include, but are not limited to, areas of management, organizational culture and climate, early childhood, career preparation and other curriculum areas such as social studies, languages, fine and performing arts, and physical education.

**281—72.6 Reserved.**

**281—72.7(273) Indicators of quality.** The department shall use the following indicators of quality in evaluating an AEA's programs and services. The department, in cooperation with the AEAs, shall determine and periodically update appropriate methods and criteria to document progress.

1. The programs and services address specific student, teacher and school needs evidenced in local school improvement plans.

2. The programs and services assist schools in improving student learning evidenced through student performance.

3. The programs and services assist schools in improving teaching evidenced through the adoption or application of practices, strategies, and information.

4. The programs and services are cost-efficient and timely.

5. Levels of use and quality measures are used to determine customer satisfaction with programs and services.

**281—72.8 Reserved.**

**281—72.9(273) Comprehensive plan.** Each AEA, using forms provided by the department, shall submit to the department a comprehensive plan describing its programs and services.

**72.9(1) Plan contents.** At a minimum, the three-year comprehensive plan for an AEA shall include:

a. A summary of results from needs assessments conducted to collect input from schools which help determine appropriate programs and services.

b. A description of the agency's programs and services, including how the programs and services align with school improvement plans.

c. A description of the organizational structure that supports the efficiency and effectiveness of services.

d. A description of how the agency addresses and supports multicultural, nonsexist approaches and the diverse educational needs of students.

e. A description of the intended results.

f. A description of the implementation of the plan, including personnel, budget, collaborative efforts with other agencies, and the method of service delivery for each intended result.

g. A description of the evaluation system.

**72.9(2) Plan submission and cycle.** In order to provide a three-year approval cycle, each AEA will submit a plan by January 1, 1998, for the period July 1 through June 30, according to this schedule:

a. Five AEAs, identified by the department, will submit a plan for a two-year period and for a three-year period thereafter.

b. Five AEAs, identified by the department, will submit a plan for a three-year period and for a three-year period thereafter.

c. Five AEAs, identified by the department, will submit a plan for a four-year period and for a three-year period thereafter.

**72.9(3) Approval process.**

a. The comprehensive plan of an AEA shall be reviewed by a team of department staff members appointed by the director. Following the review of an AEA's plan, the team shall recommend to the director whether the plan meets the requirements of this chapter. The AEA shall be provided with the opportunity to respond to the review team's report.

b. The director shall present the review team's findings and recommend action by the board. The board shall determine whether an AEA's comprehensive plan is approved. A plan may be approved in part and subject to the remedying of deficiencies or omissions.

**281—72.10(273) Annual budget and plan update.** Each AEA shall submit to the board an annual budget as required by Iowa Code section 273.3 and a progress report on the agency's three-year plan.

**72.10(1) Annual budget.** An annual budget shall be submitted to the board, on forms provided by the department, no later than March 15 preceding the next fiscal year for approval. The board shall review the proposed budget and agency plan and shall, before April 1, either grant approval or return the budget without approval with comments of the board included. An unapproved budget shall be resubmitted to the board for final approval no later than April 15. For the fiscal year beginning July 1, 1999, and each succeeding fiscal year, the board shall give final approval only to budgets:

a. Submitted by an AEA accredited by the board or that have been given conditional accreditation by the board as described in Iowa Code section 273.3(12) and subrule 72.7(4).

b. That demonstrate support for the agency comprehensive plan and yearly update.

**72.10(2) Plan update.** An AEA shall submit with its annual budget a written progress report on the agency's three-year plan on forms provided by the department. The report shall identify the agency's progress on the plan's intended results and any changes or modifications to the plan in response to the agency's ongoing monitoring of progress. The report shall be reviewed by a team of department staff members appointed by the director of the department. The review team shall report to the director its findings and recommendation regarding approval of the report. The AEA shall be provided with the opportunity to respond to the review team's report. The director shall present the review team's findings to the board and recommend action by the board. The board shall determine whether an AEA's annual report is approved. An annual report may be approved in part and subject to the remedying of deficiencies or omissions.

**281—72.11(273) Site review.**

**72.11(1) On-site review.** An accreditation team shall conduct one or more on-site reviews of the AEA for evaluation of its programs and services. Prior to an on-site review of an AEA, the accreditation team shall have access to the AEA's three-year plan and annual plan updates as well as any other information collected by the department relating to the AEA.

**72.11(2) Accreditation team.** The membership of the accreditation team shall be determined by the director. Each team member should have appropriate competencies, background, and experiences to enable the member to contribute to the evaluation visit. The team shall include at least four members, but not more than seven members. The team shall include, but is not limited to:

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- a. Department staff members.
- b. Representatives from large and small schools served by the AEA being evaluated.
- c. AEA staff members from AEAs other than the AEA that is being evaluated for accreditation.
- d. Other members with expertise as deemed appropriate by the director.

72.11(3) Accreditation team action. After an on-site review of an AEA, the accreditation team shall determine whether the requirements of this chapter have been met and shall make a report to the director with a recommendation as to whether the AEA program should receive initial accreditation or remain accredited. The accreditation team shall report strengths and weaknesses, if any, for each accreditation standard, and shall advise the AEA of available resources and technical assistance to further enhance the strengths and improve areas of weakness. An AEA may respond to the accreditation team's report.

72.11(4) State board consideration of accreditation. All AEAs shall be deemed accredited upon the date of implementation of these rules. The board shall determine whether an AEA's programs and services shall remain accredited. Approval of an AEA's programs and services by the board shall be based on the recommendation of the director after study of the factual and evaluative evidence on record about the standards as described in this chapter and based upon the timely submission of information required by the department on forms provided by the department.

a. Accreditation granted. Continuation of accreditation, if granted, shall be for a term of three years; however, approval for a lesser term may be granted by the board if it determines conditions so warrant.

b. Accreditation denied or conditional accreditation. If the board denies accreditation or grants conditional accreditation, the department shall notify the administrator of the AEA, each member of the board of directors of the AEA, and the schools served by the AEA within 15 days. The notice shall contain a description of the areas in which improvement or changes are essential for approval. The AEA shall be given the opportunity to present factual information concerning its services at the next regularly scheduled meeting of the board.

c. Remediation plan. Upon denial of accreditation or the granting of conditional accreditation by the board, the director, in cooperation with the board of directors of the AEA, shall establish a remediation plan. The remediation plan shall describe how the AEA will correct deficiencies to meet accreditation standards and shall establish a timeline and deadline date for correction of the deficiencies. The remediation plan is subject to the approval of the board. Upon approval by the board, the AEA shall send copies of the remediation plan to the schools served by the AEA. The AEA shall remain accredited during the implementation of the remediation plan.

d. Implementation of remediation plan. At intervals prescribed in the remediation plan or at the request of the director, the accreditation team shall revisit the AEA and shall determine whether the deficiencies in the accreditation standards are being or have been corrected and shall make a report and recommendation to the director and the board. The board shall review this report and recommendations and shall determine whether the deficiencies have been corrected.

e. Failure to correct deficiencies. If the deficiencies have not been corrected within the time stipulated in the remediation plan, the board shall remove accreditation of the deficient programs and services. At the hearing before the

board, the AEA may be represented by counsel and may present evidence. The board may provide for the hearing to be recorded or reported. If requested by the AEA at least ten days before the hearing, the board shall provide for the hearing to be recorded or reported at the expense of the AEA. Within 30 days after the hearing, the board shall render a written decision approving or removing the accreditation. Action by the board at this time is final agency action for the purposes of Iowa Code chapter 17A. The department shall notify the administrator of the AEA, each member of the board of directors of the AEA, and the schools served by the AEA of the decision of the board.

f. Required response to removal of accreditation. The AEA board of directors shall take one of the following actions within 60 days after removal of accreditation:

(1) Merge the deficient programs and services with another accredited and contiguous AEA.

(2) Contract with another accredited and contiguous AEA or other public educational institution to provide the required programs and services.

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ARC 7472A

## PROFESSIONAL LICENSURE DIVISION[645]

### PHYSICAL AND OCCUPATIONAL THERAPY EXAMINERS

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Physical and Occupational Therapy Examiners hereby amends Chapter 200, "Physical Therapy Examiners," and Chapter 202, "Physical Therapist Assistants," Iowa Administrative Code.

The amendments eliminate temporary approval of applicants, add new language regarding applicant physical therapists who fail the examination, and clarify requirements for licensure by endorsement for physical therapist assistants.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 21, 1997, as ARC 7248A.

No public comments were received. The amendments are identical to those published under Notice of Intended Action.

The amendments were adopted by the Board on August 1, 1997.

The amendments are intended to implement Iowa Code section 147.76 and chapter 148A.

These amendments will become effective October 1, 1997.

The following amendments are adopted.

ITEM 1. Rescind and reserve subrule 200.2(7).

ITEM 2. Amend subrule 200.20(8), paragraph "a," as follows:

a. Applicant physical therapist. A person who has made application for licensure and is awaiting board action may practice only under the supervision of a licensed physical therapist for a period not to exceed six months in the case of licensure by examination and three months for licensure by

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

endorsement. During this time the applicant may evaluate, plan treatment programs, and provide periodic reevaluation only under "on-site" supervision of a licensed physical therapist who shall bear full responsibility for care provided under their supervision and cosign all physical therapy records. *A person who has failed the examination in any state, territory, or country shall not practice as an applicant physical therapist.*

ITEM 3. Rescind and reserve subrule 202.2(7).

ITEM 4. Amend subrule 202.4(3), introductory paragraph, as follows:

**202.4(3)** An applicant for licensure by interstate endorsement shall *have successfully completed a course of study for the physical therapist assistant accredited by the commission on accreditation in education of the American Physical Therapy Association, or another appropriate accrediting body, and have passed an examination administered by the board of physical and occupational therapy examiners, and:*

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## ARC 7459A

REVENUE AND FINANCE  
DEPARTMENT[701]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 450.3, the Iowa Department of Revenue and Finance hereby adopts amendments to Chapter 86, "Inheritance Tax," Iowa Administrative Code.

Notice of Intended Action was published in IAB, Volume XX, Number 1, on July 2, 1997, page 36, as ARC 7339A.

The amendments implement 1997 Iowa Acts, Senate File 35, and 1997 Iowa Acts, House File 266. Senate File 35 provides that for estates with decedents dying on or after July 1, 1997, inheritance tax is not imposed on any share of a decedent's estate that passes to the decedent's lineal ascendants, lineal descendants, children, and stepchildren. However, an Iowa inheritance tax return is required to be filed and such estates may have an Iowa estate tax obligation. For decedents dying on or after July 1, 1997, a lien for inheritance tax is not imposed on any share of a decedent's estate that passes to the decedent's lineal ascendants, lineal descendants, children, and stepchildren.

1997 Iowa Acts, House File 266, effective July 1, 1997, provides that property of a trust can be divided into two or more trusts or consolidated from one or more separate trusts to a single trust with the division being in cash or in kind, including in undivided interests by pro-rata or non-pro-rata division, or any combination thereof.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective October 1, 1997, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code sections 450.7, 450.9, 450.10, 633.699, and 633.703A.

The following amendments are adopted.

ITEM 1. Amend subrule 86.2(2) by adding the following new paragraph "d":

d. Estates of decedents dying on or after July 1, 1997. In addition to what is set forth in paragraph "c," effective for estates of decedents dying on or after July 1, 1997, Iowa inheritance tax is not imposed when a parent, grandparent, great-grandparent, or any other lineal ascendant, child (including any legally adopted child and biological child entitled to inherit under the laws of this state), stepchild, grandchild, great-grandchild, or any other lineal descendant succeeds to property in the estate. However, an Iowa inheritance tax return is required to be filed with the department of revenue and finance. Despite the fact that Iowa inheritance tax may not be due, a qualifying estate may have an Iowa estate tax obligation.

ITEM 2. Amend rule 701—86.2(450), implementation clause, as follows:

This rule is intended to implement Iowa Code sections 421.14, 450.5, 450.6, 450.9 *as amended by 1997 Iowa Acts, Senate File 35*, 450.22 *as amended by 1989 Iowa Acts, Senate File 154*, section 36, 450.44, 450.46, 450.47, 450.51, 450.52, 450.53, 450.63, and 450.94.

ITEM 3. Amend rule 701—86.5(450) by adding the following new subrule and amend the implementation clause as follows:

**86.5(13)** Distribution of trust property. Property of a trust can be divided into two or more trusts, or one or more separate trusts can be consolidated with one or more other trusts into a single trust by dividing the property in cash or in kind, including in undivided interests, by pro-rata or non-pro-rata division or in any combination thereof. Division of property between trusts in this manner does not result in a "sale" of the divided property and a corresponding taxable gain.

This rule is intended to implement Iowa Code sections 422.7(4), 450.2, 450.3, 450.4(5), 450.8, 450.12, 450.37, and 450.91, 633.699, and 633.703A *as amended by 1997 Iowa Acts, House File 266*.

ITEM 4. Amend rule 701—86.13(450) and the implementation clause as follows:

**701—86.13(450)** No lien on the surviving spouse's share of the estate. Effective for estates of decedents dying on or after January 1, 1988, no inheritance tax lien is imposed on the share of the decedent's estate passing to the surviving spouse. *In addition, effective for estates of decedents dying on or after July 1, 1997, no inheritance tax lien is imposed on the share of the decedent's estate passing to the decedent's parents, grandparents, great-grandparents, and other lineal ascendants, children (including legally adopted children and biological children entitled to inherit under the laws of this state), grandchildren, great-grandchildren, and other lineal descendants and stepchildren.*

This rule is intended to implement Iowa Code sections 450.7(1) and 450.12 *as amended by 1997 Iowa Acts, Senate File 35*.

[Filed 8/6/97, effective 10/1/97]

[Published 8/27/97]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/97.

## ARC 7460A

REVENUE AND FINANCE  
DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14, 421.68, and 422B.9, the Iowa Department of Revenue and Finance hereby adopts amendments to Chapter 107, "Local Option Sales and Service Tax," Iowa Administrative Code.

Notice of Intended Action was published in IAB, Volume XX, Number 1, on July 2, 1997, page 37, as ARC 7338A.

The amendments implement 1997 Iowa Acts, House File 729, which provides that effective July 1, 1997, the Director of Revenue and Finance shall remit local option tax estimates each month of the tax moneys each city or county will receive for each month and for the year. This amendment also provides that the director shall remit 95 percent of the estimated local option tax receipts to the city or county on or before August 31 of the fiscal year and the last day of each month thereafter. The director shall remit final payment of the tax money to the city or county for the fiscal year before November 10 of the next fiscal year. This amendment also clarifies that the frequency of deposits and quarterly reports of local option tax with the Department of Revenue and Finance is governed by Iowa Code section 422.52 and the local tax collections shall not be included in computation of the total tax to determine frequency of filing under this Iowa Code provision.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective October 1, 1997, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code section 422B.9 and 422B.10.

The following amendments are adopted.

ITEM 1. Amend rule 701—107.2(422B) as follows:

**701—107.2(422B) Local option sales and service tax.** Only a county may impose a tax upon the gross receipts of sales of tangible personal property sold within the county and upon the gross receipts from services rendered, furnished, or performed within the county. The local option sales and service tax may not be imposed by a city except under the circumstances described in rule 107.14(422B). However, the tax may be imposed by a county for transactions in a specified city. The tax may not be imposed on any transaction not subject to state sales tax. Consequently, there is no local option use tax. The local sales and service tax may be imposed at any rate of not more than 1 percent. See rule 701—14.2(422,423) for a tax table setting out the combined rate for a state sales tax of 5 percent and a local sales tax of 1 percent. *Frequency of deposit and quarterly reports of local option tax with the department of revenue and finance is governed by the retail sales tax provisions found in Iowa Code section 422.52. Local option tax collections shall not be included in the computation of the total tax to determine the frequency of filing under Iowa Code section 422.52.*

The local option sales and service tax can be imposed upon the unincorporated area of any county only if a majority of those voting in the area favor its imposition. The tax can be imposed upon any incorporated area within a county only if a majority of those voting in that area favor its imposition. All cities within a county contiguous to each other must

be treated as part of one incorporated area and tax can be imposed in such an incorporated area only if the majority of persons voting in the total area covered by the contiguous cities favor imposition of the tax. For the purposes of this rule, the local option sales and service tax can only be imposed in those areas specified in the ordinance of a county board of supervisors which imposes the tax.

*This rule is intended to implement Iowa Code sections 422B.1 and 422B.9 as amended by 1997 Iowa Acts, House File 729.*

ITEM 2. Amend rule 701—107.10(422B), introductory paragraph, and the implementation clause as follows:

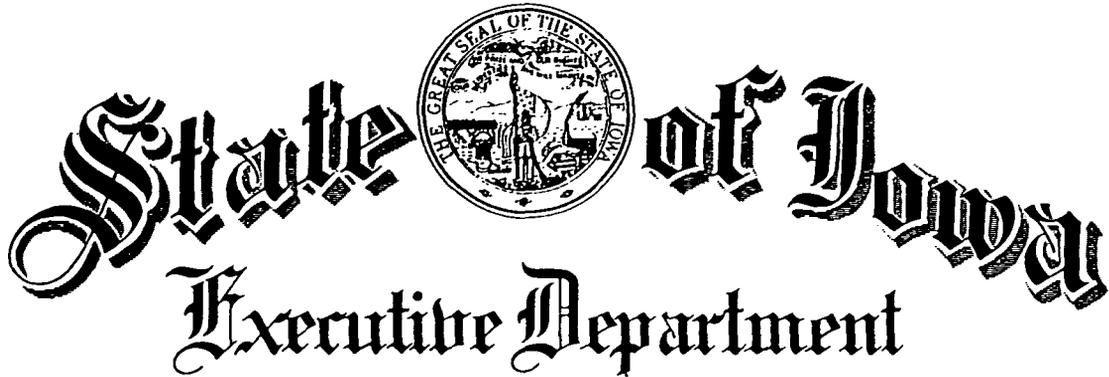
**701—107.10(422B) Local option sales and service tax payments to local governments.** *For periods after July 1, 1997, when a local sales and service tax is imposed, the director of revenue and finance within 15 days of the beginning of each fiscal year shall send to each city or county where the local option tax is imposed, an estimate of the tax moneys each city or county will receive for the year and for each month of the year. At the end of each month, the director may revise the estimates for the year and remaining months. The director shall remit 90 percent of the estimated monthly tax receipts for the city or county to the city or county on or before August 31 of the fiscal year and the last day of each month thereafter. ~~after the end of each quarter no later than the following dates: November 10, February 10, May 10, and August 10.~~ The director shall remit a final payment of the remainder of tax money due to the city or county for the fiscal year before November 10 of the due date for the payment of the first quarter of the next fiscal year. If an overpayment has resulted during the previous fiscal year, the first payment of the new fiscal year shall be adjusted to reflect any overpayment. The shares are to be remitted to the board of supervisors if the tax is imposed in the unincorporated areas of the county, and to each city where the tax is imposed.*

Rule 107.10(422B) is intended to implement Iowa Code section 422B.10 as amended by 1997 Iowa Acts, House File 729.

[Filed 8/6/97, effective 10/1/97]

[Published 8/27/97]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/27/97.



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

### EXECUTIVE ORDER NUMBER 61

- WHEREAS,** information technology is a vital asset to state government operations and to the public that state government serves; and
- WHEREAS,** the implementation of progressive public policies places an increasing reliance upon information technology services by state agencies and other governmental entities; and
- WHEREAS,** electronic methods for locating, processing, and transferring information are essential linkages between and among citizens, organizations, businesses, state agencies and other governmental entities; and
- WHEREAS,** the continuing development and implementation of information technology expands citizen access to government information and improves government services; and
- WHEREAS,** information technology must be managed with great care to meet the objectives of the citizens and their government.
- NOW, THEREFORE,** I, Terry E. Branstad, Governor of the State of Iowa, by the virtue of the authority vested in me by the Laws and Constitution of the State of Iowa, to support state agencies in the development, storage, retrieval, and management of information in electronic formats and to foster and enhance the cost-effective delivery of services to our citizens, do hereby order that:
- I. The authority to coordinate disparate information technology and to provide enterprise-wide information technology services to the executive branch agencies shall be vested in the Information Technology Services (ITS) director appointed by the Governor.

- II. The director shall be responsible for the coordination of information technology among the executive branch agencies to ensure that the components of information technology are compatible.
- III. The director shall, in collaboration with the executive branch agencies, develop, implement, and continuously update as necessary, enterprise-wide standards and policies for information technology.
- IV. The director, representing the executive branch, may, in collaboration with the information technology representatives from the legislative and judicial branches, develop and implement enterprise-wide policies for information technology which, when implemented, will ensure the compatibility and interoperability of state government information technology systems.
- V. The director shall, with the assistance and cooperation of the executive branch agencies, prepare and continuously update as necessary an enterprise-wide strategic information technology plan, developed in accordance with standards and policies established by ITS, which establishes enterprise-wide goals and objectives for the use of information technology, including goals for data integration, interactive communications, and electronic access to government records, information, and services.
- VI. The director shall compile and maintain an inventory of information technologies in use by the executive branch agencies.



**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 15th day of July in the year of our Lord one thousand nine hundred and ninety-seven.

*Tom E. Branstad*  
 \_\_\_\_\_  
 GOVERNOR

**ATTEST:**

*Paul P. Pate*  
 \_\_\_\_\_  
 SECRETARY OF STATE



# State of Iowa

## Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

PROCLAMATION OF EMERGENCY

WHEREAS, a 65 year old woman from near Algona wandered away from the county care facility on Friday, August 1, 1997; and

WHEREAS, forecasts for severe weather and increased summer ground cover make it imperative that the individual be located as quickly as possible; and

WHEREAS, state assistance has been requested by the Kossuth County authorities and is necessary for services beyond local resources in locating the missing woman;

NOW, THEREFORE, I, Terry E. Branstad, Governor of the state of Iowa, do hereby proclaim a state of disaster emergency for Kossuth County for the aforementioned reasons and call upon the citizens and agencies of local and state government to render good and sufficient aid to assist the Kossuth County Sheriff's Office and the County Emergency Management Agency in their time of need.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 1st day of August in the year of our Lord one thousand nine hundred and ninety-seven.

*Terry E. Branstad*  
 GOVERNOR

ATTEST:  
*Paul D. Pate*  
 SECRETARY OF STATE

**\*SUMMARY OF OPINIONS OF THE ATTORNEY GENERAL****THOMAS J. MILLER****April through June, 1997****COUNTIES**

**Ambulance service for townships. Iowa Code § 34.1, 34.2, 34A.1, 34A.3, 331.381, 331.382, 359.42, 357B.7 (1997). A county has no duty to provide ambulance service for its townships. (Kempkes to Crowl, Pottawattamie County Attorney, 6-20-97) #97-6-2(L)**

**Health department employees. Iowa Code §§ 20.9, 137.2(5), 509A.1 (1997). The county board of health has authority to determine whether board of health employees shall receive health insurance benefits through collective bargaining agreements or otherwise. In the absence of action by the board of health or on request of the board of health, the board of supervisors may provide health insurance coverage to board of health employees. (Osenbaugh to Spurrier, Ringgold County Attorney, 6-17-97) #97-6-1(L)**

**COUNTIES; NEWSPAPERS**

**Official publications. Iowa Code §§ 349.1, 618.3(1) (1997). A newspaper that has been published within the area for more than two years, but has changed its post office of entry to a different post office of entry within its subscription area during that same time period, remains eligible for publishing a county's official matters. (Kempkes to Houser and Drake, State Representatives, 4-24-97) #97-4-1-(L)**

**JUVENILE LAW**

**Detention of Juveniles Charged with Forcible Felonies; Sight and Sound Separation. Iowa Code §§ 232.8(1)(c), 232.22(6) (1997). The exercise of original jurisdiction by the district court over a juvenile charged with a forcible felony is the equivalent of a waiver to district court for purposes of determining whether the juvenile may be held in a county jail pursuant to Iowa Code section 232.22(6). Juveniles over the age of sixteen years may be held in adult jails for forcible felony charges only after the district court has formally asserted its jurisdiction. Deviation from the requirement of sight and sound separation is permitted only when impracticable or unreasonable in light of concerns with public safety, protection of children, and other competing interests. (Marek to Crowl, Pottawattamie County Attorney, 6-20-97) #97-6-3(L)**

## LOBBYING; COUNTY ATTORNEYS

**Registering and reporting as lobbyists.** Iowa Code §§ 68B.2, 68B.36, 68B.37 (1997). County attorneys who seek to influence legislation on behalf of the Iowa State Association of Counties or the Iowa County Attorneys Association do not need to register and report as lobbyists if lobbying constitutes part of their official duties and responsibilities. The question whether lobbying for any particular piece of legislation falls within the "duties and responsibilities" of county attorneys raises factual questions that an opinion cannot resolve. (Kempkes to Riepe, Henry County Attorney, 6-24-97) #97-6-4(L)

## OPEN MEETINGS

**Compensation Commission.** Iowa Code §§ 6B.1, 6B.2, 6B.3, 6B.8, 6B.9, 6B.35, 6B.49, 21.2(1) (1997). A compensation commission is not a governmental body expressly created by statute and, therefore, is not subject to the Open Meetings law. (Pottorff and Kempkes to Schultz, Clinton County Attorney, 5-2-97) #97-5-1(L)

### **1997 IOWA CODE**

### **OPINION**

6B.1	97-5-1(L)
6B.2	97-5-1(L)
6B.3	97-5-1(L)
6B.8	97-5-1(L)
6B.9	97-5-1(L)
6B.35	97-5-1(L)
6B.49	97-5-1(L)
20.9	97-6-1(L)
21.2(1)	97-5-1(L)
34.1	97-6-2(L)
34.2	97-6-2(L)
34A.1	97-6-2(L)
34A.3	97-6-2(L)
68B.2	97-6-4(L)
68B.36	97-6-4(L)
68B.37	97-6-4(L)
137.2	97-6-1(L)
232.8	97-6-3(L)
232.22	97-6-3(L)
331.381	97-6-2(L)
331.382	97-6-2(L)
349.1	97-4-1(L)
359.42	97-6-2(L)
357B.7	97-6-2(L)
509A.1	97-6-1(L)
618.3	97-4-1(L)

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